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VAN DIE REPUBLIEK VAN SUID-AFRIKA

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 342. 25 Februarie 1981.

No. 342. 25 February 1981.

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

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

No. 6 van 1981: Wet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1981.

No. 6 of 1981: Prevention and Combating of Pollution of the Sea by Oil Act, 1981.

ACT

To provide for the prevention and combating of pollution of the sea by oil; to determine liability in certain respects for loss or damage caused by the discharge of oil from ships, tankers or offshore installations; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 6 February 1981.)

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

Definitions.

1. (1) In this Act, unless the context otherwise indicates—
 - (i) “area of the Republic” includes the territorial waters of the Republic; (vii) 5
 - (ii) “certificate” means a certificate contemplated in section 13; (xix)
 - (iii) “Convention” means the International Convention on Civil Liability for Oil Pollution Damage, signed in Brussels on 29 November 1969 and published for general information under General Notice No. 58 of 1978 in *Government Gazette* No. 5867 of 27 January 1978, and includes any amendments thereof and additions thereto signed, ratified or acceded to by the Republic of South Africa; (xi) 10 15
 - (iv) “Convention State” means a state which is a party to the Convention; (xii)
 - (v) “Director-General” means the Director-General: Transport; (ii)
 - (vi) “discharge”, in relation to oil, means any discharge of oil from a ship or a tanker or an offshore installation into a part of the sea which is a prohibited area and includes any escaping, spilling, leaking, pumping or dumping of oil from such ship, tanker or offshore installation into such part of the sea; and “discharge” when used as a verb shall be construed accordingly; (xxiii) 20 25
 - (vii) “Fund” means the Oil Pollution Prevention Fund referred to in section 26 (1); (v)
 - (viii) “high-water mark” means the highest line reached by the water of the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods; (x) 30
 - (ix) “incident” means any occurrence, or series of occurrences having the same origin, which causes a discharge of oil from any ship, tanker or offshore installation or which creates the likelihood of such a discharge; (vi) 35
 - (x) “low-water mark” means the lowest line to which the water of the sea recedes during periods of ordinary spring tides; (xiii) 40

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WET

Om voorsiening te maak vir die voorkoming en bestryding van besoedeling van die see deur olie; om aanspreeklikheid in sekere opsigte vir verlies of skade veroorsaak deur die uitlating van olie uit skepe, tenkskepe of see-installasies te bepaal; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 6 Februarie 1981.)*

DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, Woordomskrywing.
beteken—
- 5 (i) „aardolie” aardolie soos omskryf in artikel 1 van die Wet op Mynregte, 1967 (Wet No. 20 van 1967); (xiii)
- (ii) „Direkteur-generaal” die Direkteur-generaal: Vervoer; (v)
- 10 (iii) „eerste beampte” die beampte wat in bevel is van die kantoor van die Marine-afdeling van die Departement van Vervoer by 'n hawe; (xix)
- (iv) „eienaar”, met betrekking tot 'n skip of 'n tenkskip, die persoon of persone wat as die eienaar van die skip of tenkskip geregistreer is of, by ontstentenis van
- 15 registrasie, die persoon of persone aan wie die skip of tenkskip behoort; (xvii)
- (v) „Fonds” die Fonds ter Voorkoming van Oliebesoedeling bedoel in artikel 26 (1); (vii)
- 20 (vi) „gebeurtenis” enige voorval, of reeks voorvalle met dieselfde oorsprong, wat 'n uitlating van olie uit 'n skip, tenkskip of see-installasie veroorsaak of die waarskynlikheid van so 'n uitlating laat ontstaan; (ix)
- (vii) „gebied van die Republiek” ook die territoriale waters van die Republiek; (i)
- 25 (viii) „gesagvoerder”, met betrekking tot 'n skip of 'n tenkskip, iemand (behalwe 'n loods) wat toesig het of gesag voer oor daardie skip of tenkskip en, met betrekking tot 'n see-installasie, iemand wat die beheer voer daarvoor; (xi)
- 30 (ix) „hierdie Wet” ook enige regulasie daarkragtens uitgevaardig; (xxv)
- (x) „hoogwatermerk” die hoogste lyn bereik deur die water van die see gedurende gewone storms wat in die stormagtigste tydperk van die jaar plaasvind, uitgesonderd 'n buitengewone of abnormale vloed; (viii)
- 35 (xi) „Konvensie” die „International Convention on Civil Liability for Oil Pollution Damage”, onderteken in Brussel op 29 November 1969 en vir algemene inligting gepubliseer onder Algemene Kennisgewing No. 58 van
- 40 1978 in *Staatskoerant* No. 5867 van 27 Januarie 1978,

