

REPUBLIC OF SOUTH AFRICA

ENVIRONMENTAL LAWS RATIONALISATION BILL

(As introduced)

(MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM)

[B 48—97]

REPUBLIEK VAN SUID-AFRIKA

RASIONALISERINGSWETSONTWERP OP OMGEWINGSWETTE

(Soos ingedien)

(MINISTER VAN OMGEWINGSKE EN TOERISME)

[W 48—97]

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GENERAL EXPLANATORY NOTE:

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

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To make provision for the rationalisation of certain Acts of Parliament which are administered by the Department of Environmental Affairs and Tourism, by amending those Acts and by extending the application thereof to certain areas which at present form part of the national territory of the Republic but where other laws apply at present in respect of the matters in question; and to make provision for matters connected therewith.

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

Definitions

1. In this Act, unless the context otherwise indicates—
“affected area” means the areas which formerly constituted the national territories of the former Transkei, Bophuthatswana, Venda and Ciskei, and the areas in respect of which the former self-governing territories of Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa and Qwaqwa were established; 5
“Minister” means the Minister of Environmental Affairs and Tourism.

Amendment of laws 10

2. The laws mentioned in Schedule 2 are hereby amended to the extent indicated in the third column thereof.

Extension of laws

3. The application of the laws mentioned in Schedule 1 and all amendments thereof is hereby extended to the affected area. 15

Extension of regulations and notices to affected area

4. The application of all regulations and notices made or issued by the Minister under the laws mentioned in Schedule 1 is hereby extended to the affected area.

Conflict of provisions

5. In the case of any conflict between the provisions of a law referred to in section 3 or a regulation or notice referred to in section 4, and the provisions of any law, regulation, notice or other measure which had the force of law in the affected area immediately prior to the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), the provisions of the firstmentioned law, regulation or notice shall prevail. 5

Short title

6. This Act shall be called the Environmental Laws Rationalisation Act, 1997.

SCHEDULE I

LAWS OF THE REPUBLIC OF SOUTH AFRICA UNDER THE CONSTITUTIONAL DISPENSATION WHICH EXISTED PRIOR TO 27 APRIL 1994 MADE APPLICABLE IN THE AFFECTED AREA BY SECTION 3

No. and year of law	Short title	Extent of application
Act 21 of 1935	Sea-Shore Act, 1935	The whole
Act 43 of 1948	Prince Edward Islands Act, 1948	The whole
Act 45 of 1965	Atmospheric Pollution Prevention Act, 1965	The whole
Act 46 of 1973	Sea Birds and Seals Protection Act, 1973	The whole
Act 73 of 1980	Dumping at Sea Control Act, 1980	The whole

SCHEDULE 2

LAWS AMENDED BY SECTION 2

No. and year of law	Short title	Extent of amendment
Act 21 of 1935	Sea-Shore Act, 1935	<p>(a) Amendment of section 6 by the substitution for the expressions “House of Assembly” and “Minister of Community Development”, wherever they occur, of the expressions “National Assembly” and “Minister of Environmental Affairs and Tourism”, respectively.</p> <p>(b) Amendment of section 9 by the substitution for the expression “Minister of Community Development”, wherever it occurs, of the expression “Minister of Environmental Affairs and Tourism”.</p> <p>(c) Amendment of section 11 by the substitution in subsection (2) for the expression “Minister of Community Development” of the expression “Minister of Environmental Affairs and Tourism”.</p>
Act 55 of 1962	South African Citizens in Antarctica Act, 1962	<p>Amendment of section 2 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) For the purposes of the administration of justice, and in general for the application of the laws of the Republic, Antarctica shall be deemed to be situated within the magisterial district of [Pretoria] Cape Town.”.</p>

No. and year of law	Short title	Extent of amendment
Act 45 of 1965	Atmospheric Pollution Prevention Act, 1965	<p>(a) Amendment of section 1—</p> <p>(i) by the substitution in subsection (1) for the definition of “chief officer” of the following definition:</p> <p>“ ‘chief officer’ means the chief air pollution control officer appointed under section six, and includes the [Government Mining Engineer] <u>Director-General: Minerals and Energy</u> or the Chief Inspector of Explosives acting in pursuance of authority conferred upon him <u>or her</u> in terms of subsection (2) of that section and any person performing any of the functions of the chief officer by virtue of authority conferred upon him <u>or her</u> in terms of subsection (5) of that section;”;</p> <p>(ii) by the deletion in subsection (1) of the definition of “employee”;</p> <p>(iii) by the substitution in subsection (1) for the definition of “local authority” of the following definition:</p> <p>“ ‘local authority’ means a <u>local government body within the meaning of section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993).</u>”;</p> <p>(iv) by the substitution in subsection (1) for the definition of “mine” of the following definition:</p> <p>“ ‘mine’ means a mine within the meaning of section [one] <u>102</u> of the [Mines and Works Act, 1956 (Act No. 27 of 1956)] <u>Mine Health and Safety Act, 1996 (Act No. 29 of 1996);</u>”;</p>

