

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**SOUTH AFRICAN MARITIME
SAFETY AUTHORITY BILL**

[B 116—97]

(As agreed to by the Portfolio Committee on Transport (National Assembly))

[B 116A—97]

REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJEKOMITEE-AMENDEMENTE
OP**

**WETSONTWERP OP DIE SUID-
AFRIKAANSE MARITIEME
VEILIGHEIDSOWERHEID**

[W 116—97]

(Soos goedgekeur deur die Portefeuljekomitee oor Vervoer (Nasionale Vergadering))

[W 116A—97]

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AMENDMENTS AGREED TO

SOUTH AFRICAN MARITIME SAFETY AUTHORITY BILL [B 116—97]

CLAUSE 1

1. On page 8, from line 6, to omit the definition of “ship”.

CLAUSE 3

1. On page 8, after line 24, to add the following paragraph:
 - (c) to promote the Republic’s maritime interests.

CLAUSE 12

1. On page 12, from line 12, to omit subsection (3) and to substitute:
 - (3) The members mentioned in subsection (1)(a), (b) and (d)—
 - (a) are appointed by the Minister from a list of names of persons which, at the Minister’s request by notice in the media, have been submitted to him or her within the period specified in the notice by any person or body having an interest in the maritime or related industry; and
 - (b) hold office on such terms and conditions as the Minister determines in writing.

CLAUSE 18

1. On page 14, after line 35, to add the following paragraph:
 - (e) who has been convicted of an offence, of which dishonesty is an element, and sentenced to imprisonment without the option of a fine.

CLAUSE 20

1. On page 16, in line 7, to omit “, or all meetings,”.

CLAUSE 22

1. On page 16, in line 30, after “may” to insert:
 , for the purposes of the setting up of the Authority,
2. On page 16, in line 35, to omit subsection (7).

CLAUSE 28

1. On page 18, in line 43, after the first “the” to insert:
 short and medium term operational and business

CLAUSE 38

1. On page 24, in line 15, after “audited” to insert “annually”.
2. On page 24, after line 24, to add the following subsection:

(7) The Chief Executive Officer is the accounting officer of the Fund charged with the responsibility of accounting for money received and expenditure incurred by the Fund.

CLAUSE 46

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 45:

Limitation of liability and indemnification of Authority

46. (1) The Authority, its officers and any person or body acting on its authority are not liable for any loss or damage suffered by any person by reason of anything done or not done in good faith in the carrying out of the Authority’s duties referred to in section 4.

(2) (a) The State indemnifies the Authority, its officers and any person or body acting on its authority in respect of any civil liability they may incur for loss or damage suffered by any person by reason of anything done or not done in the carrying out of the Authority’s duties referred to in section 4, in an amount equal to the amount by which that liability and any related reasonable costs and expenses exceeds—

- (i) the amount payable in respect of that liability or those costs and expenses in terms of any policy of insurance or other form of financial security maintained by the Authority in accordance with paragraph (b); and
- (ii) any other amount recoverable by the Authority in respect of that liability or those costs and expenses, whether by way of right of recourse or otherwise.

(b) The Authority must maintain insurance or other financial security contemplated in paragraph (a)(i) in the amount determined in consultation with the Minister.

(3) (a) The State is liable for all unrecoverable reasonable costs and expenses incurred or to be incurred by the Authority in the carrying out of any duty referred to in section 4 to prevent or combat pollution of the marine environment by ships.

(b) For the purposes of paragraph (a), costs and expenses are regarded to be unrecoverable if, and to the extent that—

- (i) no liability for the costs and expenses arises under any law;
- (ii) the person liable for the costs and expenses under any law is financially incapable of meeting his, her or its obligations in full and any financial security that may be provided does not cover or is insufficient to satisfy the claim for costs and expenses; or
- (iii) the costs and expenses exceed any statutory liability limit, and are not otherwise recoverable in terms of any law.

SCHEDULE

1. On page 62, in the third line of item 48, to omit “definitions” and to substitute “definition”.
2. On page 64, in the first line, to omit “and ‘proper officer’ ”.
3. On page 66, after item 52, to insert the following item:

53. The substitution for section 13 of the following section:

“Limitation of liability

13. Any person in the service or acting on the authority of the State or the Authority or any other person exercising any power under this Act shall not be liable in respect of any loss or damage resulting from anything done or not done in good faith in terms of the provisions of this Act.”.

