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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1188.

9 June 1989

No. 1188.

9 Junie 1989

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

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

No. 73 of 1989: Environment Conservation Act, 1989.

No. 73 van 1989: Wet op Omgewingsbewaring, 1989.

Act No. 73, 1989

ENVIRONMENT CONSERVATION ACT, 1989

GENERAL EXPLANATORY NOTE:

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

ACT

To provide for the effective protection and controlled utilization of the environment and for matters incidental thereto.

*(English text signed by the State President.)
(Assented to 1 June 1989.)*

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

ARRANGEMENT OF SECTIONS

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Definitions

1. In this Act, unless the context indicates otherwise—

- (i) "administrative body" means a Minister, Administrator, local authority, government institution or a person who makes a decision in terms of the provisions of this Act; (i) 20
- (ii) "chief executive officer" means the officer in charge of the relevant local authority or government institution; (xi)
- (iii) "committee" means the Committee for Environmental Management established by section 12; (xii)
- (iv) "council" means the Council for the Environment established by section 4; 25 (xviii)
- (v) "Department" means the Department of Environment Affairs; (vi)
- (vi) "Director-General" means the Director-General: Environment Affairs; (vii)
- (vii) "disposal site" means a site used for the accumulation of waste with the purpose of disposing or treatment of such waste; (xxi) 30
- (viii) "ecological process" means the process relating to the interaction between plants, animals and humans and the elements in their environment; (viii)
- (ix) "ecosystem" means any self-sustaining and self-regulating community of organisms and the interaction between such organisms with one another and with their environment; (ix) 35

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- (x) "environment" means the aggregate of surrounding objects, conditions and influences that influence the life and habits of man or any other organism or collection of organisms; (xiv)
- (xi) "environmental impact report" means a report referred to in section 22 (2); (xv) 5
- (xii) "government institution" means any—
 (a) body, company or close corporation established by or under any law; or
 (b) other institution or body recognized by the Minister by notice in the *Gazette*; (xvi)
- (xiii) "limited development area" means an area declared as a limited develop- 10
 ment area in terms of section 23 (1); (iii)
- (xiv) "litter" means any object or matter discarded by the person in whose possession or control it was; (xix)
- (xv) "local authority" means any institution or body contemplated in section 84 (1) 15
 (f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), and includes—
 (a) a board of management or board referred to in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);
 (b) a regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985); 20
 (c) a local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982); or
 (d) a local government body established by virtue of the provisions of section 30 (2) (a) of the Black Administration Act, 1927 (Act No. 38 of 1927); (xvii) 25
- (xvi) "management advisory committee" means a committee established under section 17 (1); (v)
- (xvii) "Minister" means the Minister of Environment Affairs; (xiii)
- (xviii) "prescribe" means prescribe by regulation; (xxii)
- (xix) "protected natural environment" means an area declared as a protected 30
 natural environment under section 16 (1); (iv)
- (xx) "special nature reserve" means an area declared as a special nature reserve under section 18; (xx)
- (xxi) "this Act" includes the regulations; (x)
- (xxii) "waste" means any matter, whether gaseous, liquid or solid or any combina- 35
 tion thereof, originating from any residential, commercial or industrial area or agricultural area identified by the Minister as an undesirable or superfluous by-product, emission, residue or remainder of any process or activity. (ii)

PART I

POLICY FOR ENVIRONMENTAL CONSERVATION 40

Determination of policy

2. (1) Subject to the provisions of subsection (2) the Minister may by notice in the *Gazette* determine the general policy to be applied with a view to—
- (a) the protection of ecological processes, natural systems and the natural beauty as well as the preservation of biotic diversity in the natural 45
 environment;
- (b) the promotion of sustained utilization of species and ecosystems and the effective application and re-use of natural resources;
- (c) the protection of the environment against disturbance, deterioration, defacement, poisoning or destruction as a result of man-made structures, 50
 installations, processes or products or human activities; and
- (d) the establishment, maintenance and improvement of environments which contribute to a generally acceptable quality of life for the inhabitants of the Republic of South Africa.
- (2) The policy contemplated in subsection (1) shall be determined by the Minister 55
 after consultation with the council and the Administrator of each province, and with the concurrence of—
- (a) each Minister charged with the administration of any law which in the opinion of the Minister relates to a matter affecting the environment; and
- (b) the Minister of Finance and the Minister of Economic Affairs and Technology. 60

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(3) The Minister may at any time, subject to the provisions of subsection (2), by like notice substitute, withdraw or amend the policy determined in terms of subsection (1).

Compliance with policy

3. Each Minister, Administrator, local authority and government institution upon which any power has been conferred or to which any duty has been assigned in connection with the environment by or under any law, shall exercise such power and perform such duty in accordance with the policy referred to in section 2. 5

PART II

COUNCIL FOR THE ENVIRONMENT, COMMITTEE FOR ENVIRONMENTAL MANAGEMENT AND BOARD OF INVESTIGATION 10

Establishment of Council for the Environment

4. There is hereby established a council called the Council for the Environment.

Objects of council

5. (1) The council shall advise the Minister on— 15
 (a) any matter relating to the policy referred to in section 2; and
 (b) any matter which the Minister refers to the council or which the council deems necessary.