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- (xi) "master", in relation to a ship or a tanker, means any person (other than a pilot) having charge or command of such ship or tanker and, in relation to an offshore installation, means the person in charge thereof; (viii)
- (xii) "Minister" means the Minister of Transport Affairs; 5
(xiv)
- (xiii) "natural oil" means natural oil as defined in section 1 of the Mining Rights Act, 1967 (Act No. 20 of 1967); (i)
- (xiv) "nautical mile" means the international nautical mile 10
of 1 852 metres; (xviii)
- (xv) "offshore installation" means a facility situated wholly or partly within the prohibited area and which is used for the transfer of oil from a ship or a tanker to a point on land or from a point on land to a ship or 15
tanker or from a bunkering vessel to a ship or a tanker, and includes any exploration or production platform situated within the prohibited area and used in prospecting for or the mining of natural oil; (xvii)
- (xvi) "oil", in relation to a discharge of oil from— 20
(a) a ship, tanker or offshore installation in that part of the prohibited area which constitutes the territorial waters of the Republic and the sea adjoining the said territorial waters to the landward side thereof, means any kind of mineral oil 25
and includes spirit produced from oil and a mixture of such oil and water or any other substance;
(b) a ship, tanker or offshore installation in that part of the prohibited area which adjoins the said 30
territorial waters to the seaward side thereof, means any kind of mineral oil and includes spirit produced from oil and a mixture of such oil and water or any other substance which contains one hundred parts or more of oil in a million parts of 35
the mixture,
but in relation to loss or damage caused as contemplated in section 9 (1) (a) where the discharge in question took place from a tanker, and for the purposes of section 13 (1), means oil as defined in 40
paragraph 5 of Article 1 of the Convention; (xv)
- (xvii) "owner", in relation to a ship or a tanker, means the person or persons registered as the owner of such ship or tanker or, in the absence of registration, the person or persons to whom such ship or tanker belongs; (iv) 45
- (xviii) "prescribed" means prescribed by regulation; (xxv)
- (xix) "principal officer" means the officer in charge of the office of the Marine Division of the Department of Transport at any port; (iii)
- (xx) "prohibited area" means the territorial waters of the 50
Republic and that portion of the fishing zone, as defined in section 3 of the Territorial Waters Act, 1963 (Act No. 87 of 1963), situated within a distance of fifty nautical miles from the low-water mark, and includes the sea between the high- and low-water 55
marks as well as any tidal lagoon or tidal river as defined in section 1 of the Sea-shore Act, 1935 (Act No. 21 of 1935), and internal waters as defined in section 1 of the Marine Traffic Act, 1981; (xxiv)
- (xxi) "sea" means the water and the bed of the sea and 60
includes the land between the high- and low-water marks as well as any tidal lagoon or tidal river as defined in section 1 of the Sea-shore Act, 1935; (xvi)
- (xxii) "ship" means any kind of vessel or other sea-borne object from which oil can be discharged, excluding a 65
tanker, whether or not such vessel or object has been lost or abandoned, has stranded, is in distress, disabled or damaged, has been wrecked, has broken up or has sunk; (xx)
- (xxiii) "tanker" means any seagoing vessel of any type whatsoever, actually carrying oil in bulk as cargo and

