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THE PRESIDENCY

No. 7346 **1 April 2026**

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

Act No. 8 of 2025: Marine Oil Pollution (Preparedness, Response and Cooperation) Act, 2025

UMONGAMELI

No. 7346 **1 April 2026**

Kuyaziswa ukuthi uMongameli ukwamukele lo Mthetho olandelayo, oshicilelwe ukuze uthole ulwazi olujwayelekile:—

Umthetho 8 wezi-2025: Umthetho wokungcoliseka kolwandle ngowoyela (Ukulungiselela, ukusabela Kanye Nokubambisana), 2025

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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

(English text signed by the President)
(Assented to 31 March 2026)

ACT

To give effect to the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990; 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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(English text signed by the President)
(Assented to 31 March 2026)

UMTHETHO

Ukuqalisa ukusebenza kweSivumelwano Samazwe Ngamazwe Sokulungiselela Ukungcoliseka Ngowoyela, Ukusabela kanye Nokubambisana, sika-1990; kanye nokuhlinzekela izindaba ezihlobene nalokho.

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SCHEDULE

CHAPTER 1

INTRODUCTORY PROVISIONS

Definitions

1. In this Act, unless the context indicates otherwise, any meaning ascribed to a word or expression in the OPRC Convention bears the meaning so ascribed, and—

"Abidjan Convention" means the Convention for Cooperation in the Protection, Management and Development of the Marine and Coastal Environment of the Atlantic Coast of the West, Central and Southern Africa Region, 1984;

"Authority" means the South African Maritime Safety Authority established by section 2(1) of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998);

"Centre for Sea-watch" means the Authority's operational unit responsible for marine domain awareness and communication;

"Chief Executive Officer" means the Chief Executive Officer of the Authority;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the Department of Transport;

"Director-General" means the Director-General of the Department;

"emergency" in relation to section 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;

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ISHEDULI

ISAHLUKO 1

IMIHLINZEKO EYIZETHULO

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi isho okuhlukile, noma iyiphi incazelo enikezwe igama noma inkulumo kusivumelwano i-OPRC leyo ncazelo injalo nje, njengoba ibekiwe, futhi—

"IsiVumelwano sase-Abidjan" sichaza isiVumelwano Sokubambisana Ekuvikelweni, Ukuphathwa Nokuthuthukiswa Kwendawo Yasolwandle Nasogwini Logu Lwe-Atlantic yeNtshonalanga, nesiFunda esiMaphakathi nesise-Afrika eseNingizimu, sika-1984;

"Umkhandlu" sichaza uMkhandlu wezokuPhepha oLwandle waseNingizimu Afrika osungulwe ngokwesigaba sesi-2(1) se-*South African Maritime Safety Authority Act*, 1998 (Act No. 5 of 1998);

"Isikhungo sokuqapha olwandle" kushiwo uphiko loMkhandlu olubhekele ukuqwashisa nokuxhumana ngezizinda zasolwandle;

"isiKhulu esiPhezulu" sichaza isiKhulu esiPhezulu soMkhandlu;

"uMthethosisekelo" kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, we-1996;

"uMnyango" kushiwo uMnyango wezokuThutha;

"uMqondisi-Jikelele" kushiwo uMqondisi-Jikelele woMnyango;

"isimo esiphuthumayo" maqondana nesigatshana sesi-4(2) sisho into eyingozi noma isimo esibucayi, njengengozi noma isigameko esingavezwanga ngalo mthethosivivinywa esenzeka kungazelelwe noma kungalindelekile futhi esidinga ukuthathelwa izinyathelo ngokushesha;

"izwe lomkhumbi" kushiwo izwe lapho umkhumbi ubhaliswe ngaphansi kwemithetho yalo;

"izici eziyingozi kakhulu zempiliswanomvelo kanye nezinqubo zemvelo" kusho lezo zici zempiliswanomvelo kanye nemvelo ekhona ikakhulukazi ezisengcupheni, njengokulahlekelwa indawo yokuhlala, ukushintsha kwesimo sezulu, kanye nezinhlobo ezihlaselayo, futhi zidinga ukunakekelwa okuphuthumayo ukuze zivikelwe;

"flag state" means the jurisdiction under whose laws a vessel is registered;
"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;
"immediate-incident-responding-party" means the party that is first to react to the incident as it occurs;
"Incident Commander" means the person appointed as an Incident Commander in terms of section 10(3);
"incident command course" means the compulsory course provided to all incident commanders by the Department;
"Incident Management Organisation" means the Incident Management Organisation established in terms of section 11;
"incident management system" means the safe, effective and efficient management of response to, the command and deployment of all types and forms of resources for marine pollution incidents;
"International Maritime Organization" means the specialised United Nations organisation established on 17 March 1948 in terms of the International Maritime Organization Convention of the United Nations concluded in London, United Kingdom in 1948;
"International Oil Pollution Compensation Funds" means funds in terms of the Merchant Shipping (International Oil Pollution Compensation Fund) Contributions Act, 2013 (Act No. 36 of 2013);
"Intervention Convention" means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;
"Intervention Protocol" means the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other that Oil, 1973;
"marine casualty" means an event, or a sequence of events, that has resulted in severe damage to the environment, or the potential for severe damage to the environment, brought about by the damage of a ship or ships;
"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;
"Minister" means the Cabinet member responsible for transport;
"Nairobi Convention" means the Convention for the Development, Protection, Management and Development of the Marine and Coastal Environment of the Western Indian Ocean, 1985;
"new development" means changes in the outcome of a risk assessment;
"NOSCP" means the South African National Oil Spill Contingency Plan;
"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;
(c) any research, prospecting, mining, exploration or production vessel used in the prospecting, mining, exploration or production of, any substance; and
(d) any installation, mechanism or vessel which is used for transfer or storage of a substance involved in bunkering operations;

"oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

"iqembu elisabela esigamekweni ngokushesha" lichaza iqembu elisabela kuqala lapho kwenzeka isigameko;

"uMphathi Wesigameko" kusho umuntu oqokwe njengoMphathi Wesigameko ngokwesigaba se-10(3);

"isifundo sokuphatha isigameko" kushiwo isifundo esiyimpoqo esinikezwa nguMnyango kubobonke abaphathi bezigameko;

"Inhlangano Yokulawulwa Kwezigameko" ichaza Inhlangano Yokulawulwa Kwezigameko esungulwe ngokwesigaba 11;

"uhlelo lokulawulwa kwezigameko" luchaza ukuphathwa ngendlela ephephile, ephumelelayo nesheshayo yokusabela ekuphatheni kanye nasekusatshalalisweni kwazo zonke izinhlobo nezinhlobo zezinsiza ezigamekweni zokungcoliswa kolwandle;

"iNhlangano Yamazwe Ngamazwe Yezasolwandle" ichaza inhlangano ekhethekile yeNhlangano yeziZwe Ezihlangene eyasungulwa mhla ziyi-17 kuNdasa we-1948 ngokweSivumelwano Senhlangano Yamazwe Ngamazwe Yezasolwandle Yezizwe Ezihlangene esaphothulwa eLondon, e-United Kingdom ngowe-1948;

"Izikhwama Samazwe ngamazwe Zesinxephezelo Sokungcolisa Kukawoyela" kushiwo izimali ngokwe-*Merchant Shipping (International Oil Pollution Compensation Fund) Contributions Act, 2013 (Act No. 36 of 2013)*;

"IsiVumelwano Sokungenelela" sichaza isiVumelwano Samazwe Ngamazwe Esihlobene Nokungenelela Olwandle Oluphakeme Ezimeni Zezingozi Zokungcolisa Ngowoyela, we-1969;

"Inqubo Yokungenelela" ichaza Inqubo Ehlobene Nokungenelela Olwandle Oluvulekile Ezimeni Zokungcoliswa Kwasolwandle Ngezinto ezingezinye zalowo Oyela, ka-1973;

"ingozi yasolwandle" kushiwo isigameko, noma ukulandelana kwezigameko, okuholele ekulimaleni okukhulu kwemvelo, noma okungenza kube khona umonakalo omkhulu emvelweni, obangelwe ukulimala komkhumbi noma imikhumbi;

"isivumelwano i-MARPOL" sisho isiVumelwano Samazwe Ngamazwe Sokuvimbela Ukungcola okuvela Emikhunjini, esamukelwa ngo-1973 yiNhlangano Yezokuthutha Zasolwandle Zamazwe Ngamazwe (i-IMO) futhi yalungiswa yiPhrothokholi yango-1978;

"uNgqongqoshe" kushiwo ilungu leKhabhinethi elibhekele ezokuthutha;

"IsiVumelwano saseNairobi" kushiwo isiVumelwano Sokuthuthukiswa, Ukuvikelwa, Ukuphathwa kanye Nokuthuthukiswa Kwendawo Yasolwandle Nasogwini lwaseNtshonalanga ye-Indian Ocean, sika-1985;

"intuthuko entsha" kusho izinguquko emiphumeleni yokuhlolwa kobungozi;

"NOSCP" kushiwo uHlelo Lwezimo Eziphuthumayo Lukazwelonke lwaseNingizimu Afrika lokuchitheka kukawoyela;

"isakhiwo sasolwandle" kushiwo noma yikuphi kwalokhu okulandelayo okungaphakathi kwamanzi angaphakathi, amanzi ezindawo noma nendawo yezomnotho ekhethekile, noma phezu, noma ngaphezulu, kolwandle olungashoni:

(a) Noma yisiphi isakhiwo, noma umshini, okuhlanganisa ipayipi noma umkhumbi ongaphansi kolwandle, osetshenziselwa ukudlulisa noma iyiphi into kuya noma kusuka—
  (i) kumkhumbi;
  (ii) inkundla yocwaningo, yokuhlola, yokubheka, yokukhiqiza noma yezimayini; noma
  (iii) ugu lweRiphabhulikhi;

(b) noma iyiphi inkundla yocwaningo, yokubheka, yokumba, yokuhlola noma yezimayini esetshenziswa ekucwaningweni, ezimayini, ekuhloleni noma ekukhiqizweni kwanoma yiluphi uhlobo lwento;

(c) noma iyiphi indawo yokucwaninga, yokubheka, yokumba, yokuhlola noma yezimayini esetshenziswa ekucwaningweni, ezimayini, ekuhloleni noma ekukhiqizweni kwanoma yiluphi uhlobo lwento; futhi

(d) nonoma yisiphi isakhiwo, umshini, noma indawo esetshenziselwa ukudlulisa noma ukugcina into ehilelekile emisebenzini yokufaka uphethiloli emkhunjini;

"uwoyela" kushiwo uwoyela nganoma yiluphi uhlobo okuhlanganisa uwoyela ongahluziwe, uwoyela wokubasa, udaka, imfucumfucu kawoyela kanye nemikhiqizo ehluziwe;

"oil and gas infrastructure" means oil and gas fields, individual wells and rigs, pipelines, transhipment centres and refineries;
"OPRC Convention" means the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990;
"organ of state" means organ of state as defined in section 239 of the Constitution;
"owner", in relation to a ship, means the person or persons registered as owner of the ship, or in the absence of registration, the person or persons in whom the authority to operate the ship is vested, but in relation to a ship belonging to a State and which is operated by a person registered as the operator of the ship, the person so registered;
"place of refuge" means a place where a vessel in distress can be safely taken to, in order to prevent further damage or deterioration of the ship;
"prescribed" means prescribed by regulation or notice;
"seaports and oil-handling facilities" means ports, oil terminals including mobile and immobile off-shore ship-to-ship bunkering, pipelines and other oil-handling facilities;
"South African Maritime Safety Authority Act" means the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998);
"South African ship" means any ship having South African nationality as contemplated in section 3 of the Ship Registration Act, 1998 (Act No. 58 of 1998);
"South African waters" includes internal waters, territorial waters and exclusive economic zone as referred to in sections 3, 4 and 7 of the Maritime Zones Act, 1994 (Act No. 15 of 1994);
"this Act" includes regulations made in terms of this Act; and
"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.

Objects of Act

2. The objects of this Act are to—
(a) provide for the safe, effective and efficient management and deployment of resources in response to, cooperation in and control of, spills of oil, or any other pollutant from ships or any other sources within South African waters or which pollute or threaten to pollute South African waters, aquatic resources, coastline or related interests;
(b) provide for the effective cooperation with neighbouring countries in matters pertaining to marine oil pollution preparedness, response and control;
(c) incorporate into law of the Republic, the relevant provisions of the OPRC Convention; and
(d) reduce and control the pollution of the marine environment, wildlife and associated impacts on biodiversity and ecological processes by oil from ships, offshore installations, seaports and oil-handling facilities.

"ingqalasizinda kawoyela negesi" kushiwo izizinda zikawoyela negesi, imithombo nezinsimbi ngazinye, amapayipi, izikhungo zokuthutha nezindawo zokuhluza;

"isigameko sokungcoliseka ngowoyela" kushiwo isigameko noma uchungechunge lwezigameko ezinomsuka ofanayo nomphumela noma ezingase ziholele ekuchithekeni kukawoyela futhi ezingabeka noma zibe yingozi endaweni yasolwandle, noma ogwini noma ezintshisakelweni ezihlobene zeRiphabhuliki, futhi ezidinga isinyathelo esiphuthumayo noma okunye ukusabela okusheshayo;

"IsiVumelwano i-OPRC" kushiwo isiVumelwano Samazwe Ngamazwe Sokulungiselela, Ukusabela kanye Nokubambisana, sika-1990;

"igatsha likahulumeni" kushiwo igatsha likahulumeni njengoba lichazwe esigabeni sama-239 soMthethosisekelo;

"umnikazi", maqondana nomkhumbi, kushiwo umuntu noma abantu ababhaliswe njengabanikazi bomkhumbi, noma lapho kungekho kubhaliswa, umuntu noma abantu igunya lokuphatha umkhumbi elinikezwe bona, kodwa maqondana nomkhumbi woMbuso futhi osetshenziswa ngumuntu obhaliswe njengomqhubi womkhumbi, umuntu obhaliswe kanjalo;

"indawo yokukhosela" kushiwo indawo lapho umkhumbi osesimweni esibucayi ungayiswa khona ngokuphepha, ukuze kunqandwe ukuqhubeka komonakalo noma ukuwohloka komkhumbi;

"okunqunyiwe" kusho okunqunywe ngumthethonqubo noma isaziso;

"amachweba kanye nezindawo zokuphatha uwoyela" kushiwo, amachweba, amatheminali kawoyela okuhlanganisa nendawo yokugcina imikhumbi ehambayo nenganyakazi yasogwini, amapayipi kanye nezinye izinsiza zokuphatha uwoyela;

"i-*South African Maritime Safety Authority Act*" kusho i-*South African Maritime Safety Authority Act*, 1998 (uMthetho 5 we-1998);

"umkhumbi waseNingizimu Afrika" usho noma yimuphi umkhumbi onobuzwe baseNingizimu Afrika njengoba kuhlongozwe esigabeni sesi-3 soMthetho Wokubhaliswa Kwemikhumbi, we-1998 (uMthetho 58 we-1998);

"Amanzi aseNingizimu Afrika" ahlanganisa amanzi angaphakathi, amanzi ezindawo kanye nendawo yezomnotho ekhethekile njengoba kushiwo ezigabeni 3, 4 kanye nesesi-7 soMthetho Wezindawo Zasolwandle, we-1994 (uMthetho 15 we-1994), ngokulandelana;

"lo Mthetho" kubandakanya imithethonqubo eyenziwe ngokwalo Mthetho; futhi

"Umyalelo Ohlanganisiwe" usho isakhiwo esingaphakathi kohlelo loLawulwa kweSigameko (i-ICS) oluvumela ama-ejensi amaningi noma izindawo eziphethe ukuthi zabelane ngegunya lokuyalela futhi zisebenze ngokubambisana ukuphatha isigameko, ngokumisa iqoqo lezinjongo namasu avamile.

Izinhloso zoMthetho

2. Izinhloso zoMthetho—

(a) ukuhlinzekela ukuphathwa ngendlela ephephile, esebenzayo nangempumelelo kanye nokusatshalaliswa kwezinsiza, njengendlela yokusabela, ukubambisana, nokulawula, ukuchitheka kukawoyela, nanoma yikuphi okunye ukungcola okuvela emikhunjini nanoma yimuphi omunye umthombo ongaphakathi kwamanzi aseNingizimu Afrika noma okungcolisa noma okusongela ukungcolisa amanzi aseNingizimu Afrika, imithombo yamanzi, ugu noma izintshisakalo ezihlobene;

(b) ukuhlinzekela ukubambisana okusebenzayo namazwe angomakhelwane ezindabeni eziphathelene nokulungiselela ukungcoliseka kolwandle ngowoyela, ukusabela nokulawula;

(c) ukufaka emthethweni weRiphabhulikhi, imihlinzeko efanele yeSivumelwano i-OPRC; kanye

(d) nokunciphisa nokulawula ukungcoliswa kwendawo yasolwandle, izilwane zasendle kanye nemithelela ehlobene nezinhlobonhlobo zemvelo nezinqubo zemvelo ngowoyela osuka emikhunjini, kuzakhiwo zasolwandle, amachweba kanye nezindawo zokuphatha uwoyela.

Incorporation of OPRC Convention into law

3. (1) Subject to this Act, the OPRC Convention has the force of law in the Republic.

(2) The Minister may, by notice in the *Gazette*, publish for general information any amendments made to the OPRC Convention under article 14 of that Convention if those changes are binding on the Republic in terms of section 231 of the Constitution.