(2) The council may hear representations by any person relating to matters affecting the environment if, after a memorandum on such matters has been submitted to it, the council is of the opinion that such representations will be in the interest of the conservation of the environment. 20

Constitution of council

6. (1) The council shall consist of not more than 22 members who— 25
 (a) in the opinion of the Minister have knowledge of and are able to make a contribution towards the protection and utilization of the environment; and
 (b) are appointed by the Minister after consultation with the Administrator of each province.

(2) The Minister shall designate one member of the council as chairman and another member as vice-chairman. 30

(3) A member of the council shall hold office for such period, but not exceeding three years, as the Minister may determine at the time of his appointment, but may be reappointed at the expiry of his term of office.

(4) A member of the council shall vacate his office if he— 35
 (a) is declared insolvent or assigns his estate in favour of his creditors;
 (b) is convicted of an offence and sentenced to imprisonment without the option of a fine;
 (c) is absent from more than three consecutive meetings of the council without leave of the chairman;
 (d) resigns as a member; or 40
 (e) is removed from office under subsection (5).

(5) The Minister may at any time remove a member of the council from office if he is of the opinion that such member is incompetent to fulfil his office or that he has misconducted himself.

(6) If a member dies or in terms of subsection (4) ceases to be a member, the Minister may, subject to the provisions of subsection (1), appoint a person in his place for the unexpired period of his term of office, or for such shorter term as the Minister may determine. 45

Committees of council

7. (1) (a) The council may with the approval of the Minister from among its number elect an executive committee consisting of such number of members as the council may determine with the approval of the Minister. 50

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- (b) The chairman of the council shall be the chairman of the executive committee.
- (c) The executive committee shall perform such functions as the council may determine with the approval of the Minister.
- (2) (a) The council may with the approval of the Minister establish other committees consisting of such persons as may be determined by the council in order to assist the council in the performance of its functions. 5
- (b) The council shall designate a member of a committee as chairman of such committee.
- (3) The council may allow any member of a committee who is not a member of the council to attend any meeting of the council at which any matter relating to a function assigned to that committee is dealt with and may allow such member to take part in the proceedings at such meeting, without having the right to vote. 10

Allowances to members of council and committees of council

8. A member of the council and a member of a committee of the council who is not in the full-time employment of the State may be paid from money appropriated by Parliament for that purpose such remuneration and allowances as the Minister may, with the concurrence of the Minister of Finance, determine either in general or in any particular case. 15

Meetings of council, records to be kept by council and submission of advice to Minister 20

9. (1) The Minister shall determine—
- (a) the manner of the calling of, the quorum for and the procedure at meetings of the council; and
- (b) what records shall be kept by the council and the manner in which the advice of the council shall be submitted to the Minister. 25
- (2) If the chairman of the council is absent from any meeting of the council, the vice-chairman shall preside at the meeting, and if both the chairman and the vice-chairman are absent from any meeting of the council, the members present thereat may elect one of their number to preside at such meeting.

Administrative work of council 30

10. The Director-General shall designate, subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), as many officers and employees of the Department as may be necessary to assist the council and any committee thereof in the administrative work connected with the performance of the functions of such council or committee: Provided that, with the approval of the Minister, such administrative work may be performed by any 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. 35

Reports by council

11. The council shall submit to the Minister— 40
- (a) as soon as practicable after the conclusion of any meeting of the council a copy of the minutes of such meeting; and
- (b) as soon as practicable after 30 September in each year a report on its activities during the preceding year.

Establishment of Committee for Environmental Management 45

12. There is hereby established a committee called the Committee for Environmental Management.

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Objects of committee

13. The committee shall—

- (a) advise the Director-General on any matter affecting activities which may influence the protection and utilization of the environment; and
- (b) co-ordinate and promote the implementation of the provisions of this Act. 5

Constitution of committee

14. (1) The committee shall consist of the following persons appointed by the Minister, namely—

- (a) two persons nominated by the Director-General, of whom the Minister shall appoint one as chairman and one as vice-chairman; 10
- (b) one person nominated by the Director-General of each department of State upon which a power has been conferred or to which a duty has been assigned by or under any law which in the opinion of the Minister relates to any matter affecting the environment;
- (c) one person nominated by the Director-General of the provincial administration of each province; 15
- (d) one person nominated by each of the following institutions, namely—
 - (i) the National Parks Board of Trustees referred to in section 5 (1) of the National Parks Act, 1976 (Act No. 57 of 1976);
 - (ii) the Board for National Botanic Gardens established by section 57 of the Forest Act, 1984 (Act No. 122 of 1984); 20
 - (iii) the Council for Scientific and Industrial Research referred to in section 2 of the Scientific Research Council Act, 1988 (Act No. 46 of 1988);
 - (iv) the Human Sciences Research Council established by section 2 of the Human Sciences Research Act, 1968 (Act No. 23 of 1968); 25
 - (v) the National Monuments Council established by section 2 of the National Monuments Act, 1969 (Act No. 28 of 1969); and
- (e) any person nominated by any other institution which at national level is involved with environmental conservation and in the opinion of the Minister can make a contribution to the activities of the committee. 30

(2) A member of the committee shall hold office for such period as the Minister may determine at the time of his appointment, but may be reappointed at the expiry of his term of office.