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- en ook enige wysigings daarvan en byvoegings daarby onderteken of bekragtig deur die Republiek van Suid-Afrika of waartoe hy toegetree het; (iii)
- 5 (xii) „Konvensiestaat” ’n staat wat toegetree het tot die Konvensie; (iv)
- (xiii) „laagwatermerk” die laagste lyn tot waar die water van die see gedurende tydperke van gewone springgetye sak; (x)
- (xiv) „Minister” die Minister van Vervoerwese; (xii)
- 10 (xv) „olie”, met betrekking tot ’n uitlating van olie uit—
- (a) ’n skip, tenkskip of see-installasie in daardie deel van die verbode gebied wat die territoriale waters van die Republiek en die see aangrensend aan genoemde territoriale waters aan die landkant daarvan uitmaak, enige soort minerale olie en ook spiritus wat uit olie vervaardig is en ’n mengsel van sodanige olie en water of ’n ander stof;
- 15 (b) ’n skip, tenkskip of see-installasie in daardie deel van die verbode gebied wat aangrensend is aan genoemde territoriale waters aan die seekant daarvan, enige soort minerale olie en ook spiritus wat uit olie vervaardig is en ’n mengsel van sodanige olie en water of ’n ander stof wat honderd of meer dele olie in ’n miljoen dele van die mengsel bevat,
- 20 maar met betrekking tot verlies of skade veroorsaak soos beoog in artikel 9 (1) (a), waar die betrokke uitlating uit ’n tenkskip plaasgevind het, en by die toepassing van artikel 13 (1), beteken dit olie soos omskryf in paragraaf 5 van Artikel 1 van die Konvensie; (xvi)
- 30 (xvi) „see” die water en die bedding van die see en ook die land tussen die hoog- en laagwatermerk sowel as enige getystrandmeer of getyrvier soos omskryf in artikel 1 van die Strandwet, 1935 (Wet No. 21 van 1935); (xxi)
- 35 (xvii) „see-installasie” ’n fasiliteit wat geheel en al of gedeeltelik binne die verbode gebied geleë is en wat gebruik word om olie vanaf ’n skip of ’n tenkskip na ’n punt op land of vanaf ’n punt op land na ’n skip of tenkskip of vanaf ’n bunkervaartuig na ’n skip of ’n tenkskip oor te plaas, en ook ’n eksplorasië- of produksieplatform wat binne die verbode gebied geleë is en wat gebruik word by die prospekter na of ontginning van aardolie; (xv)
- 40 (xviii) „seemyl” die internasionale seemyl van 1 852 meter; (xiv)
- (xix) „sertifikaat” ’n sertifikaat beoog in artikel 13; (ii)
- (xx) „skip” enige soort vaartuig, of ander oor see aangevoerde voorwerp, waaruit olie uitgelaat kan word, uitgesonderd ’n tenkskip, hetsy sodanige vaartuig of voorwerp vergaan het of verlaat is, gestrand het, in nood verkeer, ontredder of beskadig is, of skipbreuk gely, uitmekaar gebreek of gesink het, al dan nie; (xxii)
- 50 (xxi) „tenkskip” enige seevaartuig van watter tipe ook al, wat inderdaad olie in massa as vrag aan boord het en ten opsigte waarvan die bepaling van die Konvensie van toepassing is; (xxiii)
- (xxii) „territoriale waters van die Republiek” die territoriale waters van die Republiek soos omskryf in artikel 2 van die Wet op Territoriale Waters, 1963 (Wet No. 87 van 1963); (xxiv)
- 60 (xxiii) „uitlating”, met betrekking tot olie, enige uitlating van olie uit ’n skip of ’n tenkskip of ’n see-installasie in ’n deel van die see wat ’n verbode gebied is en ook die ontsnapping, mors, uitlekking, uitpomp of storting van olie uit sodanige skip, tenkskip of see-installasie in sodanige deel van die see; en het „uitlaat” ’n ooreenstemmende betekenis; (vi)
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in respect of which the provisions of the Convention are applicable; (xxi)

(xxiv) "territorial waters of the Republic" means the territorial waters of the Republic as defined in section 2 of the Territorial Waters Act, 1963; (xxii) 5

(xxv) "this Act" includes any regulation made thereunder. (ix)

(2) Where more than one discharge of oil results from the same occurrence or from a series of occurrences having the same origin, they shall for the purposes of this Act be regarded as one 10 discharge.