(3) For the purpose of this Act, the English text of the OPRC Convention prevails for the purpose of interpretation.

Application of Act

4. (1) Unless expressly provided otherwise, this Act applies to all spills or possible spills of oil, from any or all sources that may pollute or threaten to pollute South African waters, coastal aquatic resources or coastline.

(2) This Act applies to the Republic and to the Prince Edward Islands as referred to in section 1 of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948), including any privately owned ship, offshore installations, port facilities, oil-handling facilities or any offshore installation or any port facility or any oil-handling facility owned or partly owned or chartered or otherwise operated by an organ of state except that it does not apply to any ship or offshore installation of the South African National Defence Force in times of war, conflict or emergency.

(3) This Act does not apply to warships or naval auxiliary vessels of another State.

(4) Notwithstanding subsections (1), (2) and (3), this Act applies to an oil pollution incident occurring at a South African naval base.

(5) This Act binds the State and all organs of State.

CHAPTER 2

MARINE OIL POLLUTION PREPAREDNESS

Risk assessments

5. (1) The Director-General must cause the Authority to undertake a national marine oil pollution risk assessment within one year after coming into operation of this Act, and thereafter at least every five years or whenever there is a new development.

(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—

(a) the main shipping routes and characterise the types, quantities and frequencies of marine pollutants carried on each route;

(b) the locations and describe marine oil pollution risks including spatial zone of influence of a potential pollution event, for all present offshore installations, or decommissioning applications for such;

(c) the locations and describe marine oil pollution risks including spatial zone of influence of a potential pollution event, for all ports;

(d) the highest risk areas for marine oil pollution incidents, including shipping accidents, other sea-based resources and land-based sources;

(e) those parts of South African waters and the coastline which are most at risk of a negative impact from marine oil pollution;

Ukufakwa kwesiVumelwano i-OPRC emthethweni

3. (1) Ngokuncike kulo Mthetho, isiVumelwano i-OPRC sinamandla omthetho eRiphabhulikhi.

(2) UNgqongqoshe ngesaziso kuSomqulu, angashicilela ngolwazi olujwayelekile, noma yiziphi izichibiyelo ezenziwe kusivumelwano i-OPRC ngaphansi kwesigaba se-14 saleso siVumelwano uma lezo zinguquko zibophezela iRiphabhulikhi ngokwesigaba sama-231 soMthethosisekelo.

(3) Ngenhloso yalo Mthetho, umbhalo wesiNgisi wesiVumelwano i-OPRC simile ngenjongo yokuhumusha.

Ukusebenza koMthetho

4. (1) Ngaphandle uma kuhlinzekwe ngenye indlela, lo Mthetho usebenza kukho konke ukuchitheka kukawoyela noma ukuchitheka okungenzeka, okuvela kunoma iyiphi imithombo noma yonke imithombo engangcolisa noma esabisa ngokungcolisa amanzi aseNingizimu Afrika, imithombo yasemanzini yogu, noma umseswana wogu.

(2) Lo Mthetho usebenza kwiRiphabhulikhi kanye naseziqhingini zase-Prince Edward njengoba kushiwo esigabeni soku-1 soMthetho weziQhingi zase-Prince Edward, we-1948 (uMthetho 43 we-1948), okuhlanganisa nanoma yimuphi umkhumbi onomnikazi wawo, isakhiwo sasolwandle, izikhungo zechweba noma izinsiza zokuphatha uwoyela nanoma yisiphi isakhiwo sasolwandle nanoma iyiphi indawo yechweba nanoma iyiphi indawo yokuphatha uwoyela ephethwe ingxenye noma yenkampani eqashiwe noma esetshenziswa igatsha likahulumeni, ngaphandle kokuthi awusebenzi kunoma yimuphi umkhumbi noma isakhiwo sasolwandle soMbutho Wezokuvikela Kazwelonke waseNingizimu Afrika ngezikhathi zezimpi, izingxabano noma izimo eziphuthumayo.

(3) Lo Mthetho awusebenzi emikhunjini yempi noma emikhunjini yasolwandle yokulekelela yomunye uMbuso.

(4) Naphezu kwezigatshana (1), (2) kanye no-(3), lo Mthetho usebenza ezigamekweni zokuchitheka kukawoyela okwenzeka esikhungweni samasosha asemanzini aseNingizimu Afrika.

(5) Lo Mthetho ubophezela uMbuso nawo wonke amagatsha kaHulumeni.

ISAHLUKO 2

UKULUNGISELELA UKUNGCOLISEKA KOLWANDLE NGOWOYELA

Ukuhlolwa kobungozi

5. (1) UMqondisi-Jikelele kumele enze uMkhandlu ukuthi wenze ukuhlolwa kobungozi bokungcoliseka ngowoyela kolwandle kuzwelonke phakathi nonyaka owodwa ngemuva kokuqalisa ukusebenza kwalo Mthetho, futhi ngemva kwalokho okungenani njalo ngemva kweminyaka emihlanu noma yinoma inini lapho kuba khona intuthuko entsha.

(2) IsiKhulu esiPhezulu esiPhethe kumele sithumele kuMqondisi-Jikelele umbiko wokuhlola ubungozi owenziwe ngaphansi kwesigatshana soku-(1) ukuze kugunyazwe futhi emva kokugunyazwa kufakwe nakwiNhlangano Yokulawulwa Kwezigameko futhi kufanele, okungenani, kuchaze—

(a) imizila emikhulu yemikhumbi futhi kuveze izinhlobo, ubuningi kanye namaza okungcola olwandle aqhutshwa emzileni ngamunye;

(b) izindawo futhi kuchaze izingozi zokungcoliseka kolwandle ngowoyela okuhlanganisa indawo yendawo enomthelela wesehlakalo esingaba khona sokungcoliswa kolwandle, kuzo zonke izakhiwo zasolwandle, noma ukuyekisa ukusetshenziswa kwezicelo zalokhu;

(c) izindawo futhi kuchaze izingozi zokungcoliseka kolwandle ngowoyela okuhlanganisa indawo enomthelela yesigameko sokungcoliseka esingenzeka, kuwo wonke amachweba;

(d) izindawo ezinobungozi kakhulu zezigameko zokungcoliseka kolwandle ngowoyela, okuhlanganisa izingozi zemikhumbi, ezinye izinsiza ezisekelwe olwandle kanye nemithombo esekelwe emhlabeni;

(e) lezo zingxenye zamanzi aseNingizimu Afrika kanye nogu ezisengcupheni kakhulu yomthelela omubi wokugcoliseka kolwandle ngowoyela;

(f) protected environmental sensitive sea areas; and

(g) high risk biodiversity features and ecological processes that may be affected by marine oil pollution events and species most at risk, in order of classification by international conservation status.

(3) The Minister after consultation with Cabinet must use the findings of the risk assessment undertaken under subsections (1) and (9) to inform the approval or otherwise of any proposed new port facility, new oil facility or new offshore installation.

(4) The risk assessment must use internationally accepted risk assessment methods including up-to-date data collection, analysis, modelling and presentation methods and, upon public comment and finalisation, the Director-General must publish the risk assessment as a public report, as prescribed.

(5) The owner or operator of any port facility, oil-handling facility or offshore installation must, at its cost, within one year of the commencement of this Act, undertake the marine oil pollution risk assessment.

(6) The marine oil pollution risk assessment undertaken in subsection (5) must be presented to the Director-General for approval in the prescribed manner.

(7) The owner and operator referred to in subsection (5) must review the approved marine oil pollution risk assessment for consideration by the Director-General. Thereafter at least every five years, and when there is a new development, and upon request by the Authority, provide a risk assessment report.

(8) The owner and operator referred to in subsection (5) must, prior to the decommissioning of all or part of the port facility, oil-handling facility or offshore installation, at its cost, undertake risk assessment associated with the intended decommissioning of that facility or installation including the rehabilitation process for these areas where appropriate and possible, once the decommissioning process has been finalised, with the *proviso* that this section does not apply in cases of activities with no contact with the environment.

(9) A risk assessment undertaken in terms of subsections (5), (6) and (7) must, as a minimum—

(a) use national and internationally accepted risk assessment methods, including up-to-date data collection, modelling, analysis and presentation methods;

(b) be consistent and coordinated with, and provide inputs to, the national risk assessments carried out under subsection (1);

(c) contain any other information or requirements, as prescribed;

(d) identify risk mitigation measures, responsible parties and appropriate timelines for implementation; and

(e) be lodged with the Authority and upon finalisation made available as public reports, as prescribed.

(10) The proponent or developer of any proposed new port facility, new oil facility or new offshore installation or operation must, at its cost, undertake a marine oil pollution risk assessment for the proposed new facility or installation as part of the planning and environmental impact assessment process for such proposed development under the National Ports Act, 2005 (Act No. 12 of 2005), and the National Environmental Management Act, 1998 (Act No. 107 of 1998), consistent with the requirements for risk assessments as outlined in subsections (4) to (7).

(11) The results of any risk assessment contemplated in subsection (7) must be lodged with the Director-General, and upon approval made available as a public report, as prescribed.

(12) The result of the risk assessments carried out under subsections (1) to (9) must be used to inform the development of the marine pollution contingency plans required under sections 6 and 7 and the marine oil pollution response equipment inventories required under section 8.

(f) izindawo zasolwandle ezivikelwe yimvelo; kanye

(g) nezici eziyingozi kakhulu zempiliswanomvelo kanye nezinqubo zemvelo ezingase zithintwe izehlakalo zokungcoliseka kolwandle ngowoyela nezinhlobo ezisengozini kakhulu, ngokokuhlukaniswa ngokwezinga lokongiwa kwamazwe ngamazwe.

(3) UNgqongqoshe ngemva kokubonisana neKhabhinethi kufanele asebenzise okutholwe ekuhloleni ubungozi okwenziwe ngaphansi kwesigatshana soku-(1) kanye nesesi-(9) ukuze kulekelele ekugunyazweni noma ngenye indlela nganoma yisiphi isakhiwo sechweba esisha esihlongozwayo, indawo entsha kawoyela noma isakhiwo esisha sasolwandle.

(4) Ukuhlola ubungozi kufanele kusebenzise izindlela zokuhlola ubungozi ezamukelwa emhlabeni wonke ezihlanganisa ukuqoqwa kwedatha yakamuva, ukuhlaziya, kanye nezindlela zokwethula futhi, lapho umphakathi uphawula futhi sekuphothulwe, uMqondisi-Jikelele kufanele ashicilele ukuhlolwa kobungozi njengombiko womphakathi, njengoba kunqunyiwe.

(5) Umnikazi noma umqhubi wanoma iyiphi indawo yechweba, indawo yokuphatha uwoyela noma indawo yasolwandle kumele ngezindleko zakhe, kungakapheli unyaka owodwa lo Mthetho uqalile ukusebenza ahlole ukuhlolwa kwengozi yokungcoliseka kolwandle ngowoyela.

(6) Ukuhlolwa kwengozi yokungcoliseka kolwandle ngowoyela okwenziwe esigatshaneni sesi-(5) kufanele kwethulwe kuMqondisi-Jikelele ukuze agunyaze ngendlela enqunyiwe.

(7) Umnikazi nomsebenzi okukhulunywe ngaye esigatshaneni sesi-(5) kufanele abuyekeze ukuhlolwa okuvunyiwe kwengozi yokungcoliseka kolwandle ngowoyela ukuze kucutshungulwe nguMqondisi-Jikelele. Ngemva kwalokho okungenani njalo ngemva kweminyaka emihlanu, futhi uma kuba nentuthuko entsha, futhi ngemva kwesicelo Somkhandlu, sokunikezwa umbiko wokuhlola ubungozi.

(8) Umnikazi kanye nomqhubi okukhulunywe ngaye esigatshaneni sesi-(5) kumele, ngaphambi kokuhoxiswa kwazo zonke noma ingxenye yesikhungo sechweba, indawo yokuphatha uwoyela noma isakhiwo sasolwandle, ngezindleko zakho, enze ukuhlolwa kobungozi okuhambisana nokuhoxiswa okuhlosiwe kwaleso sikhungo noma isakhiwo sasolwandle, okuhlanganisa nenqubo yokuvuselelwa kwalezi zindawo lapho kufanele khona futhi kungenzeka, uma inqubo yokuhoxiswa seyiphothuliwe, ngombandela wokuthi lesi sigaba asisebenzi ezimeni zemisebenzi engaxhumani nemvelo.

(9) Ukuhlolwa kobungozi okwenziwa ngokwezigatshana sesi-(5), (6) kanye nesesi-(7) kumele, okungenani—

(a) kusebenzise izindlela zokuhlola ubungozi ezamukelwa ezweni lonke nasemhlabeni wonke ezihlanganisa ukuqoqwa kwedatha yakamuva, ukumodela, ukuhlaziya nezindlela zokwethula;

(b) kuhambisane futhi kuhlanganiswe, futhi kunikeze imibono, ekuhloleni ubungozi kukazwelonke okwenziwa ngaphansi kwesigatshana soku-(1);

(c) kuqukathe noma yiluphi olunye ulwazi noma izidingo, njengoba kunqunyiwe;

(d) kuhlonze izindlela zokunciphisa ubungozi, izinhlangano ezibophezelekile kanye nezikhathi ezifanele zokuqaliswa; futhi

(e) kufakwe kuMkhandlu futhi emva kokuphothulwa kutholakale njengemibiko yomphakathi, njengoba kunqunyiwe.

(10) Umgqugquzeli noma umthuthukisi wanoma yisiphi isakhiwo sechweba esisha esihlongozwayo, indawo entsha kawoyela noma isakhiwo sasolwandle esisha kanye noma ukusebenza kumele, ngezindleko zakho, enze ukuhlolwa kwengozi yokungcoliseka kolwandle ngowoyela endaweni entsha ehlongozwayo noma isakhiwo njengengxenye yokuhlela kanye nenqubo yokuhlola umthelela kwezemvelo kuleyo ntuthuko ehlongozwayo ngaphansi koMthetho Wezamachweba Kazwelonke, wezi-2005 (uMthetho 12 wezi-2005), kanye Nomthetho Kazwelonke Wokuphathwa Kwemvelo, we-1998 (uMthetho 107 we-1998), ngokuhambisana nezidingo zokuhlola ubungozi njengoba kushiwo ezigatshaneni (4) kuya ku-(7).

(11) Imiphumela yanoma yikuphi ukuhlolwa kobungozi okuhlongozwe esigatshaneni sesi-(7) kufanele ifakwe kuMqondisi-Jikelele, futhi ngemva kokuvunywa yenziwe itholakale njengombiko womphakathi, njengoba kunqunyiwe.

(12) Umphumela wokuhlola ubungozi owenziwe ngaphansi kwesigatshana soku-(1) kuya ku-(9) kufanele usetshenziselwe ukwazisa ukuthuthukiswa kwezinhlelo zezimo eziphuthumayo zokungcoliswa kolwandle ezidingekayo ngaphansi kwesigaba sesi-6 nesesi-7 kanye nempahla yokusabela ekungcolisekeni kolwandle ngowoyela edingekayo ngaphansi kwesigaba sesi-8.

(13) The Director-General may appoint review panels as prescribed when considering marine oil pollution risk assessments reports under this section.

South African National Oil Spill Contingency Plan

6. (1) The Minister must prescribe the procedures and timeframe for the development and approval of the NOSCP and prescribe the minimum contents thereof.

(2) The Department must prepare the NOSCP in consultation with the Authority and the Incident Management Organisation and submit it to the Minister for approval.

(3) The Minister must publish the approved NOSCP in the *Gazette* for public information.

Site-specific pollution contingency plan

7. (1) All owners or operators of existing port facilities, oil-handling facilities or offshore installations, must, within 12 months of publication of the NOSCP, develop and maintain site-specific pollution contingency plans for their facilities or installations, which are appropriate to the level and type of risk of marine oil pollution incidents resulting from their activities and such plans must be consistent with the NOSCP.

(2) All management authorities or persons otherwise in control of marine protected areas and marine bird and mammal colonies must, within 12 months of publication of the NOSCP, develop and maintain site-specific pollution contingency plans which are consistent with the NOSCP.

(3) The plans contemplated in subsection (1) must detail measures that must be taken to adequately protect, rescue, rehabilitate and release all wildlife affected in the case of a marine oil pollution incident and also refer to the National Oiled Wildlife Contingency Plan.

(4) The plans must be submitted to the Authority for approval and before approving such plans, the Authority must consider internationally accepted best practice in contingency planning, the advice of the Incident Management Organisation and any other prescribed criteria.

(5) The Chief Executive Officer of the Authority must approve the plan contemplated in subsection (4) within 90 days of the plan being submitted.

(6) Any new port facilities, oil facilities or offshore installations as well as any new ship or fleet require the site- specific pollution contingency plan before operations begin.

Marine oil pollution response equipment inventory

8. (1) The Authority with the support of the Incident Management Organisation must establish and maintain the national marine oil pollution response equipment inventory, taking into account the findings of the risk assessments required under this Act, and such inventory must comprise of equipment owned and maintained by the—

(a) Government;
(b) Authority;
(c) relevant organs of state;
(d) owners and operators of port facilities, oil-handling facilities, ships or fleets or offshore installations; and
(e) relevant non-governmental organisations.