No. and year of law	Short title	Extent of amendment
		<p>(v) by the substitution in subsection (1) for the definition of “Minister” of the following definition:</p> <p>“ ‘Minister’ means the Minister of [Health and Welfare] <u>Environmental Affairs and Tourism</u>;”;</p> <p>(vi) by the substitution in subsection (1) for the definition of “officer” of the following definition:</p> <p>“ ‘officer’ means an officer within the meaning of section [one] <u>1</u> of the Public Service Act, [1957] <u>1994 [(Act No. 54 of 1957)]</u> (Proclamation No. 103 of 1994);”;</p> <p>(vii) by the substitution in subsection (1) for the definition of “works” of the following definition:</p> <p>“ ‘works’ means works within the meaning of section [one] <u>102</u> of the [Mines and Works Act, 1956 (Act No. 27 of 1956)] <u>Mine Health and Safety Act, 1996 (Act No. 29 of 1996)</u>.”.</p> <p>(b) Amendment of section 6—</p> <p>(i) by the substitution in paragraph (a) of subsection (2) for the expression “Government Mining Engineer” of the expression “Director-General: Minerals and Energy”; and</p> <p>(ii) by the substitution for subparagraph (i) of paragraph (c) of subsection (2) of the following subparagraph:</p> <p>“(i) any inspector [of mines] appointed under section [six of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908), of the Transvaal, or under that section as applied to the Orange Free State by the Orange Free State Metals Mining Act, 1936 (Act No. 13 of 1936),] <u>49(1) of the Mine Health and Safety Act,</u></p>

No. and year of law	Short title	Extent of amendment
		<p><u>1996 (Act No. 29 of 1996), or any Director: Mineral Development appointed in terms of section 4 of the Minerals Act, 1991 (Act No. 50 of 1991) to exercise or perform with reference to mines and works; or”.</u></p> <p>(c) Amendment of section 32—</p> <p>(i) by the substitution in subsection (1) for the expression “Government Mining Engineer” of the expression:</p> <p>“Chief Inspector as contemplated in the Mine Health and Safety Act, 1996 (Act No. 29 of 1996)”; and</p> <p>(ii) by the substitution in subsection (2) for the expression “Mines and Works Act, 1956 (Act No. 27 of 1956)” of the expression “Minerals Act, 1991 (Act No. 50 of 1991)”.</p> <p>(d) Amendment of section 47, by the substitution in subsections (4) and (5) for the expressions “Railway Administration” and “Minister of Transport Affairs”, wherever they occur, of the expressions “Transnet Limited and The South African Rail Commuter Corporation Limited” and “chairperson of Transnet Limited,” respectively.</p> <p>(e) Amendment of the Act, by the substitution for the expressions “Administrator”, “Director-General: Health and Welfare” and “Minister of Industries, Commerce and Tourism”, wherever they occur, of the expressions “Premier”, “Director-General: Environmental Affairs and Tourism” and “Minister of Trade and Industry”, respectively.</p>

No. and year of law	Short title	Extent of amendment
Act 73 of 1980	Dumping at Sea Control Act, 1980	<p>Amendment of section 1 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) In relation to any matter affecting [the Railways and Harbours Administration] <u>Transnet Limited</u> and the South African Commuter Corporation Limited, the Minister shall only act in terms of this Act with the concurrence of the [Minister of Transport Affairs] <u>chairperson of Transnet Limited.</u>”.</p>

MEMORANDUM ON THE OBJECTS OF THE ENVIRONMENTAL LAWS RATIONALISATION BILL, 1997

The principal aim of the Bill is to extend the application of laws relating to the environment as specified in Schedule 1 of the Bill to the entire national territory of the Republic of South Africa.

In terms of section 229 of the previous Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), all laws which immediately prior to the commencement of that Constitution applied in any part of the area which constitutes the national territory of the Republic, continued to apply in that area. That means that all laws relating to the environment which were enacted by a competent authority, such as the former TBVC states and self-governing territories, continued in force in the respective former national territories and territories of those states and self-governing territories. This arrangement is maintained in the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996). In order to rationalise the relevant legislation it is proposed in the Bill that the laws specified in Schedule 1 be extended to the lastmentioned territories which are collectively defined in the Bill as the "affected area". Provincial governments, which are in terms of the new Constitution clothed with legislative authority relating to the environment, have the power to repeal or amend provisions of some of the laws concerned which apply in their respective territories, or to replace those provisions with their own legislation.

The Bill also seeks to amend a number of laws mainly so as update certain outdated expressions and references. See clause 2 and Schedule 2. One amendment merits special attention. This is the amendment of the South African Citizens in Antarctica Act, 1962 (Act No. 55 of 1962), so as to provide that for jurisdictional purposes Antarctica shall be deemed to be situated within the magisterial district of Cape Town instead of Pretoria as is the case at present. The purpose of the amendment is to bring Act No. 55 of 1962 in line with the Antarctic Treaties Act, 1996 (Act No. 60 of 1996), and the Prince Edward Islands Act, 1948 (Act No. 43 of 1948).

In the opinion of the State Law Advisers and the Department the Bill should be dealt with in accordance with section 75 of the Constitution.

The following establishments were consulted on the Bill:

Department of Minerals and Energy

Department of Transport

Department of Trade and Industry

Department of the Public Service and Administration

The provincial administrations of the provinces

National Parks Board