Discharge of oil prohibited.

2. (1) If any oil is discharged from a ship, tanker or offshore installation the master of such ship, tanker or offshore installation and, if he is not the owner of such ship, tanker or offshore installation, also the owner thereof, shall be guilty of an offence 15 unless—

(a) the oil in question was discharged for the purpose of securing the safety of such ship, tanker or offshore installation or of any other ship or tanker or of preventing damage to such ship, tanker or offshore 20 installation or to any other ship or tanker or the cargo thereof, or of saving life, and such discharge of the oil was necessary for such purpose or was a reasonable step to take in the circumstances;

(b) the oil in question escaped from the ship, tanker or 25 offshore installation in consequence of damage to the ship, tanker or offshore installation, and as soon as practicable after the damage occurred all reasonable steps were taken for preventing or (if it could not be prevented) for stopping or reducing the escape of the 30 oil; or

(c) the oil in question escaped by reason of leakage, and neither such leakage nor any delay in discovering it was due to any lack of reasonable care, and as soon as practicable after the escape was discovered, all reason- 35 able steps were taken for stopping or reducing it.

(2) The onus of proving any exception, exemption or qualification contemplated in subsection (1) (a), (b) or (c) shall be upon the accused.

(3) If in any prosecution for an offence under subsection (1) it 40 is proved that a mixture containing oil was discharged from a ship, tanker or offshore installation in the part of the prohibited area which adjoins the territorial waters of the Republic to the seaward side thereof, it shall be deemed, unless the contrary is proved, that such mixture contained one hundred parts or more 45 of oil in a million parts of the mixture.

Reporting of discharge and damage causing discharge or likelihood of discharge.

3. (1) When oil has been discharged from a ship, tanker or offshore installation the master of such ship, tanker or offshore installation, or any member of the crew of such ship or tanker or 50 of the staff employed in connection with such offshore installation, designated by such master, shall forthwith by the quickest means of communication available report the fact that such discharge has taken place to the principal officer at the port in the Republic nearest to where such ship, tanker or offshore installation is. 55

(2) If, while it is within the prohibited area, a ship or a tanker sustains any damage, whether to its hull, equipment or machinery, which causes, or creates the likelihood of, a discharge of oil from such ship or tanker, or having sustained such damage, enters the prohibited area in such damaged condition, the 60 master of such ship or tanker, or any member of its crew designated by the master, shall forthwith by the quickest means of communication available report to the principal officer at the port in the Republic nearest to where such ship or tanker then is the fact that such damage was sustained, the nature and location 65

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- (xxiv) „verbode gebied” die territoriale waters van die Republiek en daardie gedeelte van die visserysone, soos omskryf in artikel 3 van die Wet op Territoriale Waters, 1963, wat binne ’n afstand van vyftig seemyl vanaf die laagwatermerk geleë is, en ook die see tussen die hoog- en laagwatermerk sowel as enige getystrandmeer of getyriwiel soos omskryf in artikel 1 van die Strandwet, 1935, en binnewaters soos omskryf in artikel 1 van die Wet op Seeverkeer, 1981; (xx)
- (xxv) „voorgeskryf” by regulasie voorgeskryf en het „voorgeskrewe” ’n ooreenstemmende betekenis; (xviii)

(2) Indien meer as een uitlating van olie uit dieselfde voorval of uit ’n reeks voorvalle met dieselfde oorsprong voortvloei, word dit by die toepassing van hierdie Wet as een uitlating beskou.