4. On page 68, in the third line of item 53, to omit “, ‘authorized person’ ”.
5. On page 70, after item 56, to insert the following item:

57. The amendment of section 10 by the substitution for subsections (4), (5) and (6) of the following subsections, respectively:

“(4) Any person in the service or acting on the authority of the State or the Authority or any person engaged in terms of section 27(1) read with section 4(2)(a) or section 22(1), as the case may be, to perform any act required to be performed in terms of section 4(1), shall not be liable (except in the case of any wilful act or omission on the part of any such person) to any person for any loss of or damage to any ship, tanker or offshore installation or, in the case of such ship or tanker, its cargo or **[oil]** harmful substances, caused by or arising out of or in any manner connected with the performance of such act.

(5) If by virtue of the provisions of section 5 measures are being taken to guard against, prevent or remove pollution of the sea by a harmful substance in the prohibited area, any person in the service or acting on the authority of the State or the Authority, any officer of or member of the crew of any vessel employed in the taking of such measures, the employer of such officer or member, or the owner of such vessel, shall not be liable (except in the case of any wilful act or omission on the part of any such person, officer, member, employer or owner) to any person for any loss of or damage to any ship, tanker or offshore installation in the said area, or, in the case of such ship or tanker, its cargo or harmful substances, caused by or arising out of or in any manner connected with the taking of such measures.

(6) Any person in the service or acting on the authority of the State or the Authority or any person engaged in terms of section 27(1) read with section 4(2)(a) or section 22(1), as the case may be, to perform any act required to be performed in terms of section 4(1), shall not be liable (except in the case of any wilful act or omission on the part of any such person) for any loss or damage suffered or costs incurred by any person as a result of any measures taken, or as a result of any measures not having been taken, in terms of this Act, to prevent or remove pollution of the sea by a harmful substance.”.

6. On page 74, in item 62, to omit paragraph (b) and the words following thereon in subsection (2) of section 26 and to substitute the following paragraphs and words:

- (b) when the Minister deems it necessary or expedient in the public interest, for defraying expenditure incurred in preventing or removing the pollution of the sea by harmful substances in or discharged from ships, tankers or offshore installations and in connection with matters incidental thereto;
- (c) for the payment of remuneration and allowances of persons engaged in terms of section 27(1) and persons referred to in section 27(3)(b);
- (d) for the defraying of expenses incurred in removing, or in taking steps to prevent, pollution of the sea by harmful substances, in terms of section 27(6);
- (e) for the hire or purchase of equipment, buildings, machinery and accessories, apparatus, seagoing vessels, vehicles, aircraft and any other movable or immovable property deemed by the Minister to be necessary for or conducive to the achievement of the objects of this Act;
- (f) for the defraying of expenses incurred in the instruction of officers of the State and other persons in connection with pollution of the sea by harmful substances and in the training of such officers and persons in the prevention and removal of such pollution and in activities incidental thereto;
- (g) for any purpose connected with the performance by the Authority of its functions in terms of the provisions of this Act, shall be defrayed out of money appropriated by Parliament for such purpose: Provided that, for the purposes of paragraph (b), the defraying of expenditure incurred in preventing or removing

pollution of the sea by harmful substances in or discharged from any ship, tanker or offshore installation shall not exempt the owner of such ship, tanker or offshore installation from liability under this Act for payment of such expenditure.

7. On page 74, in item 62, to omit subsection (4) of section 26.
8. On page 78, in the first line of subsection (4) of section 27, to omit “or the Authority”.
9. On page 78, in the first line of subsection (5) of section 27, to omit “or” and to substitute “and”.
10. On page 78, in the first line of subsection (6) of section 27, to omit “[**Minister**]” and to substitute “Minister and the”.
11. On page 78, in the fifth line of subsection (6) of section 27, to omit “[**he**]” and to substitute “he or”.
12. On page 78, in the second line of paragraph (a) of item 65, to omit “, 26”.