(2) All owners and operators of port facilities, oil-handling facilities or offshore installations and all shipping companies which pose a risk of marine oil pollution incidents must procure or enter into service agreement to operate and maintain, in a state of constant readiness including personnel that are competent to deploy the pollution response equipment, a stockpile of relevant and current marine oil pollution response

(13) UMqondisi-Jikelele angaqoka amaphaneli okubuyekeza njengoba kunqunyiwe lapho ecubungula imibiko yokuhlola ubungozi bokungcoliseka kolwandle ngowoyela ngaphansi kwalesi sigaba.

Uhlelo Lwezimo Eziphuthumayo Lukazwelonke LwaseNingizimu Afrika Lokuchitheka Kukawoyela

6. (1) UNgqongqoshe kufanele abeke izinqubo nezikhathi zokuthuthukiswa nokugunyazwa kwe-NOSCP futhi anqume okuqukethwe okuncane kakhulu.

(2) UMnyango kufanele ulungise i-NOSCP ngokubonisana noMkhandlu kanye Nenhlangano Yokulawulwa Kwezigameko bese uyithumela kuNgqongqoshe ukuze ayigunyaze.

(3) UNgqongqoshe kufanele ashicilele i-NOSCP egunyaziwe kuSomqulu ukuze kunikwe umphakathi ulwazi.

Uhlelo lwezimo eziphuthumayo oluqondene nesayithi

7. (1) Bonke abanikazi noma abaqhubi bezindawo ezikhona zamachweba, izindawo zokuphatha uwoyela noma izakhiwo zasolwandle, izindawo ezikhethiwe zasolwandle, kufanele, phakathi ezinyangeni eziyi-12 zokushicilelwa kwe-NOSCP, bathuthukise futhi bagcine izinhlelo eziphuthumayo zokungcoliswa kwezindawo ezithile zezindawo zabo noma izakhiwo, ezifanele izinga kanye nohlobo lwesigameko sokungcoliseka kolwandle ngowoyela ngenxa yemisebenzi yazo futhi lezi zinhlelo kufanele zihambisane ne-NOSCP.

(2) Yonke imikhandlu yokuphatha noma abantu ababe nolawulo lwezindawo ezivikelwe zasolwandle namakoloni ezinyoni zasolwandle nezilwane ezincelisayo zasolwandle kumele, zingakapheli izinyanga ezi-12 kushicilelwe i-NOSCP, bakhe futhi balondoloze izinhlelo zezimo eziphuthumayo zokulawula ukungcola zendawo ethile ezivumelana ne-NOSCP.

(3) Izinhlelo ezihlongozwe esigatshaneni soku-(1) kufanele, zicacise ngezinyathelo okufanele zithathwe ukuze kuvikelwe ngendlela efanele, kutakulwe, kulungiswe futhi kukhululwe zonke izilwane zasendle ezithintekile esigamekweni sokungcoliseka kolwandle ngowoyela futhi zibhekise ku-*National Oiled Wildlife Contingency Plan*.

(4) Izinhlelo kumele zihanjiswe kuMkhandlu ukuze zigunyazwe futhi ngaphambi kokugunyaza lezo zinhlelo, uMkhandlu kumele ucabange indlela engcono kakhulu eyamukelwa emhlabeni wonke ekuhleleleni izimo eziphuthumayo, iseluleko seNhlangano Yokulawulwa Kwezigameko kanye nanoma yiziphi ezinye izindlela ezinqunyiwe.

(5) IsiKhulu esiPhezulu soMkhandlu kumele sigunyaze uhlelo oluhlongozwe esigatshaneni sesi-(4) zingakapheli izinsuku ezingama-90 uhlelo luthunyelwe.

(6) Noma yiziphi izindawo ezintsha zamachweba, izindawo zikawoyela noma izakhiwo zasolwandle kanye nanoma yimuphi umkhumbi omusha kudinga uhlelo lwezimo eziphuthumayo oluqondene nesayithi ngaphambi kokuthi kuqale ukusebenza.

Uhlu lwempahla yokusabela ekungcoliseni kolwandle ngowoyela

8. (1) UMkhandlu ngokwesekwa Yinhlangano Yokulawulwa Kwesigameko kumele usungule futhi ugcine uhlu lwempahla yokubhekana nokungcoliseka kolwandle ngowoyela kuzwelonke, kubhekwa okutholakele ekuhloleni ubungozi okudingekayo ngaphansi kwalo Mthetho, futhi lolo hlu kumele luhlanganise nempahla ephethwe futhi egcinwa—

(a) uHulumeni;
(b) uMkhandlu;
(c) amagatsha kaHulumeni afanele;
(d) abanikazi kanye nabaqhubi bezindawo zamachweba, izindawo zokuphatha uwoyela, imikhumbi nemikhumbi engamaqoqo noma izakhiwo zasolwandle; kanye
(e) nezinhlangano ezifanele ezingekho ngaphansi kukahulumeni.

(2) Bonke abanikazi nabaphathi bezindawo zamachweba, izindawo zokuphatha uwoyela noma izakhiwo zasolwandle nazo zonke izinkampani ezithumelayo eziletha ubungozi bezigameko zokungcoliseka kolwandle ngowoyela kumele bathenge noma bangene esivumelwaneni sokusebenza ukuze basebenze futhi balondoloze, esimweni sokulungela njalo okuhlanganisa nabasebenzi abanekhono lokusatshalaliswa

equipment being appropriate to the level and type of risk of marine oil pollution incidents resulting from the facility or installation, and being suitable for local conditions including equipment that is suitable to respond to marine oil pollution incidents and the assessment of such equipment.

(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.

(4) In determining equipment needs under subsection (2), each owner or operator of a port facility, oil-handling facility or offshore installations and all shipping companies must take into account the findings of the risk assessments undertaken under section 5 and must liaise with the Authority, in order to ensure compatibility and inter-operability with the national marine oil pollution response equipment inventory.

(5) The Authority and all keepers of stockpiled equipment must repair or replace equipment with such costs being recovered from the polluter if possible and consistent with the administrative arrangements developed under subsection (6).

(6) In order to facilitate the use of equipment, personnel and other resources under subsection (5), the Authority and the private sector, with the advice of the Incident Management Organisation, must jointly develop and agree to a national administrative arrangement as a standard operating guidelines for the use of national marine oil pollution response resources, in respect of both private sector-owned and government-owned equipment and resources, as well as personnel, consistent with the provisions of this Act and the Marine Pollution (Control and Civil Liability) Act, 1981 (Act No. 6 of 1981), and such administrative arrangements must be reviewed in consultation with the Incident Management Organisation, as and when necessary.

(7) The Authority may, by notice, require that owners or operators of a ship who are parties to the MARPOL Convention or oil and gas infrastructure carry on board and maintain—

(a) marine oil pollution response equipment for the containment, recovery or disposal of oil pollutants that may be discharged by the ship into South African waters;

(b) the type and quantity of equipment that is sufficient to allow an initial response to the pollution incident, as determined by the Authority in consultation with the owner or operator, taking into account limitations of the crew and the practicalities of operations at sea;

(c) the type and quantity of equipment that is specified in any Shipboard Oil Pollution Emergency Plan required of the ship under the relevant provisions of the Marine Pollution (Prevention of Pollution from Ships), 1986 (Act No. 2 of 1986); and

(d) adequately trained personnel.

(8) The Director-General or any official delegated in writing by him or her must annually audit the pollution response equipment and other resources listed in the inventory.

Training and exercise

9. (1) The Authority, together with the Incident Management Organisation, must develop, implement and fund an annual programme of mandatory training and exercises in marine oil pollution control and clean-up for relevant officials from all organs of state and non-governmental organisations that are members of the Incident Management

kwemishini yokubhekana nokungcoliswa kolwandle, inqwaba yezinto ezisebenzayo nezikhona manje zokusabela ekungcolisekeni kolwandle ngowoyela ezifanele izinga lengozi yezigameko zokungcoliseka kolwandle ngowoyela ngenxa yendawo noma isakhiwo, nokufanelekela izimo zasendaweni kuhlanganisa nemishini efanele ukusabela ezehlakalweni zokungcoliseka kolwandle ngowoyela kanye nokuhlolwa kwaleyo mishini.

(3) Yonke imikhandlu yokuphatha noma abantu abalawula ngenye indlela izindawo ezivikelwe zasolwandle kanye nemihlambi yezinyoni nezilwane ezincelisayo zasolwandle kumele bathenge noma bangene esivumelwaneni senkonzo sokusebenzisa nokugcina imishini yokunakekela izilwane zasendle ezingcoliseke ngowoyela isesimweni sokuhlala ilungele, okuhlanganisa abasebenzi bokunakekela izilwane zasendle ezingcoliseke ngowoyela ukuthumela impendulo yemishini yokunakekela izilwane zasendle ezingcoliseke ngowoyela imishini, isitokwe semishini efanele neyesimanje yokunakekela izilwane zasendle ezingcoliseke ngowoyela okufanele izinga kanye nohlobo lwengozi yezimo zokungcoliseka kolwandle ngowoyela ezungeze izindawo ezivikelwe zasolwandle kanye nemihlambi yezinyoni nezilwane ezincelisayo zasolwandle.

(4) Ekunqumeni izidingo zempahla ngaphansi kwesigatshana sesi-(2), umnikazi ngamunye noma umqhubi wesikhungo sechweba, indawo yokuphatha uwoyela noma isikhungo sasolwandle nazo zonke izinkampani ezithumelayo kumele acabangele okutholwe ekuhloleni ubungozi okwenziwe ngaphansi kwesigaba sesi-5 futhi kumele axhumane noMkhandlu, ukuze kuqinisekiswe ukuhambisana nokusebenzisana nohlu lukazwelonke lwempahla yokusabela ekungcolisweni kolwandle ngowoyela.

(5) UMkhandlu kanye nabo bonke abagcini bempahla eqoqiwe kufanele balungise noma bashintshe impahla ngezindleko ezitholwa kumngcolisi uma kungenzeka futhi zihambisane nezinhlelo zokuphatha ezenziwe ngaphansi kwesigatshana sesi-(6).

(6) Ukuze kube lula ukusetshenziswa kwempahla, abasebenzi kanye nezinye izinsiza ngaphansi kwesigatshana sesi-(5), uMkhandlu kanye nezinkampani ezizimele, ngokwelulekwa yiNhlangano Yokulawulwa Kwezigameko, kumele ngokuhlanganyela bathuthukise futhi bavumelane nohlelo lukazwelonke lokuphatha njengezinkombandlela zokusebenza ezijwayelekile zokusebenzisa izinsiza zokusabela ekungcolweni kolwandle ngowoyela, maqondana nazo zombili izisetshenziswa nezinsiza zomkhakha ozimele nezikahulumeni, ngokuhambisana nemihlinzeko yalo Mthetho we-*Marine Pollution (Control and Civil Liability) Act*, 1981 (uMthetho 6 ka-1981), kanye nalezo zinhlelo zokuphatha kufanele zibuyekezwe ngokubonisana neNhlangano Yokulawulwa Kwezigameko, uma kunesidingo.

(7) UMkhandlu, ngesaziso, ungadinga ukuthi abanikazi noma abaqhubi bomkhumbi abangaba bambiqhaza besivumelwano i-MARPOL noma ingqalasizinda kawoyela negesi bagibele futhi banakekele—

(a) impahla yokusabela ekungcolisweni kolwandle ngowoyela ukuze kunqandwe, kutholakale noma kukhishwe ukungcola kukawoyela okungase kukhishwe umkhumbi emanzini aseNingizimu Afrika;

(b) uhlobo kanye nenani lempahla eyanele ukuvumela ukusabela okokuqala esigamekweni sokungcoliswa kwemvelo, njengoba kunqunywe uMkhandlu ngokubonisana nomnikazi noma umqhubi, kubhekwa imikhawulo yabasebenzi kanye nokwenzeka kokusebenza olwandle;

(c) uhlobo kanye nenani lwempahla eshiwo kunoma yiluphi uHlelo Lwezimo Eziphuthumayo Lokungcoliseka Kwasemkhunjini Ngowoyela oludingekayo emkhunjini ngaphansi kwemihlinzeko efanele Yokungcoliswa Kwasolwandle *Marine Pollution (Prevention of Pollution from Ships)*, 1986 (uMthetho 2 ka-1986); kanye

(d) nabasebenzi abaqeqeshwe ngokwanele.

(8) UMqondisi-Jikelele nanoma yisiphi isikhulu esithunywe nguye ngokubhala, kufanele minyaka yonke ahlole impahla yokusabela ekungcolisweni kwemvelo kanye nezinye izinsiza ezisohlwini lwempahla.

Ukuqeqesha nokusebenzisa

9. (1) UMkhandlu, kanye neNhlangano Yokulawulwa Kwezigameko, kumele bathuthukise, basebenzise futhi baxhase ngemali uhlelo lonyaka oluyimpoqo lokuqeqeshwa kanye nokusebenzisa ekulawuleni ukungcoliseka kolwandle ngowoyela kanye nokuhlanzwa kwezikhulu ezifanele ezivela kuwo wonke amagatsha kahulumeni

Organisation and the outcomes of such training and exercises must be used to update and improve the NOSCP and related arrangements.

(2)*(a)* The owners and operators of port facilities, oil-handling facilities or offshore installations as well as personnel of any ship operating within the vicinity of a wildlife colony must ensure through both local and international accredited third parties that an annual programme of training and exercises in marine oil pollution control and clean-up including basic oiled wildlife response, for relevant staff from their organisations is undertaken.

(b) The programme contemplated in paragraph *(a)* must be consistent, coordinated and, as far as possible, integrated with the national training and exercise programme established under subsection (1) and the outcomes of such training and exercises must be used to update and improve the owners' and operators' site-specific pollution contingency plans and be reported to the Authority.

(3) The Authority must report annually to the Director-General on training and exercises undertaken under subsections (1) and (2).

Appointment of Incident Commander

10. (1) As soon as practicable, after the Authority receives a report of an incident, the Head of the Centre for Sea-watch, in collaboration with the Incident Response Team, must conduct an assessment to determine the capability of the immediate-incident-responding-party and monitor the effectiveness of the immediate-incident-responding-party, in order to determine the incident-responding-party's ability to deal with the reported incident.

(2) In the event that it is established that the incident is severe and is beyond the capacity of the management of the source of the immediate-incident-responding-party, the Authority, acting as Incident Commander, must initiate steps provided for in the NOSCP to inform the Director-General to activate the Incident Management Organisation.

(3) Within six months of this Act coming into force the Minister must appoint from within the staff of the Authority a panel of competent persons who may act as Incident Commanders or Deputy Incident Commanders.

(4) The Authority must appoint from within the panel of competent persons an Incident Commander and Deputy Incident Commander in the event of an oil pollution incident contemplated in this Act.

(5) The persons appointed to the panel of competent persons should have the requisite technical maritime skills and must have undertaken the compulsory incident command course or equivalent disaster management course and have the appropriate experience for the role of Incident Commander.

(6) The Incident Commander must, within the framework of the NOSCP and with the consensus and support of the Incident Response Team, assume the powers, roles and responsibilities outlined in section 15 for the duration of the response to the incident only.

(7) The Deputy Incident Commander must fulfil the role of Incident Commander when the Incident Commander is absent or when directed to do so by the Incident Commander.

(8) The Authority must develop and submit for approval by the Minister the standard operating guideline for the appointment of Incident Commander and Deputy Incident Commander.

(9) The Director-General or his delegated senior manager may appoint an Incident Commander or a Deputy Incident Commander to respond to marine incident as part of the Unified Command Incident Management Structure.

Incident Management Organisation

11. (1) The Incident Management Organisation is hereby established.

(2) The Incident Management Organisation consists of the following persons or their designated representatives:

(a) The Director-General or relevant Deputy Director-General or Chief Director;

nezinhlangano okungezona ezikahulumeni ezingamalungu eNhlangano Yokulawulwa Kwezigameko kanye nemiphumela yaloko kuqeqeshwa kanye nokusebenzisa kumele kusetshenziselwe ukuvuselela nokwenza ngcono i-NOSCP kanye nezinhlelo ezihlobene.

(2)*(a)* Abanikazi nabaphathi bezindawo zamachweba, izindawo zokuphatha uwoyela noma izakhiwo zasolwandle kanye nabasebenzi banoma yimuphi umkhumbi osebenza eduze nendawo okuhlala kuyo izilwane zasendle, kumele baqinisekise ngokusebenzisa abantu besithathu abagunyaziwe bendawo nabamazwe ngamazwe ukuthi uhlelo lonyaka lokuqeqesha nokusebenzisa ekulawuleni ukungcoliseka kolwandle ngowoyela kanye nokuhlanza okuhlanganisa nokusabela okuyisisekelo kwezilwane zasendle ezigcobeke ngowoyela, kubasebenzi abafanelekile abavela ezinhlanganweni zabo ukuthi lwenziwe.

(b) Uhlelo oluhlongozwe endimeni *(a)* kufanele luhambisane, ludidiyelwe futhi, ngokusemandleni, luhlanganiswe nohlelo lukazwelonke lokuqeqesha nokusebenzisa olusungulwe ngaphansi kwesigatshana soku-(1) futhi imiphumela yalolo qeqesho nokusebenzisa kumele kusetshenziselwe ukubuyekeza kanye nokwenza ngcono izinhlelo zezimo eziphuthumayo zokungcoliswa kwemvelo futhi kubikwe kuMkhandlu.

(3) UMkhandlu kumele ubike minyaka yonke kuMqondisi-Jikelele mayelana nokuqeqeshwa kanye nokusebenzisa okwenziwa ngaphansi kwezigatshana soku-(1) kanye nesesi-(2).