2. (1) Indien olie uit ’n skip, tenkskip of see-installasie uitgelaat word, is die gesagvoerder van daardie skip, tenkskip of see-installasie en, indien hy nie die eienaar van daardie skip, tenkskip of see-installasie is nie, ook die eienaar daarvan, aan ’n misdryf skuldig tensy—

Verbod op uitlating van olie.

- (a) die betrokke olie uitgelaat is om die veiligheid van daardie skip, tenkskip of see-installasie of van ’n ander skip of tenkskip te verseker of om skade aan daardie skip, tenkskip of see-installasie of aan ’n ander skip of tenkskip of die vrag daarvan te voorkom, of om lewe te red, en daardie uitlating van olie vir dié doel noodsaaklik was, of onder die omstandighede ’n redelike stap was om te doen;
- (b) die betrokke olie uit die skip, tenkskip of see-installasie ontsnap het ten gevolge van skade aan die skip, tenkskip of see-installasie, en so spoedig doenlik nadat die skade voorgeval het, alle redelike stappe gedoen is om te voorkom dat die olie ontsnap of (indien dit nie voorkom kon word nie) om die ontsnapping daarvan stop te sit of te verminder; of
- (c) die betrokke olie ontsnap het vanweë uitlekking, en nóg die uitlekking nóg die versuim om dit agter te kom, toe te skryf was aan ’n gebrek aan redelike sorg, en so spoedig doenlik nadat die ontsnapping agtergekom is, alle redelike stappe gedoen is om dit stop te sit of te verminder.

(2) Die bewyslas om ’n uitsondering, vrystelling of kwalifikasie te bewys wat in subartikel (1) (a), (b) of (c) beoog word, rus op die beskuldigde.

(3) Indien dit by ’n vervolging weens ’n misdryf kragtens subartikel (1) bewys word dat ’n mengsel wat olie bevat uit ’n skip, tenkskip of see-installasie uitgelaat is in daardie deel van die verbode gebied wat aangrensend is aan die territoriale waters van die Republiek aan die seekant daarvan, word daar vermoed, tensy die teendeel bewys word, dat bedoelde mengsel honderd dele of meer olie in ’n miljoen dele van die mengsel bevat het.

3. (1) Indien olie uit ’n skip, tenkskip of see-installasie uitgelaat is, moet die gesagvoerder van daardie skip, tenkskip of see-installasie of ’n lid van die bemanning van daardie skip of tenkskip of van die personeel wat in verband met daardie see-installasie in diens is, deur bedoelde gesagvoerder aangewys, onverwyld en deur middel van die vinnigste verbindingsmiddele beskikbaar die feit dat sodanige uitlating plaasgevind het aan die eerste beampte by die hawe in die Republiek wat die naaste is aan die plek waar daardie skip, tenkskip of see-installasie is, rapporteer.

Rapportering van uitlating en beskadiging waardeur uitlating of waarskynlikheid van uitlating veroorsaak is.

(2) Indien ’n skip of ’n tenkskip, terwyl dit binne die verbode gebied is, enige beskadiging opdoen, hetsy aan sy romp, toerusting of masjinerie, wat ’n uitlating van olie uit daardie skip of tenkskip veroorsaak of die waarskynlikheid van so ’n uitlating laat ontstaan of, nadat dit sodanige beskadiging opgedoen het, die verbode gebied in daardie beskadigde toestand binnekom, moet die gesagvoerder van daardie skip of tenkskip, of ’n lid van sy bemanning wat deur die gesagvoerder aangewys is, onverwyld en deur middel van die vinnigste verbindingsmiddele beskikbaar

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on the ship or tanker of the damage, the position at sea where the damage was sustained, the name of the ship or tanker, its port of registry, its official number, its position, its course and, if in the Republic, its destination, the quantity and type of oil on board and, in the case of a tanker to which the provisions of section 13 apply, the particulars contained in the certificate. 5

(3) For the purposes of subsection (2) damage to a ship or a tanker shall be deemed to have created the likelihood of a discharge of oil from such ship or tanker if it is of such a nature as to detrimentally affect, in any degree, the ship's or tanker's seaworthiness or efficient working. 10

(4) If the master of a ship or a tanker fails to comply with the provisions of subsection (1) or (2) or if the master of an offshore installation fails to comply with the provisions of subsection (1), such master shall be guilty of an offence. 15

Powers of Minister to take steps to prevent pollution of the sea where oil is being or is likely to be discharged.

