

REPUBLIC OF SOUTH AFRICA

AMENDMENTS PROPOSED TO SELECT COMMITTEE

TO

MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION)

BILL

[B 10-2020]

(Select Committee on Public Infrastructure & Sanitation & Minister in the Presidency)

[B 10C-2020]

PROPOSED AMENDMENTS TO

MARINE OIL POLLUTION (PREPAREDNESS, RESPONSE AND COOPERATION)

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CLAUSE 1

1. On page 3, in line 34, in the definition of “**Centre for Sea-watch**”, to omit “SAMSA’s” and to substitute “Authority’s”.
2. On page 3, from line 36, in the definition of “**Chief Executive Officer**”, after “Authority” to insert full stop; and to omit “appointed in terms of the South African Maritime Safety Authority Act, 1998 (Act No.5 of 1998)”.
3. On page 3, from line 42, to omit the definition of “emergency” and to substitute:
“**emergency**” in relation to clause 4(2) means a dangerous or serious situation, such as an accident or incident that is not covered by this Act that happens suddenly or unexpectedly and needs immediate action.
4. On page 3, in line 44, in the definition of “**flag state**”, after “laws” to omit “the” and to substitute “a”.
5. On page 3, after line 44, to add the following paragraph:
“by the insertion after the definition of “flag state” the following definition:

“High-risk biodiversity features and ecological processes” means those aspects of biodiversity and ecosystems that are particularly vulnerable to threats, such as habitat loss, climate change, and invasive species, and require urgent conservation attention.

6. On page 3, from line 49, in the definition of **“incident command course”**, after “commanders” to insert “by the Department”.

7. On page 4, after line 17, to add the following paragraph:

“by the insertion after the definition of “marine casualty” of the following definition:

“MARPOL Convention” means the International Convention for the Prevention of Pollution from Ships, adopted in 1973 by the International Maritime Organization (IMO) and modified by the Protocol of 1978.

8. On page 4, from line 22, to omit the definition of “new development” and to substitute:

“new development” means changes in the outcome of a risk assessment;

9. On page 4, from line 26, to omit the definition of “offshore installation” and to substitute:

“offshore installation” means any of the following situated within the internal waters, territorial waters or the exclusive economic zone, or on, or above, the continental shelf:

- (a) Any installation, or mechanism, including a subsea pipeline or vessel, which is used for the transfer of any substance to or from –

- (i) a ship;

- (ii) a research, exploration, prospecting, production or mining platform; or

- (iii) the coast of the Republic;
 - (b) any research, prospecting, mining, exploration or mining platform used in the prospecting, mining, exploration or production of any substance; and
 - (c) any research, prospecting, mining, exploration or production vessel used in the prospecting, mining, exploration or production of, any substance.
 - (d) Any installation, mechanism or vessel which is used for transfer or storage of a substance involved in bunkering operations.
10. On page 4, from line 42, to omit the definition of “**oil pollution incident**”.
 11. On page 5, in line 5, after “;” to omit “and”.
 12. On page 5, in line 6, after “Act” to omit full stop and to insert “; and”.
 13. On page 5, after line 6, to add the following paragraph:

“by the insertion after the definition of “this Act” of the following definition:

“Unified Command” means a structure within the Incident Command System (ICS) that allows multiple agencies or jurisdictions to share command authority and work together to manage an incident, establishing a common set of objectives and strategies.

CLAUSE 4

1. On page 5, from line 40, to omit “oil spill casualty” and to substitute “oil pollution incident”.

CLAUSE 5

1. On page 5, in line 47, to omit “two years” and to substitute “one year”.
2. On page 5, from line 49, to omit subsection (2) and to substitute:

“(2) The Chief Executive Officer must submit to the Director-General the risk assessment report undertaken under subsection (1) for approval and after approval be lodged with the Incident Management Organisation and must, as a minimum, define –“
3. On page 6, in line 22, to omit “two years” and to substitute “one year”.
4. On page 6, in line 62, after “review panels” to insert “as prescribed”.
5. On page 6, from line 27, after “Director-General” to insert a full stop; to substitute “thereafter” with “Thereafter” and to substitute “or” with “and”.

CLAUSE 7

1. On page 7, from line 10, to omit “, designated marine protected areas and marine bird and mammal colonies”.
2. On page 7, in line 11, to omit “nine months” and to substitute “twelve months”.
3. On page 7, after line 14, to insert the following:

“7(2) All management authorities or persons otherwise in control of marine protected areas and marine bird and mammal colonies must, within twelve

months of publication of the NOSCP, develop and maintain site-specific pollution contingency plans which are consistent with the NOSCP.”