(3) A member of the committee shall vacate his office if—

- (a) he is declared insolvent or assigns his estate in favour of his creditors; 35
- (b) he is convicted of an offence and is sentenced to imprisonment without the option of a fine;
- (c) he is absent from more than three consecutive meetings of the committee without leave of the chairman;
- (d) he resigns as a member; or 40
- (e) his nomination is withdrawn by the institution which he represents.

(4) The committee may with the approval of the Minister appoint subcommittees consisting of such persons as the committee may determine, to assist the committee in the performance of its functions.

(5) A member of the committee and a member of a subcommittee who is not in the full-time employment of the State or of a government institution may be paid from money appropriated by Parliament for that purpose such remuneration and allowances as the Minister may, with the concurrence of the Minister of Finance, determine either in general or in any particular case. 45

Board of investigation

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15. (1) The Minister shall from time to time appoint a board of investigation to assist him in the evaluation of any matter or any appeal in terms of the provisions of this Act.

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- (2) The board of investigation shall consist of—
- (a) (i) a judge or retired judge of the Supreme Court of South Africa;
 - (ii) a magistrate or retired magistrate;
 - (iii) any person admitted in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), to practise as an advocate; or
 - (iv) any person admitted in terms of the Attorneys Act, 1979 (Act No. 53 of 1979), to practise as an attorney,
- who in the opinion of the Minister has a knowledge of matters relating to the environment, and is designated by him as chairman; and
- (b) such number of other persons as the Minister deems necessary and in his opinion have expert knowledge of the matter which the board of investigation has to consider.
- (3) A session of the board of investigation shall take place on the date and at the time and place fixed by the chairman, who shall advise the Minister and the relevant parties in writing thereof.
- (4) The board of investigation may for the purposes of the investigation—
- (a) instruct any person who in its opinion may give material information concerning the subject of the investigation or who it believes has in his possession or custody or under his control any book, document or thing which has any bearing upon the subject of the investigation, to appear before such board;
 - (b) administer an oath to or accept an affirmation from any person called as a witness at the investigation; and
 - (c) call any person present at the investigation as a witness and interrogate him and require him to produce any book, document or thing in his possession or custody or under his control.
- (5) An instruction referred to in subsection (4) (a) to appear before the board of investigation shall be by way of a subpoena signed by the chairman of the board.
- (6) (a) A session of the board of investigation shall be held in public.
- (b) The decision of the board and the reasons therefor shall be reduced to writing.
- (7) A member of the board of investigation who is not in the full-time employment of the State may be paid from money appropriated by Parliament for that purpose such remuneration and allowances as the Minister may, with the concurrence of the Minister of Finance, determine either in general or in any particular case.
- (8) The Director-General shall designate, subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), as many officers and employees of the Department as may be necessary to assist the board in the administrative work connected with the performance of the functions of the board of investigation: Provided that with the approval of the Minister such administrative work may be performed by any 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.

PART III

PROTECTION OF NATURAL ENVIRONMENT

Protected natural environment

16. (1) An Administrator may by notice in the *Official Gazette* concerned declare any area defined by him, to be a protected natural environment and may allocate a name to such area: Provided that such protected natural environment may only be declared—
- (a) if in the opinion of the Administrator there are adequate grounds to presume that the declaration will substantially promote the preservation of specific ecological processes, natural systems, natural beauty or species of indigenous wildlife or the preservation of biotic diversity in general; and
 - (b) after consultation with the owners of, and the holders of real rights in, land situated within the defined area: Provided that where such owners and holders cannot readily be located the Administrator shall give notice in the *Official Gazette* and in one Afrikaans and one English newspaper circulating within the district where the land is situated, of his intention to declare

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such land to be a protected natural environment and invite such owners and holders to lodge any complaints against the intended declaration with the Director-General of that province within 30 days from the date of the notice.

(2) The Administrator may by notice in the *Official Gazette* concerned issue directions in respect of any land or water in a protected natural environment in order to achieve the general policy and objects of this Act: Provided that—

- (a) a copy of the directions applicable to the area shall be handed or forwarded by post to the last-known address of every owner of, and every holder of a real right in, the land in question; and
- (b) the directions shall only be issued with the concurrence of each Minister charged with the administration of any law which in the opinion of the Administrator relates to a matter affecting the environment in that area.

(3) Every owner of, and every holder of a real right in, land situated within a protected natural environment in respect of which directions have been issued in terms of subsection (2), and the successors in title of such owner and holder of the real right, shall be subject to the provisions of such directions.