4. (1) If any oil is being discharged or is in the opinion of the Minister likely to be discharged from a ship or a tanker the Minister may, with a view to preventing the pollution or further pollution of the sea by such oil, require the master or the owner of such ship or tanker or both such master and owner— 20

- (a) (i) to unload the oil from the ship or tanker or oil from a specified part of the ship or tanker;
- (ii) to transfer oil from a specified part of the ship or tanker to another specified part of the ship or tanker; 25
- (iii) to dispose of any oil so unloaded or transferred, in such manner and within such period as the Minister may direct if he deems fit to do so;
- (b) to move the ship or tanker or cause the ship or tanker to be moved to a place specified by the Minister; 30
- (c) not to move the ship or tanker from a place specified by the Minister, except with the approval of the Minister and in accordance with the conditions subject to which such approval was granted;
- (d) not to unload any cargo or oil, or any cargo or oil specified by the Minister, from the ship or tanker except with the approval of the Minister and in accordance with the conditions subject to which such approval was granted; 35
- (e) to carry out such operations for the sinking or destruction of the ship or tanker, or any part thereof, or the destruction of the oil on the ship or tanker, or such quantity thereof, as the Minister may specify; 40
- (f) to steer such course, while the ship or tanker is within the prohibited area, as the Minister may specify; 45
- (g) to obtain the services of one or more suitable vessels to stand by such ship or tanker during a period determined by the Minister;
- (h) to take such other steps in regard to the ship or tanker or its cargo or the oil therein or both the ship or tanker and its cargo or the oil therein as may be specified by the Minister, to prevent the discharge or further discharge of oil from the ship or tanker. 50

(2) (a) If, in the opinion of the Minister, the master and the owner of the ship or tanker in question are or would be incapable of complying with a requirement made or contemplated in terms of subsection (1) or could not reasonably be expected to comply with such requirement, or the powers conferred upon the Minister in terms of subsection (1) are inadequate for the purpose 60

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die feit dat sodanige beskadiging opgedoen is, die aard en
ligging op die skip of tenkskip van die beskadiging, die punt ter
see waar die beskadiging opgedoen is, die naam van die skip of
tenkskip, sy registrasiehouer, sy amptelike nommer, sy posisie,
5 sy koers en, indien dit in die Republiek is, sy bestemming, die
hoeveelheid en soort olie aan boord en, in die geval van 'n
tenkskip waarop die bepalings van artikel 13 van toepassing is,
die besonderhede vervat in die sertifikaat, aan die eerste
beampte by die hawe in die Republiek wat die naaste is aan die
10 plek waar daardie skip of tenkskip op daardie tydstop is,
rapporteer.

(3) By die toepassing van subartikel (2) word daar vermoed dat
beskadiging van 'n skip of tenkskip die waarskynlikheid van 'n
uitlating van olie uit daardie skip of tenkskip laat ontstaan het
15 indien dit van so 'n aard is dat dit in enige mate die
seewaardigheid of effektiewe werking van die skip of tenkskip
nadelig kan beïnvloed.

(4) Indien die gesagvoerder van 'n skip of 'n tenkskip versuim
om aan die bepalings van subartikel (1) of (2) te voldoen, of
20 indien die gesagvoerder van 'n see-installasie versuim om aan
die bepalings van subartikel (1) te voldoen, is so 'n gesagvoerder
aan 'n misdryf skuldig.