4. On page 7, from line 15, to renumber subsections accordingly.
5. On page 7, in line 24, to omit “60 days” and to substitute “90 days”.

CLAUSE 8

1. On page 7, in line 46, to omit “in ecologically sensitive areas”.
2. On page 7, after line 46, to insert the following;

“8(3) All management authorities or persons otherwise in control of marine protected areas and marine bird and mammal colonies must procure or enter into service agreement to operate and maintain oiled wildlife equipment in a state of constant readiness, including oiled wildlife personnel to deploy the oiled wildlife response equipment, a stockpile of relevant and current oiled wildlife response equipment being appropriate to the level and type of risk of marine oil pollution incidents around marine protected areas and marine bird and mammal colonies.”
3. On page 7, after line 46, to renumber subsections accordingly.
4. On page 8, from line 6, to renumber subsections accordingly.

CLAUSE 9

1. On page 8, in line 32, after “a” to insert “wildlife”.

CLAUSE 10

1. On page 8, in line 49, after “party” to omit “.” and to insert “, in order to determine the incident-responding-party’s ability to deal with the reported incident”; and to insert full stop.

CLAUSE 11

1. On page 9, from line 23, to omit subsection (3) and to substitute:
“(3) The Authority may invite, where relevant, representatives from the following sectors, through their national representative bodies, to be members of the Incident Management Organisation.”
2. On page 9, in line 33, to omit “may” and to substitute “must”.
3. On page 10, in line 5, to omit “biannually” and to substitute “ quarterly”.

CLAUSE 12

1. On page 10, in line 20, to omit “and after obtaining the approval of Cabinet, in consultation” and to substitute “consult”.

CLAUSE 13

1. On page 10, in line 45, to omit “incidents” and to substitute “oil pollution incidents”.
2. On page 10, in line 49, after “a” to insert “mandatory”.

CLAUSE 14

1. On page 11, from line 4, to insert after “incident” for purposes of the Incident Commander designating”; and to omit “, to designate”.
2. On page 11, from line 6, to omit “that are within the local capability and resources of the NOSCP”.
3. On page 11, from line 11, to omit “that are within the national capability and resources of the NOSCP”.
4. On page 11, in line 15, to omit “as required” and to substitute “as prescribed”.
5. On page 11, from line 25, to omit subsection (3) and to substitute:

“The Incident Commander must designate the incident to a Tier level within 24 hours of the Authority being notified of an oil pollution incident, provided that the Incident Commander must be prepared to increase the Tier level should the magnitude or severity of an oil pollution incident increase.”

CLAUSE 15

1. On page 11, in line 37, to omit “system” and to substitute “team”.
2. On page 11, from line 43, to omit “human-health, the ecology and the” and to substitute “human and animal health and well-being, biodiversity, the coastal zone and”.
3. On page 11, from line 52, after “Act” insert full stop; to omit “1998 (Act No.5 of 1998).”

CLAUSE 16

1. On page 12, in line 7, after “appropriate” to omit “bodies” and to substitute “agencies”.

CLAUSE 17

1. On page 12, in line 22, after “of” to insert “ecological assessment and”.
2. On page 12, in line 30, to omit “natural resource damage assessment and monitoring” and to substitute “assessment of damage and monitoring of natural resources”.
3. On page 12, after line 42, to insert subsection “(6)”:

“(6) The Minister to prescribe, through regulations to be gazetted after coming into operation of this Act, how the Incident Commander is to determine which organ of state and/or non-state actors are to assume the responsibility for follow-up activities, including the monitoring and reporting process consequent thereon.”

CLAUSE 21

1. On page 14, from line 19, to omit “or other States”.
2. On page 14, in line 22, after “notify” to insert “and request inputs or comments from”.

CLAUSE 25

1. On page 15, in line 20, to omit “, 1998 (Act No.5 of 1998)”.

CLAUSE 30

1. On page 17, in line 53, to omit “section” and substitute “sections”.
2. On page 18, in line 8, after subsection (1) to insert “(a) and (b)”.
3. On page 18, after line 11, to insert:

“(a) contravened any of the provisions in (c); (d); (e) and (f)”;
4. On page 18, after line 11, renumber subsections accordingly.
5. On page 18, in line 26, after subsection (1) to insert “d”.

CLAUSE 31

1. On page 18, in line 31, after “5(4)” to insert “5(6)”; after “5(9)(e)” to insert “5(11)”; after “7(3)” to insert “13(b)”; and to omit “11(6)” and to substitute “17(6)”.