(4) The Administrator shall in writing direct the registrar of deeds of the deeds registry in which the title deed of land referred to in subsection (3) is registered, to make an entry of the directions in question in his registers and to endorse the office copy of the title deed accordingly.

(5) The Administrator may with the concurrence of the Minister of Finance out of money appropriated by Parliament for that purpose and subject to such conditions as he may determine, render financial aid by way of grants or otherwise to the owner of, and the holder of a real right in, land situated within a protected natural environment in respect of expenses incurred by the owner or holder of the right in compliance with any direction issued in terms of subsection (2).

(6) An Administrator may—

- (a) with the concurrence of a local authority or government institution assign the control and management of a protected natural environment to such local authority or government institution; or
- (b) withdraw such control and management from such local authority or government institution.

Management advisory committees in respect of protected natural environment

17. (1) An Administrator may in respect of any protected natural environment establish a management advisory committee to advise him with regard to the control and management of such protected natural environment in order to advance the objects referred to in section 16 (1) (a).

(2) The Administrator shall determine the membership of a management advisory committee.

(3) Subject to the provisions of subsection (4), the members of a management advisory committee shall be appointed by the Administrator from persons who—

- (a) shall represent the following interests, namely—
 - (i) the Department and any other department of State which in the opinion of the Administrator should be represented in the management advisory committee;
 - (ii) the provincial administration concerned;
 - (iii) every local authority whose area of jurisdiction falls wholly or partly within the protected natural environment;
 - (iv) the owners of, and the holders of real rights in, land situated within that protected natural environment; and
 - (v) the users of such land; and
- (b) in the opinion of the Administrator are capable of assisting the management advisory committee in the performance of its functions.

(4) If an Administrator assigns the control and management of a protected natural environment to a local authority or government institution in terms of section 16 (6), the appointment of members of such management advisory committee shall be made with the concurrence of such local authority or government institution.

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(5) The Administrator shall designate one member of a management advisory committee as chairman and another member as vice-chairman.

(6) A member of a management advisory committee shall hold office for such period as the Administrator may determine at the time of the appointment of such member, but may be reappointed at the expiry of his term of office: Provided that the Administrator may, if in his opinion there are sufficient reasons for doing so, at any time remove a member from office.

(7) The Director-General of the relevant provincial administration shall, subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), designate as many officers and employees of the provincial administration as may be necessary to assist a management advisory committee in the administrative work connected with the performance of the functions of the committee: Provided that where the control and management of a protected natural environment has been assigned to another local authority or government institution in terms of section 16 (6) the chief executive officer of such local authority or government institution shall designate as many employees of the relevant local authority or government institution as may be necessary to assist a management advisory committee with the said administrative work: Provided further that with the approval of the Minister such administrative work may be performed by any 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.

(8) A member of a management advisory committee who is not in the full-time employment of the State or a local authority may be paid from money appropriated by Parliament for that purpose, such remuneration and allowances as the Administrator may, with the concurrence of the Minister of Finance, determine in general or in any particular case.

Special nature reserves

18. (1) The Minister may by notice in the *Gazette* declare any area defined by him, and situated in the Republic of South Africa, including the territorial waters as defined in section 2 of the Territorial Waters Act, 1963 (Act No. 87 of 1963), to be a special nature reserve.

(2) A declaration under subsection (1) shall only be made—

- (a) for purposes of the protection of the environment in such area;
- (b) in respect of land or water of which the State is the owner or which is under the exclusive control of the State; and
- (c) with the concurrence of the committee.

(3) The declaration of a special nature reserve shall not be withdrawn or the boundaries thereof altered except by resolution of Parliament.

(4) The Minister may assign the control of a special nature reserve to any local authority or government institution, providing such assignment takes place—

- (a) with the concurrence of the local authority or government institution in question; and
- (b) if a management plan for the special nature reserve is drawn up in consultation with the local authority or government institution in question and accompanies such assignment.

(5) The controlling local authority or government institution referred to in subsection (4) may amend the management plan with the concurrence of the Minister.

(6) Subject to the provisions of subsection (7) no person shall—

- (a) gain admittance to a special nature reserve; or
- (b) perform any activity in or on a special nature reserve.

(7) The controlling local authority or government institution referred to in subsection (4) may, on the conditions determined by it, after consultation with the Minister, in writing grant exemption from the provisions of subsection (6), to—

- (a) any scientist occupied with any specific project; or
- (b) any officer charged with specific official duties.

(8) For the purposes of subsection (6) a special nature reserve shall include the air space to a level of 500 metres above the ground level of that special nature reserve.

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PART IV

CONTROL OF ENVIRONMENTAL POLLUTION

Prohibition of littering

19. (1) No person shall discard, dump or leave any litter on any land or water surface, street, road or site in or on any place to which the public has access, except in a container or at a place which has been specially indicated, provided or set apart for such purpose. 5

(2) Every person or authority in control of or responsible for the maintenance of any place to which the public has access shall at all times ensure that containers or places are provided which will normally be adequate and suitable for the discarding of litter by the public. 10

Waste management

20. (1) No person shall establish, provide or operate any disposal site without a permit issued by the Minister of Water Affairs and except subject to the conditions contained in such permit. 15

(2) Any application for a permit referred to in subsection (1) shall be in the form and be accompanied by such information as the Minister may prescribe.