Ukuqokwa Komphathi Wesigameko

10. (1) Ngokushesha okungenzeka ngakho, ngemva kokuba uMkhandlu uthole umbiko ngesigameko, iNhloko Yesikhungo Sokuqapha Olwandle, ngokubambisana neThimba Lokusabela Esigamekweni, kufanele yenze ukuhlola ukuze kutholwe amandla enhlangano esabela ngokushesha esigamekweni futhi iqaphe ukusebenza kahle esabela ngokushesha esigamekweni, ukuze kubonwe ukukwazi ukusabela esigamekweni esibikiwe, komuntu osabela ezigamekweni.

(2) Esimweni lapho kutholakala ukuthi isigameko sinzima futhi singaphezu kwamandla eqembu elisabela esigamekweni ngokushesha, uMkhandlu, osebenza njengoMphathi Wesigameko, kufanele uqale izinyathelo ezihlinzekwe ku-NOSCP ukwazisa uMqondisi-Jikelele ukuze enze kusebenze inhlangano yohlelo lokulawulwa kwesigameko.

(3) Ezinyangeni eziyisithupha zalo Mthetho uqalile ukusebenza uNgqongqoshe kufanele aqoke kubasebenzi boMkhandlu ithimba labantu abanekhono elingasebenza njengabaphathi bezigameko noma amaPhini Abaphathi Bezigameko.

(4) UMkhandlu kumele uqoke phakathi kwethimba labantu abanekhono uMphathi Wesigameko kanye nePhini Lomphathi Wesigameko uma kwenzeka kuba nesigameko sokungcolisa ngowoyela esihlongozwe kulo Mthetho.

(5) Abantu abaqokwe kuphaneli yabantu abanekhono kufanele babe namakhono adingekayo olwandle futhi kufanele babe ngabenze isifundo sokuphathwa kwezigameko esiyimpoqo noma isifundo esifanayo sokuphathwa kwezigameko futhi babe nolwazi olufanele lwendima yoMphathi Wesigameko.

(6) Umphathi Wesigameko, ngaphakathi kohlaka lwe-NOSCP kanye nokuvumelana nokusekelwa kweThimba Lokusabela Esigamekweni, kufanele athathe amandla, izindima kanye nezibopho ezichazwe esigabeni sesi-15 ngesikhathi sokusabela esigamekweni kuphela.

(7) IPhini Lomphathi Wesigameko kumele lifeze indima yoMphathi Wesigameko lapho uMphathi Wesigameko engekho noma lapho eyalelwe uMphathi Wesigameko.

(8) UMkhandlu uzothuthukisa futhi uthumele ukuze ugunyazwe nguNgqongqoshe, umhlahlandlela ojwayelekile wokusebenza wokuqokwa Komphathi Wesigameko kanye nePhini Lomphathi Wesigameko.

(9) UMqondisi-Jikelele noma imenenja enkulu yakhe ingaqoka uMphathi Wesigameko noma iPhini LoMphathi Wesigameko ukuthi aphendule esigamekweni sasolwandle njengengxenye yeSakhiwo Sokulawulwa Kwesigameko Esibumbene.

Inhlangano Yokulawulwa Kwezigameko

11. (1) Ngalokhu Inhlangano Yokulawulwa Kwesigameko iyasungulwa.

(2) Inhlangano Yokulawulwa Kwezigameko iqukethe abantu abalandelayo noma abameleli babo abaqokiwe:

(a) UMqondisi-Jikelele noma iPhini likaMqondisi-Jikelele elifanele noma uMqondisi-Jikelele;

(b) the head of the department responsible for environmental affairs;
(c) the head of the department responsible for fisheries;
(d) the head of the department responsible for disaster management;
(e) the head of the department responsible for petroleum and energy; and
(f) the heads of such relevant government bodies as may be deemed necessary by the Director-General in consultation with the Authority.

(3) The Authority must invite, where relevant, representatives from the following sectors, through their national representative bodies, to be members of the Incident Management Organisation:

(a) The shipping industry;
(b) the oil and mining industries;
(c) the fishing industry;
(d) relevant environmental non-governmental organisations; and
(e) any other sector deemed necessary by the Authority, if membership of the Incident Management Organisation remains balanced and relevant to its role under subsection (6).

(4) The Incident Management Organisation must be presided over by the Director-General or his or her representative.

(5) The Authority must act as Secretariat to the Incident Management Organisation.

(6) The role of the Incident Management Organisation must be on an ongoing basis, providing coordinated advice, recommendations and support to the Authority and the Incident Commander on the following matters:

(a) The undertaking of risks assessments under section 5;
(b) the development, approval and maintenance of marine pollution contingency plans required under sections 6 and 7, including the designation of roles and responsibilities of Incident Management Organisation members' organisations;
(c) the establishment and maintenance of the national pollution response equipment inventory under section 8;
(d) the development and implementation of the mandatory national training and exercise programme under section 9;
(e) the participation of the Republic in any bilateral, multilateral or regional marine spill contingency plans and related arrangements; and
(f) any other matter related to marine oil pollution preparedness, response and cooperation as required by this Act.

(7) Members of the Incident Management Organisation or their designated representatives must, during an actual response to a specific marine oil pollution incident, assume the role of the Incident Response Team under the direction of the Incident Commander.

(8) The Incident Management Organisation must convene at least quarterly for routine business, and must avail itself as members of the Incident Response Team whenever a marine oil pollution incident occurs.

(9) The Incident Management Organisation may, subject to any written directions of the Authority, regulate its own procedure as it deems fit.

(10) The Chairperson of the Incident Management Organisation must, by 31 March of each year, submit the annual report of the Incident Management Organisation to the Minister, outlining the activities of the Incident Management Organisation and summarising the advice given to the Authority during the previous calendar year, and the Minister must table such report in Parliament.

(11) The Department must facilitate the conclusion of a multi-party memorandum of cooperation to support the objectives of this Act.

Regional cooperation

12. (1) The Authority must, upon the request of any neighbouring country with which South Africa has concluded a regional agreement, that is affected or is likely to be affected by a pollution incident, consult with the Incident Management Organisation and

(b) inhloko yomnyango obhekele ezemvelo;
(c) inhloko yomnyango obhekele ezokudoba;
(d) inhloko yomnyango obhekele ukulawulwa kwezinhlekelele inhloko;
(e) inhloko yomnyango obhekelele uphethiloli namandla; kanye
(f) nezinhloko zalezo zinhlaka zikahulumeni ezifanele njengoba kungabonwa kudingekile nguMqondisi-Jikelele ngokubonisana noMkhandlu.

(3) Umkhandlu kumele umeme, lapho kufanele khona, abameleli bezimboni ezilandelayo, ngezinhlaka zabo ezibamele kuzwelonke, ukuthi babe ngamalungu eNhlangano Yokuphathwa Kwezigameko:

(a) Imboni yemikhumbi;
(b) izimboni zikawoyela nezezimayini;
(c) imboni yokudoba;
(d) abamele izinhlangano ezifanele zezemvelo okungezona ezikahulumeni; kanye
(e) noma yimuphi omunye umkhakha obonwa ufanele ngokoMkhandlu, uma ubulungu beNhlangano Yokulawulwa Kwezigameko buhlala bulingene kahle futhi buhambisana nendima yayo ngaphansi kwesigatshana sesi-(6).

(4) Inhlangano Yokulawulwa Kwezigameko kumele yengamelwe uMqondisi-Jikelele noma ummeleli wakhe.

(5) UMkhandlu kumele usebenze njengeHhovisi likaNobhala weNhlangano Yokulawulwa Kwezigameko.

(6) Iqhaza leNhlangano Yokulawulwa Kwezigameko kumele liqhubeke njalo, inikeze izeluleko ezididiyelwe, izincomo kanye noseko kuMkhandlu kanye noMphathi Wezigameko ngalezi zindaba:

(a) Ukuhlolwa kobungozi ngaphansi kwesigaba sesi-5;
(b) ukuthuthukiswa, ukugunyazwa kanye nokugcinwa kokugcinwa kwezinhlelo zezimo eziphuthumayo zokungcoliswa kolwandle ezidingekayo ngaphansi kwesigaba sesi-6 nesesi-7, okuhlanganisa ukuqokwa kwendima nemisebenzi yezinhlangano zamalungu eNhlangano Yokulawulwa Kwezigameko;
(c) ukusungulwa kanye nokugcinwa kahle kwempahla yokusabela ekungcolisweni kuzwelonke ngaphansi kwesigaba sesi-8;
(d) ukuthuthukiswa kanye nokuqaliswa kohlelo lukazwelonke lokuqeqesha nokusebenzisa oluyimpoqo ngaphansi kwesigaba sesi-9;
(e) ukubamba iqhaza kweRiphabhulikhi kunoma yiziphi izinhlelo zezimo eziphuthumayo zamazwe amabili, amazwe amaningi noma zesifunda kanye nezinhlelo ezihlobene; kanye
(f) nanoma yiluphi olunye udaba oluhlobene nokulungiselela ukungcoliseka kolwandle ngowoyela, ukusabela kanye nokubambisana njengoba kudingwa yilo Mthetho.

(7) Amalungu Enhlangano Yokulawulwa Kwezigameko noma abameleli bawo abaqokiwe, kufanele, ngesikhathi sokusabela kwangempela esigamekweni esithile sokungcoliseka kolwandle ngowoyela, babambe iqhaza leThimba Elisabela Esigamekweni ngaphansi kokuqondisa koMphathi Wesigameko.

(8) Inhlangano Elawula Izigameko kufanele ihlangane okungenani njalo ngekota ngebhizinisi elijwayelekile, futhi kumele izitholele yona njengamalungu eThimba Lokusabela Esigamekweni noma nini uma kwenzeka isigameko sokungcoliseka kolwandle ngowoyela.

(9) Inhlangano Yokulawulwa Kwezigameko, kuncike kunoma yiziphi iziqondiso ezibhaliwe zoMkhandlu, ingalawula inqubo yayo njengoba ibona kufanele.

(10) USihlalo Wenhlangano Yokulawulwa Kwezigameko kumele, ngomhla zingama-31 kuNdasa wonyaka ngamunye, ithumele umbiko wonyaka weNhlangano Yokulawulwa Kwezigameko kuNgqongqoshe, ochaza imisebenzi yeNhlangano Yokulawulwa Kwezigameko futhi ufingqe izeluleko ezinikezwe uMkhandlu ngonyaka wekhalenda odlule, futhi uNgqongqoshe kufanele ethule lowo mbiko ePhalamende.

(11) UMnyango kumele wenze lula ukuphothulwa kwememorandamu yokubambisana yamaqembu amaningi ukuze kusekelwe izinjongo zalo Mthetho.

Ukubambisana kwezifunda

12. (1) Umkhandlu kumele, ngokucela kwanoma yiliphi izwe elingumakhelwane iNingizimu Afrika eyenze nalo isivumelwano sesifunda, elithintekayo noma okungenzeka lithinteke esigamekweni sokungcoliswa kwemvelo, ubonisane neNhlangano Yokulawulwa Kwezigameko futhi kuncike emandleni kanye nokuba

subject to capability and the availability of relevant resources, cooperate with or provide advisory services, technical support and equipment as are appropriate, to such country.

(2) Any assistance provided by the Authority in terms of subsection (1) must be in line with the relevant provisions set out in the OPRC Convention.

(3) The Authority must take such necessary measures as are appropriate, to facilitate—

(a) the arrival and utilisation in, and departure from, the Republic, of ships, aircraft and other modes of transport engaged in responding to a pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and

(b) the expeditious movement into, through, and out of the Republic, of personnel, cargo, materials and equipment referred to in paragraph *(a)*.

(4) The Parties to the Abidjan Convention and the Nairobi Convention must be informed of the objectives of this Act.

(5) The Department will facilitate the conclusion of bilateral or multilateral cooperation on mutual aid and promote cooperation with neighbouring countries in the fulfilment of its obligations.

CHAPTER 3

MARINE OIL POLLUTION RESPONSE

Duty to report oil pollution incidents

13. The provisions of the Marine Pollution (Control and Civil Liability) Act, 1981 (Act No. 6 of 1981), apply to this Act with the necessary changes required by the context, subject to the following additional requirements:

(a) The duty to report oil pollution incidents also applies to the owner or operator of an oil-handling facility or the owner of any place on land where a spill occurs and enters South African waters; and

(b) the Minister may in terms of this Act prescribe additional measures that may include threshold that would warrant a mandatory response, timeframes, means of communication and procedures for the reporting of incidents.

Initial response actions

14. (1) Whenever the Authority receives a report of a marine oil pollution incident, it must initiate a response in accordance with the NOSCP guidelines, and the first actions of the Authority must be to report to the Incident Commander appointed as such by the Authority under section 10(4) and as directed by him or her—

(a) designate an Incident Response Command Centre; and

(b) mobilise the Incident Response Team to the Incident Response Command Centre.

(2) The first action of the Incident Response Team must be to assess the incident for purposes of the Incident Commander designating the incident to a response Tier level as follows:

(a) In respect of Tier one, which involves up to one ton oil spills, the response and clean-up must be conducted by the owner or operator of that port or other facility under its site-specific contingency plan, with oversight and support from the Authority and the Incident Response Team as required;

(b) in respect of Tier two, which involves oil spills from one ton to ten tons, the response and clean-up must be controlled directly by the Incident Commander and the Authority under the NOSCP with support from the Incident Response Team and the parties, as prescribed; or

(c) in respect of Tier three, which involves transboundary oil spills that are of a magnitude and severity that is beyond the response capability and resources of

khona kwezinsiza ezifanele, kumele usebenzisane noma uhlinzeke izinsizakalo zokweluleka, ukwesekwa kwezobugcweti kanye nezinsizakusebenza kulelo zwe.

(2) Noma yiluphi usizo oluhlinzekwe uMkhandlu ngokwesigatshana soku-(1) kufanele luhambisane nemihlinzeko efanele ebekwe esivumelwane i-OPRC.

(3) Umkhandlu kumele uthathe izinyathelo ezifanele, ukuze kube lula—

(a) ukufika kanye nokusetshenziswa, kanye nokusuka eRiphabhulikhi, kwemikhumbi, izindiza nezinye izindlela zokuthutha ezihilelekile ekusabeleni ezigamekweni zokungcoliswa kwemvelo noma ukuthuthwa kwabasebenzi, imithwalo, impahla kanye nezinsizakusebenza ezidingekayo ukubhekana nalesi sigameko; kanye

(b) nokungena, ukudlula, nokuphuma eRiphabhulikhi ngokushesha kwabasebenzi, imithwalo, impahla nezinsizakusebenza okukhulunywe ngazo endimeni *(a)*.

(4) Abayingxenye yeSivumelwano sase-Abidjan kanye neSivumelwano saseNairobi kufanele baziswe ngezinjongo zalo Mthetho.

(5) UMnyango uzokwenza lula ukuphothulwa kokubambisana kwamazwe amabili noma amazwe amaningi mayelana nokusizana futhi ukhuthaze ukubambisana namazwe angomakhelwane ekudlaleni indima yawo.

ISAHLUKO 3

UKUSABELA EKUNGCOLISEKENI KOLWANDLE NGOWOYELA

Umsebenzi wokubika izigameko zokungcolisa ngowoyela

13. (1) Imihlinzeko ye-*Marine Pollution (Control and Civil Liability) Act*, 1981 (uMthetho 6 ka-1981), isebenza kulo Mthetho ngezinguquko ezidingekayo ezidingwa yingqikithi, kuncike kulezi zidingo ezengeziwe:

(a) Umsebenzi wokubika izigameko zokungcolisa ngowoyela uyasebenza futhi nakumnikazi noma kumqhubi wendawo yokuphatha uwoyela noma umnikazi wanoma iyiphi indawo kumhlaba lapho ukuchitheka kwenzeka futhi kungena emanzini aseNingizimu Afrika; futhi

(b) uNgqongqoshe ngokwalo Mthetho, angabeka izinyathelo ezengeziwe ezingase zifake phakathi umkhawulo odinga ukusabela okuyimpoqo; izikhathi ezimisiwe; izindlela zokuxhumana kanye nezinqubo zokubikwa kwezigameko.

Izinyathelo zokuqala zokusabela

14. (1) Noma nini lapho uMkhandlu uthola umbiko ngesigameko sokungcoliseka kolwandle ngowoyela, kufanele uqale usabele ngokuhambisana neziqondiso ze-NOSCP futhi izinyathelo zokuqala zoMkhandlu kufanele kube ukubika kuMphathi Wesigameko oqokwe kanjalo nguNgqongqoshe ngaphansi kwesigaba se-10(4) futhi njengoba uyalelwe nguye—

(a) ukuqoka Isikhungo Somyalo Wokusabela Ezigamekweni; kanye

(b) nokuhlanganisa Ithimba Lokusabela Esigamekweni, Esikhungweni Somyalo Wokusabela Ezigamekweni.