(3) If the Minister of Water Affairs should require any further information to enable him to make a decision on an application for a permit referred to in subsection (1), he may demand such information from the applicant. 20

(4) The Minister of Water Affairs shall maintain a register in which details of every disposal site for which a permit has been issued shall be recorded.

(5) The Minister of Water Affairs may from time to time by notice in the *Gazette* issue directions with regard to—

- (a) the control and management of disposal sites in general; 25
- (b) the control and management of certain disposal sites or disposal sites handling particular types of waste; and
- (c) the procedure to be followed before any disposal site may be withdrawn from use or utilized for another purpose.

(6) Subject to the provisions of any other law no person shall discard waste or dispose of it in any other manner, except— 30

- (a) at a disposal site for which a permit has been issued in terms of subsection (1); or
- (b) in a manner or by means of a facility or method and subject to such conditions as the Minister may prescribe. 35

PART V

CONTROL OF ACTIVITIES WHICH MAY HAVE DETRIMENTAL EFFECT ON THE ENVIRONMENT

Identification of activities which will probably have detrimental effect on environment

21. (1) The Minister may by notice in the *Gazette* identify those activities which in his opinion may have a substantial detrimental effect on the environment, whether in general or in respect of certain areas. 40

(2) Activities which are identified in terms of subsection (1) may include any activity in any of the following categories, but are not limited thereto:

- (a) Land use and transformation;
- (b) water use and disposal; 45
- (c) resource removal, including natural living resources;
- (d) resource renewal;
- (e) agricultural processes;
- (f) industrial processes;
- (g) transportation; 50
- (h) energy generation and distribution;
- (i) waste and sewage disposal;
- (j) chemical treatment;
- (k) recreation.

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(3) The Minister identifies an activity in terms of subsection (1) after consultation with the council and the Administrator of each province, and with the concurrence of—

- (a) the Minister of each department of State responsible for the execution, approval or control of such activity; and
- (b) the Minister of Finance and the Minister of Economic Affairs and Technology.

Prohibition of undertaking of identified activities

22. (1) No person shall undertake an activity identified in terms of section 21 (1) or cause such an activity to be undertaken except by virtue of a written authorization issued by the Minister or a local authority or an officer designated by the Minister by regulation.

(2) The authorization referred to in subsection (1) shall only be issued after consideration of reports concerning the impact of the activity in question and of alternative activities on the environment, which shall be compiled and submitted by such persons and in such manner as may be prescribed.

(3) The Minister or a local authority or officer referred to in subsection (1), may at his or its discretion refuse or grant the authorization for the activity or an alternative activity in question on such conditions if any, as he or it may deem necessary.

(4) If a condition imposed in terms of subsection (3) is not being complied with, the Minister, local authority or officer, as the case may be, may withdraw the authorization in respect of which such condition was imposed after at least 30 days' written notice was given to the person concerned.

Limited development areas

23. (1) The Minister may by notice in the *Gazette* declare any area defined by him, as a limited development area.

(2) No person shall undertake in a limited development area any development or activity prohibited by the Minister by notice in the *Gazette* or cause such development or activity to be undertaken unless he has on application been authorized thereto by the Minister or a local authority designated by the Minister in the notice, on the conditions contained in such authorization.

(3) In considering an application for an authorization referred to in subsection (2) the Minister or the designated local authority may request the person to submit a report as prescribed, concerning the influence of the proposed activity on the environment in the limited development area.

(4) A limited development area shall not be declared unless the Minister—

- (a) has given notice in the *Gazette* and in not fewer than one English and one Afrikaans newspaper circulating in the area in question of his intention to declare such area as a limited development area;
- (b) has permitted not fewer than 60 days for the submission to the Director-General of comment on the proposed declaration;
- (c) has considered all representations received in terms of such notice; and
- (d) has consulted each Minister charged with the administration of any law which in the opinion of the Minister relates to a matter affecting the environment in that area, as well as the Administrator in question.

PART VI

REGULATIONS

Regulations regarding waste management

24. The Minister may make regulations with regard to waste management, concerning—

- (a) the manner in which an application for a permit in terms of section 20 (1) shall be submitted;

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- (b) the submission, subject to the provisions of section 3 (3) of the Statistics Act, 1976 (Act No. 66 of 1976), of statistics on the quantity of waste produced;
- (c) the classification of different types of waste and the handling, storage, transport and disposal of such waste; 5
- (d) the reduction of waste by—
 - (i) modifications in the design and marketing of products;
 - (ii) modifications to manufacturing processes; and
 - (iii) the use of alternative products;
- (e) the utilization of waste by way of recovery, re-use or processing of waste; 10
- (f) the location, planning and design of disposal sites and sites used for waste disposal;
- (g) control over the management of sites, installations and equipment used for waste disposal;
- (h) the administrative arrangements for the effective disposal of waste; 15
- (i) the dissemination of information to the public on effective waste disposal;
- (j) control over the import and export of waste; and
- (k) any other matter which he may deem necessary or expedient in connection with the effective disposal of waste for the protection of the environment.