(2) Isinyathelo sokuqala seThimba Lokusabela Esigamekweni kufanele kube ukuhlola isigameko ngezinjongo zokuthi uMphathi Wezigameko obeka isigameko ezingeni Lesigaba sokusabela ngale ndlela elandelayo, maqondana nalokhu:

(a) Isigaba sokuqala, esibandakanya ukuchitheka kwethani elilodwa likawoyela, ukusabela kanye nokuhlanza kufanele kwenziwe umnikazi noma umqhubi walelo chweba noma esinye isikhungo ngaphansi kohlelo lwaso lwezimo eziphuthumayo oluqondene nendawo ethile, ngokubheka kanye nokwesekwa okuvela kuMkhandlu kanye neThimba Lokusabela Ezigamekweni njengoba kudingeka;

(b) Isigaba sesibili, esibandakanya ukuchitheka kwamafutha kusukela ethanini kuya kumathani ayishumi, ukusabela kanye nokuhlanza kufanele kulawulwe ngokuqondile nguMphathi Wesigameko kanye noMkhandlu ongaphansi kwe-NOSCP ngokusekelwa Ithimba Lokusabela Ezigamekweni kanye namaqembu, njengoba kunqunyiwe; noma

(c) Isigaba sesithathu esibandakanya ukuchitheka kukawoyela okwenzeka phakathi kwemingcele yamazwe okunobukhulu nokuqina okungaphezu

the Republic and such spills impact or threaten to impact across jurisdictions in one or more neighbouring countries, the response and clean-up is controlled directly by the Incident Commander and the Authority under the NOSCP, with support from the Incident Response Team and from neighbouring countries and other external assistance, in accordance with the procedures contained in any bilateral or multilateral memorandum of understanding, contingency plan and related arrangements in place at the time.

(3) 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.

(4) Once the incident has been designated to a Tier level, the Authority, through the Incident Commander and with the support of the Incident Response Team, must oversee, coordinate and control the response to a marine oil pollution incident in accordance with the contingency plan relating to the designated Tier level.

Incident Commander to coordinate response

15. (1) Subject to section 14(2)*(a)*, during the response to any marine oil pollution incident in South African waters or which threatens South African waters or coastline, the Incident Commander must, within the framework of the NOSCP, and with the advice and support of the Incident Response Team—

(a) set objectives and priorities of the response efforts;
(b) determine the size of the incident management team;
(c) monitor all the ongoing incident management activities and consider the best response practices;
(d) evaluate prior decisions, priorities and task assignments;
(e) manage and coordinate all operations; and
(f) in consultation with relevant organs of state, direct the use of all resources necessary to prevent and minimise the impact of the incident on human and animal health and well-being, biodiversity, the coastal zone and economy, and assign the clean-up of the pollution or the rehabilitation of the environment before the response is terminated in accordance with section 17.

(2) For the duration of the response to a marine oil pollution incident, the Incident Commander must coordinate all national assets and resources that are deemed necessary to deal with the incident, and has the power to spend and commit such funds as are reasonable in the circumstances, on the advice of the Incident Response Team and approval of the Chief Executive Officer, up to 50 per cent of the amount contained in the Fund established in terms of the South African Maritime Safety Authority Act.

(3) The Incident Commander has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations which may necessitate directing a vessel to place of refuge which place shall include any port operated by the Transnet National Ports Authority and is responsible for the management of all incident operations at the incident site.

(4) In carrying out his or her responsibilities, the Incident Commander must be supported by the staff and resources of the Authority, as well as by the staff and resources of other organisations that are members of the Incident Response Team.

(5) The Incident Commander must be free to act without recourse to higher authority and has overall responsibility for monitoring and managing a response to a marine oil pollution incident.

kwamandla okusabela kanye nezinsiza zeRiphabhulikhi kanye nokuchitheka okunjalo nomthelela noma okusongela umthelela kuzo zonke izindawo ezweni elilodwa noma amaningi angomakhelwane, impendulo kanye nokuhlanza kulawulwa ngokuqondile uMphathi Wesigameko kanye Nesiphathimandla ngaphansi kwe-NOSCP, ngokusekelwa okuvela ku-NOSCP kunoma yiliphi ithimba elibhekene nesigameko kwamanye amazwe angaphandle kanye nezinqubo eziqukethwe yiThimba Lokusabela Ezigamekweni kwamanye amazwe kanye nolunye usizo lwangaphandle, ngokwezinqubo eziqukethwe kunoma iyiphi imemorandamu yokuqonda yamazwe amabili noma yamazwe amaningi, uhlelo lwezimo eziphuthumayo kanye nezinhlelo ezihlobene ezazikhona ngaleso sikhathi.

(3) Umphathi Wesigameko kumele aqoke izinga leSigaba lesigameko kungakapheli amahora angu-24 ngemuva kokuthi uMkhandlu wazisiwe ngesigameko sokungcolisa ngowoyela, inqobo nje uma Umphathi Wesigameko ekulungele ukunyusa izinga leSigaba uma ubukhulu noma ubucayi besehlakalo sokungcolisa ngowoyela banda.

(4) Uma isigameko sesiqokwe ezingeni leSigaba, Isiphathimandla, ngokusebenzisa uMphathi Wesigameko futhi ngokwesekwa Ithimba Elisabela Ezigamekweni, kufanele sengamele, sihlanganise futhi silawule impendulo esigamekweni sokungcoliseka kolwandle ngowoyela ngokuhambisana nohlelo lwezimo eziphuthumayo oluhlobene nezinga eliqokiwe lwesigaba.

Umphathi wesigameko uzodidiyela ezokusabela

15. (1) Ngokuncike esigabeni se-14(2)*(a)*, ngesikhathi sokusabela kunoma yisiphi isigameko sokungcoliseka kolwandle ngowoyela emanzini aseNingizimu Afrika noma esisongela amanzi aseNingizimu Afrika noma ugu, uMphathi Wesigameko kufanele, ngaphakathi kohlaka lwe-NOSCP, futhi ngokweseluleko nokusekelwa kweThimba Elisabela Ezigamekweni—

(a) abeke izinjongo nezinto ezibalulekile emizamweni yokusabela;

(b) anqume usayizi weqembu lokulawula izigameko;

(c) aqaphe yonke imisebenzi eqhubekayo yokulawulwa kwezigameko futhi acabangele izindlela ezingcono kakhulu zokusabela;

(d) ahlolisise izinqumo zangaphambili, izinto ezibalulekile kanye nemisebenzi eyabelwe;

(e) aphathe futhi axhumanise yonke imisebenzi; futhi

(f) ngokubonisana namagatsha kaHulumeni afanele, aqondise ukusetshenziswa kwazo zonke izinsiza ezidingekayo ukuze kuvinjwe futhi kuncishiswe umthelela wesigameko empilweni nakwinhlalakahle yabantu nezilwane, impiliswanomvelo, indawo engaselwandle kanye nomnotho, futhi inikeze ukukhuculula ukungcola noma ukuvuselelwa kwemvelo ngaphambi kokuba ukusabela kuqedwe ngokuhambisana nesigaba se-17.

(2) Ngesikhathi sokusabela esigamekweni sokungcoliseka kolwandle ngowoyela, uMphathi Wesigameko kufanele axhumanise zonke izimpahla zikazwelonke kanye nezinsiza ezibonakala zifanelekile ukubhekana nalesi sigameko, futhi unamandla okuchitha nokusebenzisa lezo zimali ngendlela enengqondo ngaphansi kwezimo, ngokweseluleko seThimba Lokusabela Ezigamekweni kanye nokugunyazwa koMkhandlu, kuze kufike kumaphesenti angama-50% wesamba sesikhathi equkethwe esiKhwameni esasungulwa ngokwe-*South African Maritime Safety Authority Act*.

(3) Umphathi Wesigameko unegunya eliphelele kanye nesibopho sokuqhuba izigameko futhi unomthwalo wemfanelo wokuphatha zonke izenzo zesigameko ezingase zidinge ukuthi umkhumbi uyiswe endaweni yokukhosela okuyohlanganisa nanoma yisiphi isikhumulo semikhumbi esisetshenziswa yi-*Transnet National Ports Authority* (TNPA) futhi unesibopho sokuphatha yonke imisebenzi yesigameko endaweni yesigameko.

(4) Ekwenzeni umsebenzi wakhe, uMphathi Wesigameko kufanele asekelwe ngabasebenzi nezinsiza zoMkhandlu, kanye nabasebenzi kanye nezinsiza zezinye izinhlangano ezingamalungu eThimba Lokusabela Ezigamekweni.

(5) Umphathi Wesigameko kufanele akhululeke ukwenza okuthile ngaphandle kokucela umkhandlu ophezulu futhi unomthwalo wemfanelo jikelele wokuqapha nokuphatha ukusabela esigamekweni sokungcoliseka kolwandle ngowoyela.

Support of disaster structures

16. (1) In the case of a Tier two or Tier three oil spill, the Incident Commander, in line with a formal Mutual Assistance Agreement entered into between relevant and appropriate agencies, may request the support of the National Disaster Management Advisory Forum or a Provincial Disaster Management Advisory Forum, established in terms of the Disaster Management Act, 2002 (Act No. 57 of 2002).

(2) The support contemplated in subsection (1) may include the establishment of the Incident Command Post at a Municipal Disaster Management Centre, a Provincial Disaster Management Centre or the National Disaster Management Centre.

(3) If the Incident Command Post is established by virtue of subsection (2), the Incident Commander and the Authority must remain in operational control of the technical response to the incident, and the Disaster Management Centre in question must provide the supporting role in terms of coordinating the provision of resources, labour and logistics and assisting the coordination between Government departments and authorities.

Termination of response

17. (1) The Incident Commander must, in consultation with the Incident Response Team, at the point when further response efforts and expenditure become unreasonable and can no longer be supported on the grounds of ecological assessment and environmental effectiveness relative to cost, declare the response terminated.

(2) In making a decision under subsection (1), the Incident Commander must consider the advice of scientific and environmental experts on the Incident Response Team, including that of the Department responsible for the environment as well as any advice provided through external assistance.

(3) Once the response and clean-up is declared terminated, follow-up activities may continue, including but not limited to—

(a) assessment of damage and monitoring of natural resources;

(b) environmental restoration and rehabilitation including oiled wildlife rehabilitation and post-release monitoring;

(c) investigation and enforcement procedures; and

(d) cost recovery and compensation procedures,

as the Incident Commander may determine.

(4) As soon as practicable but not later than six months after the termination of the response, the Authority must convene an independent, external evaluation and review of the response, which must be a published report, and the Authority must ensure that any lessons and findings of the evaluation and review are used to improve and update the NOSCP and any relevant site-specific contingency plans.

(5) The Authority must submit the report referred to in subsection (4) to the Incident Management Organisation for information.

(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 or non-state actors are to assume the responsibility for follow-up activities, including the monitoring and reporting process consequent thereon.

Cost recovery and compensation

18. (1) Where possible, all reasonable costs associated with responding to, and cleaning up of, any marine oil pollution incident, including the payment of compensation for economic loss and pollution, environmental damage and the rehabilitation of damaged areas resulting from the incident, must be recovered from the polluter in accordance with the Merchant Shipping (Civil Liability Convention) Act, 2013 (Act No. 25 of 2013).

Izinhlaka zokuseka izinhlekelele

16. (1) Endabeni yokuchitheka kweSigaba sesibili noma sesithathu, uMphathi Wesigameko ngokuhambisana neSivumelwano Sokusizana esisemthethweni esingene phakathi kwama-ejensi afanele nezifanelekile, angacela ukusekelwa IsiGungu Sikazwelonke Sokweluleka Sokulawulwa Kwezinhlekelele noma IsiGungu Sokweluleka Sokulawulwa Kwezinhlekelele Sesifundazwe, esisungulwe ngokoMthetho Wokulawulwa Kwezinhlekelele, wezi-2002 (uMthetho 57 wezi- 2002).

(2) Ukwesekwa okuhlongozwe esigatshaneni soku-(1) kungase kuhlanganise ukusungulwa kweSikhungo Somyalo Wesigameko eSikhungweni SokuLawulwa kweziNhlekelele sikaMasipala, iSikhungo Sesifundazwe Sokulawulwa Kwezinhlekelele noma Isikhungo Sikazwelonke Sokulawulwa Kwezinhlekelele.

(3) Uma Isikhundla Sokulawula Izigameko sisungulwa ngokwesigatshana sesi-(2), uMphathi Wesigameko kanye noMkhandlu kumele bahlale belawula indlela yokuphendula ngezobuchwepheshe kulesi sigameko, futhi Isikhungo Sokulawulwa Kwezinhlekelele okukhulunywa ngaso kufanele sihlinzeke ngendima esekelayo mayelana nokuxhumanisa ukuhlinzekwa kwezinsiza, abasebenzi kanye nezinhlelo kanye nokusiza ukuxhumana phakathi kweminyango nemikhandlu kahulumeni.

Ukunqanyulwa kokusabela

17. (1) Umphathi Wesigameko kufanele, ngokubonisana Nethimba Lokusabela Esigamekweni, ngesikhathi lapho eminye imizamo yokusabela kanye nezindleko zingasenangqondo futhi zingeke zisasekelwa ngezizathu zokuhlolwa kwemvelo kanye nokuphumelela kwemvelo maqondana nezindleko, amemezele ukuthi ukusabela kunqanyuliwe.

(2) Lapho ethatha isinqumo ngaphansi kwesigatshana soku-(1), uMphathi Wesigameko kufanele acabangele izeluleko zochwepheshe besayensi nezemvelo ngeThimba Lokusabela Ezigamekweni, okuhlanganisa neloMnyango obhekelela ezemvelo kanye nanoma yisiphi iseluleko esinikezwa ngosizo lwangaphandle.

(3) Uma ukusabela nokuhlanza sekumenyezelwe ukuthi kuqediwe, imisebenzi yokulandelela ingaqhubeka, kuhlanganisa kodwa kungagcini lapho njengoba uMphathi Wesigameko enganquma—

(a) ukuhlolwa komonakalo nokuqashwa kwemithombo yemvelo;

(b) ukubuyiselwa kwemvelo kanye nokuvuselelwa okubandakanya ukuvuselelwa kwezilwane zasendle ezingcoliseke ngowoyela kanye nokuqapha ngemuva kokukhululwa;

(c) uphenyo kanye nezinqubo zokuphoqelela; kanye

(d) nezinqubo zokubuyisela izindleko kanye nokunxephezela,

ngendlela uMphathi Wesigameko anganquma ngayo.

(4) Ngokushesha ngangokunokwenzeka kodwa kungakapheli izinyanga eziyisithupha ngemva kokunqanyulwa kokusabela, uMkhandlu kufanele ubize ukuhlolwa okuzimele, kwangaphandle kanye nokubuyekezwa kokusabela, okufanele kube umbiko oshicilelwe, futhi uMkhandlu kufanele uqinisekise ukuthi noma yiziphi izifundo nokutholiwe kokuhlolwa nokubuyekezwa kusetshenziselwa ukuthuthukisa nokuvuselela i-NOSCP nanoma yiziphi izinhlelo eziqondene nezimo eziphuthumayo eziqondene nendawo ethile.

(5) UMkhandlu kumele uthumele umbiko okukhulunywe ngawo esigatshaneni sesi-(4) eNhlanganweni Yokulawulwa Kwezigameko ukuze uthole ulwazi.

(6) UNgqongqoshe uzonquma, ngemithetho ezoshicilelwa kugazethi kungakapheli izinyanga ezintathu ngemuva kokuqala kokusebenza kwalo Mthetho, ukuthi uMphathi Wezigameko uzokunquma kanjani ukuthi yiliphi igatsha likahulumeni noma abantu abangahlobene nohulumeni okumele bathathe umthwalo wemisebenzi yokulandelela, kufaka phakathi inqubo yokuqapha nokubika elandela lokho.

Ukubuyiselwa kwezindleko kanye nezinxephezelo

18. (1) Lapho kungenzeka khona, zonke izindleko ezifanele ezihambisana nokusabela, nokukhuculula, noma yisiphi isigameko sokungcoliseka kolwandle ngowoyela, okuhlanganisa ukukhokhwa kwesinxephezelo sokulahlekelwa umnotho nokungcoliswa komhlaba, ukulinyazwa kwemvelo kanye nokulungiswa kabusha kwezindawo ezilimele ngenxa yesigameko, kumele zibuyiswe kumngcolisi ngokuhambisana ne-*Merchant Shipping (Civil Liability Convention) Act*, 2013 (uMthetho 25 ka-2013).

(2) In the event that the polluter is not or cannot be identified or for any other reasons, costs and compensation for economic loss and pollution damage and rehabilitation of damaged areas must be claimed from the International Oil Pollution Compensation Funds within the limitations and provisions of such funds.

CHAPTER 4

MARINE CASUALTIES AND POWERS OF INTERVENTION

Powers of intervention

19. (1) Without prejudice to any right or powers of the Republic exercisable under international law, and in accordance with the Intervention Convention and the Intervention Protocol, the Government, represented by the Authority, may as directed by the Incident Commander take such measures in South African waters and on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to South African waters or its coastline or related interests, from pollution or the threat of pollution, following a marine casualty or acts related to such a casualty, which may reasonably be expected to result in a substantial harmful consequence.

(2) Actions that may be undertaken by the Authority under subsection (1) include—

(a) the issue of the necessary directions, in writing, to the master, owner or agent of a ship to which the marine casualty relates, or to any person in charge of any salvage operation in respect of the ship or its cargo and any employee or agent of that person;

(b) the issue of directions in writing to the owner, master or any person in charge of conducting operations on any platform, requiring any specified action to be taken or that no specified action be taken with respect to the platform or operations on the platform; and

(c) the taking of any measures whatsoever with respect to the ship or its cargo or to the platform or operations thereon, whether or not the Authority has issued directions under paragraph *(a)* or *(b)*.