Regulations regarding noise, vibration and shock 20

25. The Minister may make regulations with regard to the control of noise, vibration and shock, concerning—

- (a) the definition of noise, vibration and shock;
- (b) the prevention, reduction or elimination of noise, vibration and shock;
- (c) the levels of noise, vibration and shock which shall not be exceeded, either in general or by specified apparatus or machinery or in specified instances or places; 25
- (d) the type of measuring instrument which can be used for the determination of the levels of noise, vibration and shock, and the utilization and calibration thereof; 30
- (e) the powers of provincial administrations and local authorities to control noise, vibration and shock; and
- (f) any other matter which he may deem necessary or expedient in connection with the effective control and combating of noise, vibration and shock.

Regulations regarding environmental impact reports 35

26. The Minister may make regulations with regard to any activity identified in terms of section 21 (1) concerning—

- (a) the scope and content of environmental impact reports, which may include, but are not limited to—
 - (i) a description of the activity in question and of alternative activities; 40
 - (ii) the identification of the physical environment which may be affected by the activity in question and by the alternative activities;
 - (iii) an estimation of the nature and extent of the effect of the activity in question and of the alternative activities on the land, air, water, biota and other elements or features of the natural and man-made environments; 45
 - (iv) the identification of the economic and social interests which may be affected by the activity in question and by the alternative activities;
 - (v) an estimation of the nature and extent of the effect of the activity in question and the alternative activities on the social and economic interests; 50
 - (vi) a description of the design or management principles proposed for the reduction of adverse environmental effects; and
 - (vii) a concise summary of the finding of the environmental impact report;

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- (b) the drafting and evaluation of environmental impact reports and of the effect of the activity in question and of the alternative activities on the environment; and
- (c) the procedure to be followed in the course of and after the performance of the activity in question or the alternative activities in order to substantiate the estimations of the environmental impact report and to provide for preventative or additional actions if deemed necessary or desirable. 5

Regulations regarding limited development areas

27. The Minister may make regulations with regard to limited development areas, concerning— 10
- (a) the imposition of restrictions on the nature and extent of development or activities in connection with development in such area;
 - (b) the procedure to be followed for obtaining permission for development in such area; and
 - (c) the repair of damage to the environment in such area by unauthorized development or activities. 15

General regulatory powers

28. Any regulation made under this Part—
- (a) may assign functions to any provincial administration or any local authority; 20
 - (b) may relate to the qualifications, powers and duties of officers enforcing the provisions of this Act, including the power to seize any book, document, vehicle or other thing which such officer deems necessary in the execution of his functions;
 - (c) may relate to the application of the provisions of any international convention, treaty or agreement relating to the protection of the environment which has been entered into by the Government of the Republic of South Africa or has been ratified on behalf of such Government; 25
 - (d) may provide that an officer, local authority or government institution may by notice call upon a person contravening a provision of this Act to take certain steps or to cease certain activities within a specified period; 30
 - (e) may provide that any person who contravenes, or who fails to comply with, any provision thereof, shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed, and, in the event of a continuing contravention, to a fine not exceeding R250 or to imprisonment for a period not exceeding 20 days or to both such fine and such imprisonment in respect of every day on which such contravention continues; 40
 - (f) may be made in respect of different regions or different matters which the Minister may deem necessary or expedient;
 - (g) may relate to any matter which in terms of this Act shall or may be prescribed by regulation;
 - (h) may in general relate to any matter which aims at furthering the objects of this Act; 45
 - (i)
 - (i) which will entail the expenditure of State funds shall be made only with the concurrence of the Minister of Finance;
 - (ii) which may affect the economic development or the creation of job opportunities shall only be promulgated with the concurrence of the Minister of Economic Affairs and Technology; 50
 - (iii) which may affect the activities of any local authority or government institution shall only be promulgated with the concurrence of such local authority or government institution.

PART VII

OFFENCES, PENALTIES AND FORFEITURE

Offences and penalties

29. (1) Any person—
- (a) who, having been duly summoned to appear at proceedings under section 15, fails without lawful excuse so to appear; or
 - (b) who, having appeared as a witness at proceedings under section 15, refuses without lawful excuse to be sworn or to make affirmation or to produce any book, document or thing or to answer any question which he may be lawfully required to produce or answer,
- shall be guilty of an offence.
- (2) Any person—
- (a) referred to in section 16 (3) who contravenes any provision of a direction issued under section 16 (2) or fails to comply therewith; or
 - (b) who contravenes a provision of section 18 (6) or a condition of an exemption in terms of section 18 (7),
- shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.
- (3) Any person who contravenes a provision of section 19 (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.
- (4) Any person who contravenes a provision of section 20 (1), 20 (6), 22 (1) or 23 (2) or a direction issued under section 20 (5) or fails to comply with a condition of a permit, permission, authorization or direction issued or granted under the said provisions shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed.
- (5) Any person convicted of an offence in terms of this Act for which no penalty is expressly provided, shall be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- (6) Any person convicted of an offence in terms of this Act, and who after such conviction persists in the act or omission which constituted such offence, shall be guilty of a continuing offence and liable on conviction to a fine not exceeding R250 or to imprisonment for a period not exceeding 20 days or to both such fine and such imprisonment in respect of every day on which he so persists with such act or omission.
- (7) In the event of a conviction in terms of this Act the court may order that any damage to the environment resulting from the offence be repaired by the person so convicted, to the satisfaction of the Minister or the local authority concerned.
- (8) If within a period of 30 days after a conviction or such longer period as the court may determine at the time of the conviction, an order in terms of subsection (7) is not being complied with, the Minister or local authority concerned may itself take the necessary steps to repair the damage and recover the cost thereof from the person so convicted.
- (9) Notwithstanding anything to the contrary in any law contained, a magistrate's court shall be competent to impose any penalty provided for in this Act.

Forfeiture

30. (1) Notwithstanding anything to the contrary in any law contained, a court convicting any person of an offence under this Act may declare any vehicle or other thing by means whereof the offence concerned was committed or which was used in the commission of such offence, or the rights of the convicted person to such vehicle or other thing, to be forfeited to the State.

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(2) A declaration of forfeiture under subsection (1) shall not affect the rights which any person other than the convicted person may have to the vehicle or other thing concerned, if it is proved that he did not know that the vehicle or other thing was used or would be used for the purpose of or in connection with the commission of the offence concerned or that he could not prevent such use. 5

(3) The provisions of section 35 (3) and (4) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall *mutatis mutandis* apply to any declaration of forfeiture under this section.

PART VIII

GENERAL PROVISIONS 10

Powers of Minister and Administrator in case of default by local authority

31. (1) If in the opinion of the Administrator of the province in question, any local authority fails to perform any function assigned to it by or under this Act, that Administrator may, after affording that local authority an opportunity of making representations to him, in writing direct such local authority to perform such function within a period specified in the direction, and if that local authority fails to comply with such direction, the Administrator may perform such function as if he were that local authority and may authorize any person to take all steps required for that purpose. 15

(2) Any expenditure incurred by the Administrator in the performance of any function by virtue of the provisions of subsection (1), may be recovered from the local authority concerned. 20

(3) Whenever in the opinion of the Minister a local authority has failed to perform a function in terms of subsection (1), the Minister may request the Administrator in question to act in terms of subsection (1), and if the Administrator fails within 90 days after the date of such request to act accordingly, the Minister may do anything which the Administrator could have done, and the provisions of subsections (1) and (2) shall apply *mutatis mutandis* with reference to the Minister and anything done by him or under his authority. 25

Publication for comment 30

32. (1) If the Minister, the Minister of Water Affairs, an Administrator or any local authority, as the case may be, intends to—

- (a) issue a regulation or a direction in terms of the provisions of this Act;
- (b) make a declaration or identification in terms of section 16 (1), 18 (1), 21 (1) or 23 (1); or 35
- (c) determine a policy in terms of section 2,

a draft notice shall first be published in the *Gazette* or the *Official Gazette* in question, as the case may be.

(2) The draft notice referred to in subsection (1) shall include—

- (a) the text of the proposed regulation, direction, declaration, identification or determination of policy; 40
- (b) a request that interested parties shall submit comments in connection with the proposed regulation, direction, declaration, identification or determination of policy within the period stated in the notice, which period shall not be fewer than 30 days after the date of publication of the notice; 45
- (c) the address to which such comments shall be submitted.

(3) If the Minister, Administrator or local authority concerned thereafter determines on any alteration of the draft notice published as aforesaid, it shall not be necessary to publish such alteration before finally issuing the notice.

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Delegation

33. The Minister, the Minister of Water Affairs, an Administrator, a local authority or a government institution may on such conditions as he or it may deem fit delegate or assign any power or duty conferred upon or assigned to him or it by or under this Act, excluding any power referred to in sections 2, 16 (2), 18 (1), 18 (4), 20 (5), 24, 25, 26, 27 and 28, to, respectively, any officer or employee of the Department, the Department of Water Affairs or the provincial administration or local authority or government institution concerned. 5

Compensation for loss

34. (1) If in terms of the provisions of this Act limitations are placed on the purposes for which land may be used or on activities which may be undertaken on the land, the owner of, and the holder of a real right in, such land shall have a right to recover compensation from the Minister or Administrator concerned in respect of actual loss suffered by him consequent upon the application of such limitations. 10

(2) The amount so recoverable shall be determined by agreement entered into between such owner or holder of the real right and the Minister or Administrator, as the case may be, with the concurrence of the Minister of Finance. 15

(3) In the absence of such agreement the amount so to be paid shall be determined by a court referred to in section 14 of the Expropriation Act, 1975 (Act No. 63 of 1975), and the provisions of that section and section 15 of that Act shall *mutatis mutandis* apply in determining such amount. 20