(3) The measures the Authority may direct to be taken or may take itself under subsection (2)*(c)*, may include—

(a) the removal, to another place, of the ship or its cargo;

(b) the removal of cargo from the ship;

(c) the salvage of the ship or part of the ship or any of its cargo, or both;

(d) the sinking or destruction of the ship or part of the ship or the destruction of the cargo, or both;

(e) the taking over of control of the ship or part of the ship; and

(f) the removal of oil and gas infrastructure.

(4) In order to carry out any of the measures referred to in subsection (3), the Authority may, after consulting and reaching an agreement with the owners of the ship, seaports and oil-handling facilities, to whose master or director the instructions are to be given—

(a) instruct, in writing, the master or director of any South African ship, or the master of any other vessel within South African waters, seaports and oil-handing facilities to render assistance to any vessel or facility that is, or is likely to be, a marine casualty;

(b) instruct, in writing, the master of any South African ship to—

(i) take on board any equipment;

(ii) sail to any place;

(iii) render assistance to any ship assisting a marine casualty; or

(2) Esimeni lapho umngcolisi engabonakali noma engakwazi ukuhlonzwa noma ngenxa yanoma yiziphi ezinye izizathu, izindleko kanye nesinxephezelo sokulahlekelwa komnotho kanye nokonakala kokungcola kanye nokuvuselelwa kwezindawo ezilimele kufanele kufakwe isicelo Esikhwameni Samazwe ngamazwe Sesinxephezelo Sokungcoliseka Ngowoyela ngaphakathi kwemikhawulo nemihlinzeko yalezo zimali.

ISAHLUKO 4

IZINGOZI ZASOLWANDLE KANYE NAMANDLA OKUNGENELELA

Amandla okungenelela

19. (1) Ngaphandle kokubandlulula noma yimaphi amalungelo noma amandla eRiphabhulikhi asetshenziswa ngaphansi komthetho wamazwe ngamazwe, futhi ngokuhambisana nesiVuvumelwano Sokungenelela kanye neNqubo Yokungenelela, uHulumeni, omelwe uMkhandlu, angathatha lezo zinyathelo emanzini aseNingizimu Afrika kanye nasezilwandle ezivulekile ezingase zidingekile ukuvimbela, ukunciphisa noma ukuqeda ubungozi obukhulu noma obuseduze ogwini lwamanzi noma olwandle lwaseNingizimu Afrika. ukungcola, okulandela ingozi olwandle noma izenzo ezihlobene naleyo ngozi, ezingase zilindeleke ngokunengqondo ukuthi zibangele umphumela omkhulu oyingozi.

(2) Izinyathelo ezingase zenziwe uMkhandlu ngaphansi kwesigatshana soku-(1) zihlanganisa—

(a) ukukhishwa kweziqondiso ezidingekayo, ezibhalwe phansi, eziya kumphathi, umnikazi noma i-ejenti yomkhumbi lowo owalimala olwandle ohlobene naye, noma kunoma yimuphi umuntu ophethe umsebenzi wokuhlenga maqondana nomkhumbi noma impahla yawo nanoma yimuphi umsebenzi noma i-ejenti yalowo muntu;

(b) ukukhishwa kweziqondiso ezibhalwe phansi eziya kumnikazi, umphathi noma noma yimuphi umuntu ophethe imisebenzi kunoma iyiphi inkundla, edinga noma yisiphi isinyathelo esicacisiwe okufanele sithathwe noma kungabi bikho sinyathelo esicacisiwe esizothathwa mayelana nenkundla noma ukusebenza enkundleni; kanye

(c) nokuthathwa kwanoma yiziphi izinyathelo maqondana nomkhumbi noma impahla yawo noma enkundleni noma ukusebenza kwawo noma ngabe uMkhandlu uzikhiphile iziqondiso ngaphansi kwendima *(a)* noma *(b)*.

(3) Izinyathelo uMkhandlu ongayala ukuba zithathwe noma ezingase zizithathe ngokwawo ngaphansi kwesigatshana sesi-(2)*(c)*, zingabandakanya—

(a) ukususwa, kwenye indawo, komkhumbi noma impahla yawo;

(b) ukususwa kwempahla emkhunjini;

(c) ukuhlengwa komkhumbi noma ingxenye yomkhumbi nanoma iyiphi impahla yawo, noma kokubili;

(d) ukucwila noma ukubhujiswa komkhumbi noma ingxenye yomkhumbi noma ukubhujiswa kwempahla, noma kokubili;

(e) ukuthatha ukulawula komkhumbi noma ingxenye yomkhumbi; kanye

(f) nokususuwa kwengqalasizinda kawoyela negesi.

(4) Ukuze kwenziwe noma yiziphi izinyathelo okukhulunywe ngazo esigatshaneni sesi-(3), uMkhandlu ungase, emva kokubonisana nokufinyelela esivumelwaneni nabanikazi bomkhumbi, amachweba kanye nezindawo zokuphatha uwoyela; inkosi noma umqondisi, iziqondiso okufanele zinikezwe—

(a) yala, ngokubhala, umphathi noma umqondisi wanoma yimuphi umkhumbi waseNingizimu Afrika, noma umphathi wanoma yimuphi omunye umkhumbi ongaphakathi kwamanzi aseNingizimu Afrika, amachweba kanye nezindawo zokunikezela ngowoyela ukuze anikeze usizo kunoma yimuphi umkhumbi noma umkhumbi olimale olwandle, noma okungenzeka sibe yingozi;

(b) yala, ngokubhala, umphathi wanoma yimuphi umkhumbi waseNingizimu Afrika ukuba—

(i) ukugibelisa noma yiziphi izinto zokusebenza;

(ii) ukuhamba ngomkhumbi aye kunoma iyiphi indawo;

(iii) ukunikeza usizo kunoma yimuphi umkhumbi osiza abalimele olwandle; noma

(vi) assist in any operations for the cleaning up, removal or dispersal of any oil or pollutant; and

(c) instruct, in writing, the master of any South African ship to obey the instructions of any person authorised by the Authority to exercise control over, or responsibility for, a maritime casualty.

(5) The master of any ship to whom an instruction is issued under subsection (4) must retain ultimate decision-making powers in relation to the direct safety of the ship and persons on board.

(6) This section does not authorise the taking of measures against a warship or other ship owned or operated by a foreign State and used, for the time being, only on government and non-commercial service.

Measure to be safe, reasonable and proportional

20. (1) Before taking any measure under section 19 and during its course, the Authority must use its best endeavours to avoid any risk to human life, and to afford persons in distress any assistance of which they may need, and in appropriate cases, the Authority must facilitate the repatriation of ships' crews, and create no unnecessary and unlawful obstacles to repatriation.

(2) Any measure undertaken under section 19 must be proportionate to the pollution damage actual or threatened to South African waters or coastline, and such measure must not go beyond what is reasonably necessary to achieve the end mentioned in section 19 and must cease as soon as that has been achieved, and the said measure must not unnecessarily interfere with the rights and interests of the flag State, third party States and any other persons.

(3) In considering whether the measures under section 19 are proportionate to the damage, an account must be taken of—

(a) the extent and probability of imminent damage if those measures are not taken;

(b) the likelihood of those measures being effective;

(c) the extent of the damage to the area that may be caused by such measures; and

(d) the ability of the damaged area to be rehabilitated after taking the measures.

Consultation and notification

21. (1) The Authority as directed by the Incident Commander must consult with other States affected by the marine oil pollution incident, particularly with the flag State, as appropriate.

(2) The Authority must, without delay and as directed by the Incident Commander, notify and request inputs or comments from any person—

(a) known to the Authority; or

(b) who became known to the Authority during the consultations,

who has interests which may reasonably be expected to be affected by those measures, of the proposed measures to be undertaken, and the Authority must take into account any inputs made by such person.

(3) Before any measure is taken, the Authority may consult with independent experts, including those recommended by the International Maritime Organization.

(4) In cases of extreme urgency requiring measures to be taken immediately, the Authority may take measures considered necessary without prior notification or consultation or without continuing consultations already commenced.

(5) The Authority must immediately notify the States affected by the marine oil pollution incident and the known persons concerned, as well as the Secretary-General of the International Maritime Organization, of any measures that have been taken in terms of section 19.

(vi) ukusiza kunoma yimiphi imisebenzi yokuhlanza, ukususwa noma ukuhlakazwa kwanoma yimuphi uwoyela noma ukungcola; futhi

(c) yala, ngokubhalwe phansi, umphathi wanoma yimuphi umkhumbi waseNingizimu Afrika, ukuthi athobele imiyalelo yanoma yimuphi umuntu ogunyazwe uMkhandlu ukulawula, noma ukubophezeleka, kwabalimale olwandle.

(5) Umphathi wanoma yimuphi umkhumbi onikezwa umyalelo ngaphansi kwesigatshana sesi-(4) kufanele agcine amandla okuthatha izinqumo maqondana nokuphepha okuqondile komkhumbi kanye nabantu abasemkhunjini.

(6) Lesi sigaba asikugunyazi ukuthathwa kwezinyathelo ngokumelene nomkhumbi wempi noma omunye umkhumbi ophethwe noma osetshenziswa uMbuso wangaphandle futhi osetshenziswa, okwamanje, kuphela kuhulumeni kanye nezinsizakalo ezingezona ezohwebo.

Izinyathelo zokuphepha ezilinganiselwe kahle

20. (1) Ngaphambi kokuthatha noma yiziphi izinyathelo ngaphansi kwesigaba se-19 kanye nangesikhathi sokuqhubeka kwazo, uMkhandlu kumele usebenzise yonke imizamo yokugwema noma iyiphi ingozi empilweni yomuntu, futhi sinikeze abantu abacindezelekile noma yiluphi usizo abangaludinga, futhi ezimeni ezifanele, uMkhandlu kumele uhlehlise ukubuyiselwa kwezisebenzi zemikhumbi, futhi kungabikho izithiyo ezingadingekile nezingekho emthethweni zokubuyiswa.

(2) Noma isiphi isinyathelo esithathwe ngaphansi kwesigaba se-19 kumele silingane nomonakalo wokunukubezeka ongokoqobo noma osongelwa emanzini aseNingizimu Afrika noma ogwini, futhi leso sinyathelo akumele sidlule kulokho okudingekayo ukuze kufezwe isiphetho esishiwo esigabeni se-19 futhi kufanele siphele ngokushesha ngemva kokuba lokho sekufeziwe, futhi leso sinyathelo esishiwo akufanele sigxambukele ngokungenasidingo amalungelo nezintshisakalo zanoma yimuphi omunye elinye izwe okubhaliswe kulo umkhumbi nanoma yimuphi omunye umuntu.

(3) Lapho kubhekwa ukuthi izinyathelo ezingaphansi kwesigaba se-19 ziyalingana yini nomonakalo, kufanele kubhekwe—

(a) izinga kanye namathuba omonakalo oseduze uma lezo zinyathelo zingathathiwe;

(b) amathuba okuthi lezo zinyathelo zisebenze;

(c) ubukhulu bomonakalo endaweni ongase udalwe yilezo zinyathelo; kanye

(d) nekhono lendawo eyonakele ukuze ivuselelwe ngemva kokuthatha izinyathelo.

Ukubonisana nokwazisa

21. (1) UMkhandlu njengoba uyalwe uMphathi Wesigameko kufanele uthintane namanye amazwe athintwe isigameko sokungcoliseka kolwandle ngowoyela, ikakhulukazi nezwe okubhaliswe kulo umkhumbi, ngokufanelekile.

(2) UMkhandlu kumele, ngaphandle kokulibala futhi njengoba uyalelwe uMphathi Wesigameko, wazise futhi ucele imibono noma ukuphawula kunoma yimuphi umuntu—

(a) owaziwa uMkhandlu; noma

(b) owaziwa uMkhandlu ngesikhathi sezingxoxo,

onentshisekelo okungenzeka kulindeleke ukuthi ithintwe yilezo zinyathelo, zezinyathelo ezihlongozwayo okufanele zithathwe, futhi uMkhandlu kumele ucabangele noma yikuphi ukuphawula okwenziwa yilowo muntu.

(3) Ngaphambi kokuthi kuthathwe noma yiziphi izinyathelo, uMkhandlu ungathintana nongoti abazimele, kuhlanganisa nalabo abatuswe yiNhlangano Yezolwandle Yamazwe Ngamazwe.

(4) Ezimeni eziphuthuma kakhulu ezidinga ukuthi kuthathwe izinyathelo ngokushesha, uMkhandlu ungathatha izinyathelo ezithathwa njengezibalulekile ngaphandle kokwazisa noma ukubonisana noma ngaphandle kokubonisana okuqhubekayo osekuqalile.

(5) UMkhandlu kumele ngokushesha wazise Imibuso ethintekile ngesigameko sokungcoliseka kolwandle ngowoyela kanye nabantu abaziwayo abathintekayo, kanye noNobhala-Jikelele Wenhlangano Yezolwandle Yamazwe Ngamazwe, nganoma yiziphi izinyathelo ezithathiwe ngokwesigaba se-19.

Right to compensation

22. (1) If any action taken by the Authority or any person in accordance with directions pursuant to section 19(2) was—

(a) in excess of what was reasonably necessary to prevent, eliminate or reduce pollution or the risk of pollution; or

(b) such that the good of the action or measure taken was disproportionately less than the expense incurred or the loss or the damage suffered because of the action or measure,

the person who has incurred expense or loss or damage because of the taking of that action or measure may recover compensation from the Department.

(2) If a claim is brought against the Department for compensation under subsection (1)*(a)* or *(b)* should apply, must take into account—

(a) the extent and probability of imminent pollution damage if the measures had not been taken;

(b) the likelihood of the measures taken being effective; and

(c) the extent of the damage that has been caused by the measures taken.

(3) Where any measure having been taken pursuant to section 19 on the high seas and there is a dispute between the Government and the owner of the ship or Government of the State where the ship is registered and negotiations between the parties have not been possible and if the parties do not otherwise agree, the matter must be submitted, upon the request of any of the parties, to conciliation, and if that does not succeed, then to arbitration according to the procedures set out in the Annex to the Intervention Convention.

Protection from liability

23. The Incident Commander, the Authority and any person who is authorised by the Authority to take any measure pursuant to section 19(2), as the case may be, subject to section 18, may not incur any civil liability in respect of such action unless such action was due to wilful misconduct or gross negligence.

CHAPTER 5

ADMINISTRATION, ENFORCEMENT AND MISCELLANEOUS PROVISIONS

Administration and enforcement

24. (1) The Authority has primary responsibility for the administration and enforcement of this Act, and any person appointed as an inspector under this Act is under the supervision of the Authority.

(2) The Chief Executive Officer or his or her delegate may, after consultation with the National Prosecuting Authority, cause prosecutions to be instituted and conducted for offences under this Act.

Appointments

25. (1) The Chief Executive Officer may, in line with section 5 of the South African Maritime Safety Authority Act—

(a) appoint such officers as the Chief Executive Officer considers necessary for the administration and enforcement of this Act, including proper officers as defined in the Merchant Shipping Act, 1951 (Act No. 57 of 1951), as inspectors;

(b) subject to the approval of the Minister and with the concurrence of the Ministers of the relevant Departments, delegate by notice in the *Gazette* the responsibility for certain duties required to be performed in order to meet the objectives of this Act, to other government departments or agencies;

(c) appoint ship surveyors or any suitably qualified person whom the Chief Executive Officer deems fit, as inspectors, for the purposes of this Act; and

Ilungelo lokunxeshezelwa

22. (1) Uma noma yisiphi isinyathelo esithathwe nguMkhandlu noma yimuphi umuntu ngokuhambisana nemiyalelo ngokuhambisana nesigaba se-19(2)—

(a) sasingaphezu kwalokho obekudingekile ukuze kuvinjwe, kuqedwe noma kuncishiswe ukungcola noma ingozi yokungcola; noma

(b) sasingendlela yokuthi ubuhle besinyathelo noma isilinganiso esithathiwe bebungaphansi kwezindleko ezitholiwe noma ukulahlekelwa noma umonakalo owenziwe ngenxa yesinyathelo noma isilinganiso,

umuntu onezindleko noma ukulahlekelwa noma ukulimala ngenxa yokuthatha leso sinyathelo noma isilinganiso angathola isinxephezelo eMnyangweni.

(2) Uma uMnyango uthola isicelo sokunxeshezelwa ngaphansi kwesigatshana soku-(1), inkantolo, lapho inquma ukuthi isigatshana soku-(1)*(a)* noma *(b)* kufanele yini sisebenze, kufanele inake—

(a) izinga kanye namathuba omonakalo oseduze wokungcola uma izinyathelo bezingazange zithathwe;

(b) amathuba okuthi izinyathelo ezithathiwe ziphumelele; futhi

(c) ubukhulu bomonakalo odalwe yizinyathelo ezithathiwe.

(3) Lapho noma yisiphi isinyathelo sesithathiwe ngokulandela isigaba se-19 olwandle oluvulekile futhi kukhona ingxabano phakathi kukaHulumeni nomnikazi womkhumbi noma uHulumeni Wezwe lapho umkhumbi ubhaliswe khona futhi izingxoxo phakathi kwezinhlangothi zingenzeki futhi uma izinhlangothi zingavumelani ngenye indlela, udaba kufanele luhanjiswe, ngesicelo sanoma yibaphi abathintekayo, ukuze kube nokubuyisana, futhi uma lokho kungaphumeleli ngokuhambisana neNqubomgomo, bese kudluliswa eSithasiselweni seSivumelwano Sokungenelela.