Appeal to Minister or Administrator

35. (1) Any person who feels aggrieved at a decision referred to in section 20 in respect of which a power has been delegated to an officer or employee under section 33 may appeal against such decision to the Minister of Water Affairs in the prescribed manner, within the prescribed period and upon payment of the prescribed fee. 25

(2) Any person who feels aggrieved at a decision of an officer or employee enforcing a provision of this Act in respect of a protected natural environment may appeal against such decision to the Administrator concerned, in the prescribed manner, within the prescribed period and upon payment of the prescribed fee. 30

(3) Subject to the provisions of subsections (1) and (2) any person who feels aggrieved at a decision of an officer or employee exercising any power delegated to him in terms of this Act or conferred upon him by regulation, may appeal against such decision to the Minister in the prescribed manner, within the prescribed period and upon payment of the prescribed fee. 35

(4) The Minister, the Minister of Water Affairs or an Administrator, as the case may be, may, after considering such an appeal, confirm, set aside or vary the decision of the officer or employee or make such order as he may deem fit, including an order that the prescribed fee paid by the applicant or such part thereof as the Minister or Administrator concerned may determine be refunded to that person. 40

Review by court

36. (1) Notwithstanding the provisions of section 35, any person whose interests are affected by a decision of an administrative body under this Act, may within 30 days after having become aware of such decision, request such body in writing to furnish reasons for the decision within 30 days after receiving the request. 45

(2) Within 30 days after having been furnished with reasons in terms of subsection (1), or after the expiration of the period within which reasons had to be so furnished by the administrative body, the person in question may apply to a division of the Supreme Court having jurisdiction, to review the decision. 50

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Restriction of liability

37. No person, including the State, shall be liable in respect of anything done in good faith in the exercise of a power or the performance of a duty conferred or imposed in terms of this Act.

Entering into and ratification of conventions, treaties and agreements

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38. (1) The State President may by proclamation in the *Gazette* add to this Act any Schedule containing the provisions of an international convention, treaty or agreement relating to the protection of the environment which has been entered into or ratified by the Government of the Republic.

(2) The State President may by proclamation in the *Gazette* amend the Schedule to give effect to any amendment of or addition to any convention, treaty or agreement referred to in subsection (1) which may from time to time be effected and is ratified by the Government of the Republic.

(3) The Minister shall lay a copy of any proclamation issued under subsection (1) or (2), on the Table in Parliament within 14 days after publication thereof in the *Gazette* if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.

Agreements with self-governing territories

39. The Minister may enter into an agreement with the government of a self-governing territory as defined in section 38 of the National States Constitution Act, 1971 (Act No. 21 of 1971), in order to promote the objects of this Act.

State bound

40. The provisions of this Act shall bind the State, including any provincial administration, except in so far as criminal liability is concerned.

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Application of Act

41. (1) This Act shall also apply in respect of the Prince Edward Islands as defined in section 1 of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948).

(2) The provisions of this Act shall not apply in respect of any matter to which the provisions of the National Monuments Act, 1969 (Act No. 28 of 1969), apply.

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Repeal of laws, and savings

42. (1) Subject to the provisions of subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent set out in the third column thereof.

(2) Anything done under any provision of a law repealed by subsection (1) and which could have been done under a provision of this Act shall be deemed to have been done under the latter provision.

35

Amendment of section 1 of Act 88 of 1967, as substituted by section 1 of Act 73 of 1975 and amended by section 1 of Act 104 of 1977, section 1 of Act 51 of 1981, section 1 of Act 87 of 1983 and section 1 of Act 92 of 1985

43. Section 1 of the Physical Planning Act, 1967, is hereby amended by the deletion of the definition of "nature area".

Amendment of section 4 of Act 88 of 1967, as substituted by section 3 of Act 51 of 1981

44. (1) Section 4 of the Physical Planning Act, 1967, is hereby amended by the deletion of paragraph (b) of subsection (1).

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(2) At the commencement of this Act, land reserved as a nature area in terms of section 4 (1) (b) of the Physical Planning Act, 1967 (Act No. 88 of 1967), shall, notwithstanding the provisions of subsection (1), be deemed to be declared a protected natural environment in terms of section 16 (1) of this Act, and the provisions of section 4 (2) of the Physical Planning Act, 1967, shall continue to apply to such land. 5

Amendment of section 6 of Act 88 of 1967, as substituted by section 4 of Act 51 of 1981

45. Section 6 of the Physical Planning Act, 1967, is hereby amended by the substitution for subparagraph (i) of paragraph (e) of subsection (2) of the following subparagraph: 10

“(i) which has been reserved for the utilization of a particular natural resource [or as a nature area];”.

Short title

46. This Act shall be called the Environment Conservation Act, 1989.

Schedule

No. and year of law	Title	Extent of repeal
Act 100 of 1982	Environment Conservation Act, 1982	The whole
Act 45 of 1983	Environment Conservation Amendment Act, 1983	The whole
Act 61 of 1987	Environment Conservation Amendment Act, 1987	The whole