Ukuvikelwa ekubophezelekeni

23. UMphathi Wesigameko, uMkhandlu kanye nanoma yimuphi umuntu ogunyazwe uMkhandlu ukuthi athathe noma yiziphi izinyathelo ngokulandela isigaba se-19(2), kuye ngokuthi yikuphi, kuncike esigabeni se-18, angeke athweswe icala mayelana nalesi senzo ngaphandle uma leso senzo besingenxa yokungaziphathi kahle ngamabomu noma ubudedengu obukhulu.

ISAHLUKO 5

IMIHLINZEKO YEZOKUPHATHA, UKUPHOQELELA KANYE NOKUJWAYELEKILE

Ukuphatha nokuphoqelela

24. (1) UMkhandlu usinesibopho esiyinhloko sokuphatha nokuphoqelelwa kwalo Mthetho, futhi noma yimuphi umuntu oqokwe njengomhloli ngaphansi kwalo Mthetho, ungaphansi kokuqondisa koMkhandlu.

(2) IsiKhulu esiPhezulu esiPhethe noma isithunywa saso, ngemva kokubonisana noPhiko Lwezokushushisa kuZwelonke, bangenza ukuba kushushiswe futhi kuqhutshwe amacala ngaphansi kwalo Mthetho.

Ukuqokwa

25. (1) IsiKhulu esiPhezulu esiPhethe singase, ngokuhambisana nesigaba sesi-5 se-*South African Maritime Safety Authority Act*—

(a) singaqoka lezo zikhulu njengoba isiKhulu esiPhezulu esiPhethe sibona kufanele ukuze kuphathwe futhi kusetshenziswe lo Mthetho, okuhlanganisa izikhulu ezifanele njengoba zichazwe i-*Merchant Shipping Act*, 1951 (uMthetho 57 ka-1951), njengokuhlola;

(b) kuncike ekugunyazweni kukaNgqongqoshe nangokuvumelana noNgqongqoshe beMinyango ethintekayo, adlulisele ngesaziso kuSomqulu isibopho semisebenzi ethile okudingeka yenziwe ukuze kufezwe izinjongo zalo Mthetho, kweminye iminyango noma izikhungo zikahulumeni;

(c) singaqoka abahloli bemikhumbi noma yimuphi umuntu oqeqeshwe ngokufanelekile lowo IsiKhulu esiPhezulu esiPhethe esimbona efanelekile, njengabahloli, ngokwezinjongo zalo Mthetho; futhi

(d) submit the list of inspectors so appointed with their full credentials to the Minister, who shall submit a request to the Minister responsible for justice to have these officers declared to be peace officers in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(2) The Authority must ensure that all persons who are appointed as inspectors receive proper and regular training in order to assist them to carry out their duties and functions in a competent and responsible manner.

(3) Inspectors must be issued with an identity card by the Authority in a form approved by the Authority.

(4) Where a person in possession of an identity card issued to him or her under subsection (3) ceases to be an inspector, he or she must forthwith return the identity card to the Authority.

Boarding of ships by inspectors

26. (1) Where there are reasonable grounds to believe that a ship has violated any provision of this Act, or if there is in, or on, that ship any item that may afford evidence as to the commission of an offence under this Act and the ship is—

(a) within the territorial waters of the Republic; or

(b) a South African ship anywhere,

an inspector may, with such assistance as he or she deems necessary, board that ship for the purposes of performing any of the functions of an inspector under section 28, and may, for that purpose, stop and detain that ship.

(2) If there are reasonable grounds to believe that a ship has violated any provision of this Act—

(a) while in the exclusive economic zone of the Republic; and

(b) the ship is within territorial waters of the Republic,

the Authority or an inspector may require the person in charge of the ship to give information regarding—

(i) its identity and port of registry;

(ii) its last and next port of call; and

(iii) any other relevant information required to establish whether a violation of this Act has occurred.

(3) Where there are reasonable grounds to believe that a ship has violated any provision of this Act while in the exclusive economic zone of South Africa, resulting in a substantial discharge causing, or threatening, significant pollution of the marine environment and the ship—

(a) is within territorial waters of the Republic; and

(b) has refused to give information as outlined under subsection (2) or the information supplied appears to be at variance with the evident factual situation,

an inspector may, with such assistance as he or she deems necessary, board that ship for the purpose of performing any of the functions of an inspector under section 28.

(4) Where there is evidence that a ship has violated any provision of this Act while in the exclusive economic zone of the Republic resulting in a discharge causing substantial damage or threat of substantial damage to the coastline, resource or related interests of the Republic and the ship is within South African waters, an inspector may, with such assistance as he or she deems necessary, board that ship for the purpose of performing any of the functions of an inspector under section 28, and may for that purpose stop and detain the ship.

(5) An inspector may require any person on board a ship to which this section applies, whom the inspector finds committing, or whom the inspector suspects on reasonable grounds of having committed, an offence under this Act, to state his or her full name and usual place of residence.

(6) Subject to subsections (1) to (4), if an inspector believes on reasonable grounds that a ship to which this Act applies is in South African waters and has been used or otherwise involved in the commission of an offence under this Act, the inspector may bring, or require the person in charge of the ship to bring, the ship to the nearest port in the Republic to which it is safe and practicable to bring.

(d) singaletha uhlu lwabahloli abaqokwe kanjalo nezincwadi zabo ezigcwele kuNgqongqoshe ozohambisa isicelo kuNgqongqoshe Wezobulungiswa sokuthi lezi zikhulu zimenyezelwe njengezikhulu zokuthula ngokwesigaba sama-334 soMthetho weNqubo yoBugebengu, 1977 (uMthetho 51 ka-1977).

(2) UMkhandlu kumele uqinisekise ukuthi bonke abantu abaqokwe njengabahloli bathola ukuqeqeshwa okufanele nokujwayelekile ukuze babasize ekwenzeni imisebenzi yabo ngendlela efanele nenesibopho.

(3) Abahloli kufanele banikezwe ikhadi likamazisi uMkhandlu ngendlela egunyazwe uMkhandlu.

(4) Lapho umuntu onekhadi likamazisi elinikezwe yena ngaphansi kwesigatshana sesi-(3) eyeka ukuba umhloli, kufanele ngokushesha abuyisele umazisi kuMkhandlu.

Ukugibela kwabahloli imikhumbi

26. (1) Lapho kunezizathu ezizwakalayo zokukholelwa ukuthi umkhumbi wephule noma yimiphi imihlinzeko yalo Mthetho, noma uma kukhona, noma kulowo mkhumbi, noma iyiphi into engakwazi ukunikeza ubufakazi bokwenziwa kwecala ngaphansi kwalo Mthetho futhi umkhumbi—

(a) ungaphakathi kwamanzi ezindawo zeRiphabhulikhi; noma

(b) ungumkhumbi waseNingizimu Afrika noma kuphi,

umhloli, ngosizo olunjalo alubona ludingeka, angakwazi ukugibela lowo mkhumbi ngenhloso yokwenza noma yimiphi imisebenzi yomhloli ngaphansi kwesigaba sama-28, futhi, ngaleyo njongo, angamisa futhi avale lowo mkhumbi.

(2) Uma kunezizathu ezizwakalayo zokukholelwa ukuthi umkhumbi wephule noma yikuphi ukuhlinzekwa kwalo Mthetho—

(a) ngenkathi isendaweni yezomnotho yeRiphabhulikhi kuphela; futhi

(b) umkhumbi ungaphakathi kwamanzi ezindawo aseNingizimu Afrika,

uMkhandlu noma umhloli angadinga umuntu ophethe umkhumbi ukuthi anikeze ulwazi mayelana—

(i) nobunikazi bayo kanye nechweba lokubhalisa;

(ii) nechweba layo lokugcina nelilandelayo lokubizwa; kanye

(iii) nanoma yiluphi olunye ulwazi olubalulekile oludingekayo ukuze kutholakale ukuthi ngabe wephuliwe yini lo Mthetho.

(3) Lapho kunezizathu ezizwakalayo zokukholelwa ukuthi umkhumbi wephule noma yimiphi imihlinzeko yalo Mthetho ngenkathi usendaweni yezomnotho kuphela yaseNingizimu Afrika, okuholela ekuchithekeni okukhulu okubangela, noma okusabisayo, ukungcoliswa okukhulu kwemvelo yasolwandle kanye nomkhumbi—

(a) ungaphakathi kwamanzi aseNingizimu Afrika; futhi

(b) wenqabile ukunikeza ulwazi njengoba kushiwo ngaphansi kwesigatshana sesi-(2) noma ulwazi olunikeziwe lubonakala lungqubuzana nesimo esiyiqiniso,

umhloli, ngosizo alubona ludingeka, angagibela lowo mkhumbi ngenhloso yokwenza noma yimiphi imisebenzi yomhloli ngaphansi kwesigaba sama-28.

(4) Lapho kunobufakazi bokuthi umkhumbi wephule noma yimiphi imihlinzeko yalo Mthetho ngenkathi usendaweni yezomnotho yeRiphabhulikhi kuphela okuholela ekukhiqizweni okudala umonakalo omkhulu noma usongo lomonakalo omkhulu ogwini noma ezinsizeni noma izintshisekelo ezihlobene neRiphabhulikhi futhi umkhumbi ungaphakathi kwamanzi aseNingizimu Afrika, umhloli ngalolo sizo alubona ludingekile angahamba ngalowo mkhumbi, ngenhloso yokwenza noma yimiphi yemisebenzi yomhloli engaphansi kwesigaba sama-28, futhi kungenzeka ngenxa yaleyo njongo, angama futhi abambe umkhumbi.

(5) Umhloli angadinga noma yimuphi umuntu osemkhunjini esisebenza kuye lesi sigaba, lowo umhloli ambamba enza icala noma lowo umhloli amsola ngezizathu ezizwakalayo zokuthi wenze icala ngaphansi kwalo Mthetho, ukuba asho igama lakhe eliphelele nendawo ahlala kuyo evamile.

(6) Ngokwesigatshana soku-(1) kuya kwesesi-(4), uma umhloli ekholelwa ngezizathu ezizwakalayo ukuthi umkhumbi osebenza kuwo lo Mthetho usemanzini aseNingizimu Afrika futhi uke wasetshenziswa noma wabandakanyeka ekwenzeni icala ngaphansi kwalo Mthetho, umhloli angaletha, noma angafuna umuntu ophethe umkhumbi ukuthi alethe umkhumbi echwebeni eliseduze leRiphabhulikhi lapho ungasetshenziswa khona futhi kuphephile.

(7) An inspector may, for the purpose of this Act, require the person in charge of a ship to which this section applies, to give information concerning the ship and its crew and any other person on board the ship.

(8) Where an inspector boards a ship to which this section applies, or makes a requirement of a person under this section, the inspector must produce his or her identity card for inspection by that person and the person in charge of the ship and, if the inspector fails to do so, he or she is not authorised to remain or to require any person assisting him or her to remain, on board that ship and may not detain that ship or make any requirement of a person in that ship.

Access to premises, offshore installation, oil-handling facility or port facility

27. (1) An inspector may, with the consent of the owner or person in charge of any premises, including an offshore installation, an oil-handling facility or a port facility, enter such premises, offshore installation, oil-handling facility or port facility for performing the functions of an inspector under section 28.

(2) If an inspector has reason to believe that there is, in certain premises, an offshore installation, oil-handling facility or port facility, any item that may afford evidence as to the commission of an offence under this Act, the inspector may make an application to a magistrate for a warrant authorising the inspector to enter the premises, offshore installation, oil-handling facility or port facility, for the purpose of performing the functions of an inspector under section 28.

(3) If, on an application under subsection (2), the magistrate is satisfied, by information under oath or affirmation that—

(a) there is reasonable ground for believing that there is on the premises, an offshore installation, oil-handling facility or port facility to which the application relates, any item that may afford evidence as to the commission of an offence under this Act; and

(b) the issue of warrant is reasonably required for the purpose of this Act,

the magistrate may grant a warrant authorising the inspector, with such assistance as the inspector deems necessary, to enter such premises, offshore installation, oil-handling facility or port facility, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of performing a function of an inspector under section 28.

Functions of inspectors

28. (1) The functions of an inspector who boards a ship under section 26 or enters premises, an offshore installation, an oil-handling facility or a port facility under section 27 are to—

(a) assess compliance with this Act;

(b) search for, and take possession of, any item that may afford evidence relating to the commission of an offence under this Act;

(c) search for, inspect, take extracts from, and make copies of, any document that relates to the requirements of this Act;

(d) observe the undertaking of operation and activities relating to this Act, including response to actual marine oil pollution incidents and the carrying out of training and exercises;

(e) collect samples for laboratory testing and analysis;

(f) take photographic evidence or video evidence;

(g) use individuals with expertise who are not designated inspectors to further investigations; and

(h) consider samples or photographic evidence from an oiled wildlife which may not necessarily be from an installation, an oil-handling facility or a port facility.

(2) For the purpose of carrying out his or her functions under subsection (1), an inspector may cause to be opened with a warrant issued by a magistrate as contemplated in section 27(2) by any necessary means, any hold, compartment, container or other

(7) Umhloli, ngenhloso yalo Mthetho, angadinga umuntu ophethe umkhumbi lapho lesi sigaba sisebenza khona, ukuba anikeze ulwazi oluphathelene nomkhumbi nabasebenzi bawo kanye nanoma yimuphi omunye umuntu osemkhunjini.

(8) Lapho umhloli egibela umkhumbi lapho lesi sigaba sisebenza khona, noma enza imfuneko yomuntu ngaphansi kwalesi sigaba, umhloli kufanele akhiphe umazisi wakhe ukuze ahlolwe yilowo muntu kanye nomuntu ophethe umkhumbi futhi, uma umhloli ehluleka ukwenza lokho, akagunyaziwe ukuba ahlale, noma afune noma yimuphi umuntu omsizayo ukuthi asale noma adinge ukuthi asale emkhunjini, futhi angeke abambe lowo mkhumbi noma enze noma iyiphi imfuneko yomuntu okulowo mkhumbi.

Ukufinyelela ezakhiweni, kusakhiwo sasolwandle, indawo yokuphatha uwoyela noma indawo yechweba

27. (1) Umhloli, ngemvume yomnikazi noma umuntu ophethe noma yiziphi izakhiwo, okuhlanganisa isakhiwo sasolwandle, indawo yokuphatha uwoyela noma indawo yechweba, angangena kulezo zakhiwo, isakhiwo sasolwandle, indawo yokuphatha uwoyela noma indawo yechweba ukuze enze imisebenzi yomhloli ngaphansi kwesigaba sama-28.

(2) Uma umhloli enesizathu sokukholelwa ukuthi kukhona, ezakhiweni ezithile, isakhiwo sasolwandle, indawo yokuphatha uwoyela noma indawo yechweba, noma iyiphi into engase inikeze ubufakazi bokwenziwa kwecala elimelene nalo Mthetho, umhloli angenza isicelo kumantshi ukuze akhiphe incwadi egunyaza umhloli ukuthi angene ezakhiweni, kusakhiwo sasolwandle, endaweni yokuphatha uwoyela noma endaweni yechweba, ngenjongo yokwenza imisebenzi yomhloli ngaphansi kwesigaba sama-28.

(3) Uma, ngesicelo esingaphansi kwesigatshana sesi-(2), imantshi yanelisekile, ngolwazi ngaphansi kwesifungo noma isiqinisekiso sokuthi—

(a) kunesizathu esizwakalayo sokukholelwa ukuthi kukhona ezakhiweni, esakhiweni sasolwandle, endaweni yokuphatha uwoyela noma endaweni yechweba, lapho isicelo sihlobene, nanoma iyiphi into engase ibe nobufakazi bokwenziwa kwecala ngaphansi kwalo Mthetho; kanye

(b) nokukhishwa kwemvume kuyadingeka ngokwenhloso yalo Mthetho,

imantshi inganikeza incwadi egunyaza umhloli, ngosizo umhloli alubona ludingeka, ukuba angene ezakhiweni, esakhiweni sasolwandle, endaweni yokuphatha uwoyela noma endaweni yechweba, phakathi kwalawo mahora emini noma obusuku njengoba imvume isho noma, uma imvume isho kanjalo, nganoma isiphi isikhathi, uma kunesidingo ngenkani, ngenjongo yokwenza umsebenzi womhloli, ngaphansi kwesigaba sama-28.

Imisebenzi yabahloli

28. (1) Imisebenzi yomhloli ogibela umkhumbi ngaphansi kwesigaba sama-26 noma ongena ezakhiweni, isakhiwo sasolwandle, indawo yokuphatha uwoyela noma indawo yechweba ngaphansi kwesigaba sama-27—

(a) ukuhlola ukuthotshelwa kwalo Mthetho;

(b) ukucinga, nokuthatha, nanoma iyiphi into engase ibe nobufakazi obuphathelene nokwenziwa kwecala ngaphansi kwalo Mthetho;

(c) ukucinga, ukuhlola, ukuthatha okucashuniwe, nokwenza amakhophi anoma yimuphi umbhalo ohlobene nezimfuneko zalo Mthetho;

(d) ukubheka ukwenziwa komsebenzi kanye nemisebenzi ephathelene nalo Mthetho, okuhlanganisa ukuphendula ezigamekweni zangempela zokungcoliseka kolwandle ngowoyela kanye nokwenza ukuqeqeshwa nokusebenzisa;

(e) ukuqoqwa kwamasampula ukuze ahlolwe futhi ahlaziywe elabhorethri;

(f) ukuthathwa kobufakazi bezithombe noma ubufakazi bevidiyo;

(g) nokusebenzisa abantu abanolwazi abangabahloli abaqokiwe ukuze kuqhutshekwe nophenyo; kanye

(h) nokubheka amasampula noma ubufakazi bezithombe ezivela ezilwaneni zasendle ezigcotshwe ngowoyela okungenzeka ukuthi azivele endaweni yasolwandle, indawo yokuphatha uwoyela noma indawo yechweba.

(2) Ngenhloso yokwenza umsebenzi wakhe ngaphansi kwesigatshana soku-(1), umhloli angenza ukuthi kuvulwe ngencwadi yemvume ekhishwe yimantshi njengoba kuhlongozwe esigatshaneni sama-27(2) nganoma yiziphi izindlela ezidingekayo, noma

receptacle on a ship, premises, offshore installation, oil-handling facility or port facility, if the owner or person in charge refuses to open such hold, compartment, container or other receptacle, upon the reasonable request of the inspector.

Powers of arrest of inspectors

29. (1) An inspector may, without warrant, arrest any person, if the inspector believes on reasonable grounds that the person is committing or has committed an offence under this Act when the penalty for such offence includes imprisonment.

(2) Where an inspector arrest a person under subsection (1), the inspector must produce his or her identity card for inspection by that person.

(3) Where an inspector makes an arrest under subsection (1), the inspector must cause the arrested person to be brought before a court or other proper authority to be dealt with in accordance with the law, except—

(a) in the case where the person arrested may be the master of a ship or person in charge of an offshore installation or a person in charge of the premises; or

(b) if the immediate removal of the person might pose a threat to the safe operation of the ship, premises, offshore installation, oil-handling facility or port facility,

in which case such person must be permitted to carry on any tasks that are critical to the safe operation of the ship, premises, offshore installation, oil-handling facility or port facility, until such time that such person can be satisfactorily relieved.

(4) Nothing in this section prevents the arrest of a person in accordance with any other law.

Offences and penalties

30. (1) A person is guilty of an offence if he or she—

(a) wilfully or as a result of gross negligence pollutes the marine environment;

(b) fails to comply with sections 5(5), (7), (8) and (10), 7(1), (2), (3) and (4), 8(2) or 9(2);

(c) fails to comply with any instructions issued by the Authority or by any person duly authorised by the Authority, pursuant to section 19;

(d) wilfully obstructs a person duly authorised by the Authority pursuant to section 19;

(e) wilfully obstructs the Authority from exercising its powers in terms of this Act;

(f) fails to comply with section 25(4); or

(g) provides a false statement or account of events related to a pollution incident that attempts to hide or conceal the extent of the oil pollution incident.

(2) Any person convicted of an offence in terms of subsection (1)*(a)* and *(b)*, is liable on conviction to a fine not exceeding 35 million rand or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

(3) If any person—

(a) contravenes paragraphs *(c)*; *(d)*; *(e)* and *(f)* in subsection (1);

(b) admits to the Authority that he or she has contravened any provision of this Act, or that he or she has failed to comply with any such provision with which it was his or her duty to comply;

(c) agrees to abide by the decision of the Authority; and

(d) deposits with the Authority such sum as may be required of him or her, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

iyiphi indawo, ikhompathimenti, isitsha noma esinye isitsha esisemkhumbini, esakhiweni sasolwandle, ezofakwa ngasogwini lolwandle, endaweni yokuphatha uwoyela noma indawo yechweba, uma umnikazi noma umuntu ophethe enqaba ukuvula leyo ndawo, ikhompathimenti, isitsha noma enye into yokwamukela, ngesicelo esizwakalayo somhloli.

Amandla okubopha abahloli

29. (1) Umhloli, ngaphandle kwemvume, angabopha noma yimuphi umuntu, uma umhloli ekholelwa ngezizathu ezizwakalayo ukuthi lowo muntu wenza noma wenze icala ngaphansi kwalo Mthetho lapho isijeziso salelo cala sihlanganisa ukuboshwa.

(2) Lapho umhloli ebopha umuntu ngaphansi kwesigatshana soku-(1), umhloli kufanele akhiphe umazisi wakhe ukuze ahlolwe yilowo muntu.

(3) Lapho umhloli ebopha ngaphansi kwesigatshana soku-(1), umhloli kumele enze ukuthi umuntu oboshiwe alethwe phambi kwenkantolo noma esinye isiphathimandla esifanele ukuze asetshenzwe ngokuhambisana nomthetho, ngaphandle—

(a) esimweni lapho umuntu oboshiwe engaba umphathi womkhumbi noma umuntu ophethe isakhiwo sasolwandle noma umuntu ophethe izakhiwo; noma

(b) uma ukususwa ngokushesha komuntu kungase kuphazamise ukusebenza okuphephile komkhumbi, izakhiwo, isakhiwo sasolwandle, indawo yokuphatha uwoyela noma indawo yechweba,

uma kunjalo lowo muntu kufanele avunyelwe ukwenza noma yimiphi imisebenzi ebalulekile ekusebenzeni ngokuphephile komkhumbi, izakhiwo, isakhiwo sasolwandle, indawo yokuphatha uwoyela noma indawo yechweba, kuze kufike isikhathi lapho lowo muntu engakhululeka ngokugculisayo.

(4) Akukho lutho kulesi sigaba okuvimbela ukuboshwa komuntu ngokuhambisana nanoma yimuphi omunye umthetho.

Amacala nezijeziso

30. (1) Umuntu unecala uma—

(a) engcolisa imvelo yasolwandle ngamabomu noma ngenxa yobudedengu obukhulu;

(b) ehluleka ukuthobela izigaba sesi-5(5), (7), (8) kanye nese-(10), 7(1), (2), (3) kanye nesesi-(4), 8(2) noma sesi-9(2);

(c) ehluleka ukuthobela noma yimiphi imiyalelo ekhishwe uMkhandlu noma yinoma yimuphi umuntu ogunyazwe ngokusemthethweni uMkhandlu, ngokulandela isigaba se-19;

(d) evimba ngamabomu umuntu ogunyazwe ngokusemthethweni nguMkhandlu ngokulandela isigaba se-19;

(e) evimba ngamabomu uMkhandlu ekusebenziseni amandla awo ngokwalo Mthetho;

(f) ehluleka ukuhambisana nesigaba sama-25(4); noma

(g) enikeza isitatimende esingamanga noma incazo yezehlakalo ezihlobene nesigameko sokungcola ezama ukufihla noma ukufihla izinga lesigameko sokungcolisa ngowoyela.

(2) Noma yimuphi umuntu olahlwe icala ngokwesigatshana soku-(1)*(a)* kanye no-*(b)*, uyothweswa icala, uma etholwa enecala akhokhe inhlawulo engeqile ezigidini ezingama-35 zamarandi noma agqunywe ejele isikhathi esingeqile eminyakeni eyi-10, noma akhokhe kokubili inhlawulo nokugqunywa ejele.

(3) Uma noma yimuphi umuntu—

(a) owephule noma yimiphi imihlinzeko eku-*(c)*; *(d)*; *(e)* kanye no-*(f)*;

(b) evuma kuMkhandlu ukuthi wephule noma yimiphi imihlinzeko yalo Mthetho, noma wehlulekile ukuhambisana nanoma yimuphi umhlinzeko obeku-ngumsebenzi wakhe ukuwuthobela;

(c) evuma ukuthobela isinqumo soMkhandlu; kanye

(d) ediphozitha kuMkhandlu isamba esingadingeka kuye, kodwa singadluli inhlawulo enkulu engase ibekwe uma etholakala enecala lokwephula noma lokwehluleka okukhulunywa ngakho,

the Authority may, after such enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(4) There shall be a right of appeal to the Minister from a determination or order by the Authority under subsection (1)*(c)*, *(d)*, *(e)* and *(f)* whereby a penalty exceeding R15 000 is imposed, provided that such right is exercised within a period of three months from the date of such determination or order.

(5) The imposition of a penalty under subsection (1)*(d)* shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

Regulations

31. The Minister may make regulations regarding—

(a) any matters referred to in sections 5(4), 5(6), 5(9)*(c)*, 5(9)*(e)*, 5(11), 6(1), 7(3), 13*(b)* and 17(6); and

(b) any other ancillary, incidental administrative or procedural matter that is necessary to prescribe for the proper implementation and administration of this Act.

Recovery of fines by distress

32. Where a court orders a person convicted of any offence under this Act to pay any fine or other costs and that person is the owner or master or person in charge of a ship, premises, offshore installation, oil-handling facility or port facility to which this Act applies, and the fine or other costs are not paid within the time and in manner specified by the order of the court, the court may, in addition to any other power it may have to compel payment and dispute in terms of any other Act, direct the amount remaining unpaid to be levied by distress or by the sale of any ship, premises, offshore installation, oil-handling facility, port facility or any other equipment relating to the offence, as the case requires.

Time limit for prosecutions

33. (1) A prosecution for an offence under this Act must start—

(a) within two years after the commission of the offence; or

(b) within two years after the offence comes to the complainant's knowledge, but within three years after the commission of the offence.

(2) A statement in a complaint of an offence under this Act that the matter of the complaint came to the knowledge of the complainant on the stated date is *prima facie* evidence of when the matter came to the complainant's knowledge, subject to confirmation by the relevant court.

Short title and commencement

34. This Act is called the Marine Oil Pollution (Preparedness, Response and Cooperation) Act, 2025, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

UMkhandlu, emva kophenyo ngendlela obona kudinge ngayo, unganquma kafushane udaba futhi, ngaphandle kwenqubo yomthetho, ungayala ngendlela yokujezisa ukuthi ithathwe yonke idephozithi eshiwo noma kuthathwe ingxenye.

(4) Kuyoba nelungelo lokudlulisa icala kuNgqongqoshe ngokunquma noma ngomyalelo woMkhandlu ngaphansi kwesigatshana soku-(1)*(c)*, *(d)*, *(e)*, kanye no-*(f)* lapho kukhokhiswa khona inhlawulo engaphezu kwezi-R15 000, inqobo nje uma lelo lungelo lisetshenziswa esikhathini esiyizinyanga ezintathu kusukela ngosuku lokunqunywa noma lo myalo.

(5) Ukubekwa kwesijeziso ngaphansi kwesigatshana soku-(1)*(d)* angeke kuthathwe njengokulahlwa yicala lobugebengu, kodwa akukho ukushushiswa ngecala elihlobene okuyoba negunya.

Imithethonqubo

31. UNgqongqoshe angenza imithethonqubo mayelana—

(a) noma yiziphi izindaba okukhulunywe ngazo ezigabeni zesi-5(4), 5(6), 5(9)*(c)*, 5(9)*(e)*, 5(11), 6(1), 7(3), 13*(b)* kanye nesi-17(6); kanye

(b) nanoma yikuphi okunye okuhambisanayo, ukuphatha okungahleliwe noma udaba lwenqubo oludingekayo ukuze kunqunywe ukusetshenziswa nokuphathwa kwalo Mthetho.

Ukubuyiselwa kwezinhlawulo ngempogo

32. Lapho iNkantolo iyala umuntu olahlwe yinoma yiliphi icala ngaphansi kwalo Mthetho ukuba akhokhe inhlawulo noma ezinye izindleko futhi lowo muntu ungumnikazi noma umphathi noma umuntu ophethe umkhumbi, izakhiwo, isakhiwo sasolwandle, indawo yokuphatha uwoyela noma indawo yechweba osebenza kuyo lo Mthetho, futhi inhlawulo noma ezinye izindleko azikhokhwa ngesikhathi nangendlela eshiwo umyalelo weNkantolo, iNkantolo ngaphezu kwalokho, ingaba namandla okuqondisa noma iyiphi imibandela yoMthetho, ngaphezu kwalokho, ikwazi ukuphoqa noma yimiphi imibandela yoMthetho, iqondise ukuthi inani elisele lingakhokhiwe ukuthi likhokhiswe ngokucindezela noma ngokudayiswa kwanoma yimuphi umkhumbi, izakhiwo, isakhiwo sasolwandle, indawo yokuphatha uwoyela, indawo yechweba nanoma iyiphi enye impahla ehlobene necala, njengoba kudingeka.

Umkhawulo wesikhathi sokushushiswa

33. (1) Kumele kuqale ukushushiswa ngecala ngaphansi kwalo Mthetho—

(a) kungakapheli iminyaka emibili ngemuva kokwenziwa kwecala; noma

(b) kungakapheli iminyaka emibili icala lifike kummangali, kodwa kungakapheli iminyaka emithathu ngemuva kokwenziwa kwecala.

(2) Isitatimende esikhalazweni secala elingaphansi kwalo Mthetho sokuthi udaba lwesikhalo lwafika olwazini lukammangali ngosuku olushiwo siwubufakazi obuqand'ikhanda bokuthi ummangali walazi nini udaba, kuye ngokuthi kuqinisekiswe yinkantolo efanele.

Isihloko esifushane nokuqala kokusebenza

34. Lo Mthetho ubizwa ngokuthi uMthetho Wokungcoliseka Kolwandle Ngowoyela (Ukulungiselela, Ukusabela kanye Nokubambisana) uMthetho, wezi-2025, futhi uqala ukusebenza ngosuku olubekwe uMongameli ngesimemezelo kuSomqulu.

Schedule

Amendment of laws

No. and year of Act	Short title	Extent of amendment
Act No. 5 of 1998	South African Maritime Safety Authority Act, 1998	1. Amendment of section 3 by the substitution for paragraph *(b)* of the following paragraph: "*(b)* to prevent, prepare, respond and combat pollution of the marine environment by ships, seaports, oil handling facilities and offshore installation; and". 2. Amendment of section 37 by the addition in subsection (1) of the following paragraph: "*(g)* any assets in the form of marine and air surveillance and patrol crafts required to execute the objectives of the Authority.". 3. Amendment of section 38 by the substitution for the title of the following title: **"Maritime Pollution Preparedness and Response Fund"**. 4. Amendment of section 38 by the substitution for subsections (1), (3) and (4) of the following subsections, respectively: (1) A fund, called the Maritime Pollution Preparedness and Response Fund, is hereby established under the control of the Minister. (3) There is to be paid to the Fund amounts equal to amounts received by way of levies from seaports, oil-handling facilities and offshore installations, penalty, fine or forfeiture by the State for contraventions in terms of the laws referred to in section 2(2). (4) Money in the Fund may be applied only for the purpose of furthering the objectives of the Authority referred to in section 3*(b)*.". 5. Amendment of Schedule by the addition of the following: "Marine Oil Pollution (Preparedness, Response and Cooperation) Act, 2025.".

Isheduli

Ukuchitshiyelwa Kwemithetho

Inombolo kanye nonyaka woMthetho	**Isihloko esifushane**	**Izinga lokuchitshiyelwa**
Wet No. 5 van 1998	Wet op die Suid-Afrikaanse Maritieme Veiligheidsowerheid, 1998	1.Wysiging van artikel deur paragraaf *(b)* deur die volgende paragraaf te vervang: "*(b)* om die besoedeling van die mariene omgewing deur skepe, seehawens, oliehanteringsfasiliteite en aflandige installasies te voorkom, daarvoor voor te berei, daarop te reageer en dit te bestry; en". 2.Wysiging van artikel 37 deur in subartikel (1) die volgende paragraaf in te voeg: "*(g)* enige bates in die vorm van mariene en lugwaarnemings- en patrollievaartuie wat benodig word om die oogmerke van die Owerheid uit te voer.". 3. Wysiging van artikel 38 deur die titel deur die volgende titel te vervang: "**Fonds vir gereedheid en reaksie op Maritieme Besoedeling"**. 4. Wysiging van artikel 38 deur subartikels (1), (3) en (4) onderskeidelik deur die volgende subartikels te vervang: "(1) 'n Fonds, wat die Fonds vir gereedheid en reaksie op Maritieme Besoedeling heet, word hierby onder die beheer van die Minister gestig. (3) Daar moet betaal word, aan die fonds, bedrae gelyk aan die bedrae wat by wyse van heffings van seehawens, oliehanteringsfasiliteite en aflandige installasies, straf, boete of verbeurdverklaring deur die Staat vir oortredings ingevolge die wette bedoel in artikel 2(2), ontvang is. (4) Geld in die Fonds mag slegs vir die doel van die bevordering van die oogmerke van die Owerheid bedoel in artikel 3*(b)*, aangewend word.". 5. Wysiging van Bylae deur die volgende by te voeg: " 'Marine Oil Pollution (Preparedness, Response and Cooperation) Act, 2025'.".

No. and year of Act	Short title	Extent of amendment
Act No. 6 of 1998	South African Maritime Safety Authority Levies Act, 1998	1. Amendment of section 1 by the addition of the following paragraphs: "*(c)* the presence and operation of seaports and oil-handling facilities; and *(d)* the presence of an offshore installation.".

Inombolo kanye nonyaka woMthetho	**Isihloko esifushane**	**Izinga lokuchitshiyelwa**
Wet No. 6 van 1998	Wet op Heffings van die Suid-Afrikaanse Maritieme Veiligheidsowerheid	1.Wysiging van artikel 1 deur die volgende paragrawe by te voeg: "*(c)* die teenwoordigheid en bedryf van seehawens en oliehanteringsfasiliteite; en *(d)* die teenwoordigheid van 'n aflandige installasie.".

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