4. (1) Indien olie uit 'n skip of 'n tenkskip uitgelaat word of,
na die oordeel van die Minister, waarskynlik uitgelaat sal word,
25 kan die Minister, met die oog op voorkoming van die besoedeling
of verdere besoedeling van die see deur daardie olie, eis dat
die gesagvoerder of die eienaar van daardie skip of tenkskip of
dié gesagvoerder sowel as dié eienaar—

Bevoegdheids van
Minister om stappe
te doen om besoedeling van die
see te voorkom
waar olie uitgelaat
word of waarskynlik
uitgelaat sal
word.

(a) op die wyse en binne die tydperk wat die Minister
30 gelas indien hy goeddink om dit te doen—

(i) die olie van die skip of tenkskip, of olie van 'n
vermelde gedeelte van die skip of tenkskip, aflaai;

(ii) olie van 'n vermelde gedeelte van die skip of
tenkskip na 'n ander vermelde gedeelte van die
35 skip of tenkskip oorplaas;

(iii) beskik oor olie wat aldus afgelaai of oorgeplaas is;
(b) die skip of tenkskip verskuif of laat verskuif na 'n plek
wat die Minister bepaal;

(c) nie die skip of tenkskip verskuif nie van 'n plek wat die
40 Minister bepaal, behalwe met die goedkeuring van die
Minister en ooreenkomstig die voorwaardes waarop
die goedkeuring verleen is;

(d) geen vrag of olie, of geen vrag of olie wat die Minister
45 bepaal, van die skip of tenkskip aflaai nie, behalwe
met die goedkeuring van die Minister en ooreenkomstig
die voorwaardes waarop die goedkeuring verleen
is;

(e) die bedrywighede uitvoer wat die Minister bepaal om
50 die skip of tenkskip, of 'n gedeelte daarvan, te kelder
of te vernietig, of die olie op die skip of tenkskip of die
hoeveelheid daarvan wat die Minister bepaal, te
vernietig;

(f) op die koers vaar, terwyl die skip of tenkskip binne die
verbode gebied is, wat die Minister bepaal;

(g) die dienste verkry van een of meer geskikte vaartuie
55 om by daardie skip of tenkskip gereed te staan vir die
tydperk wat die Minister bepaal;

(h) die ander stappe doen met betrekking tot die skip of
60 tenkskip of die vrag daarvan of die olie daarin of die
skip of tenkskip sowel as die vrag daarvan of die olie
daarin, wat die Minister bepaal om die uitlating of
verdere uitlating van olie uit die skip of tenkskip te
voorkom.

(2) (a) Indien, volgens die oordeel van die Minister, die
65 gesagvoerder en die eienaar van die betrokke skip of
tenkskip nie in staat is of sal wees om te voldoen aan
'n eis wat ingevolge subartikel (1) gestel is of beoog
word nie, of daar nie redelikerwys van hom verwag
kan word om aan so 'n eis te voldoen nie, of die
bevoegdheids wat ingevolge subartikel (1) aan die

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contemplated in that subsection, the Minister may cause any such steps to be taken as he has power to require to be taken in terms of the said subsection.

- (b) Any reference in paragraph (a) to the power of the Minister to require steps to be taken in terms of subsection (1), includes a reference to the power of the Minister in terms of that subsection to require that a specified step be not taken.
- (c) If any person performs salvage operations in connection with a ship or tanker, any requirement of the Minister in terms of subsection (1) in connection with such ship or tanker or its cargo or oil shall also be made known to such salvor, and any such requirement that a specified step be not taken shall thereafter, unless the Minister otherwise directs, also be binding upon such salvor and any such requirement that a specified act be performed shall, unless the Minister otherwise directs, also be construed as a requirement in terms of that subsection and binding upon such salvor that no steps be taken by such salvor which would obstruct or be likely to obstruct the performance of the specified act.

(3) If the owner of a ship or a tanker, in complying with a requirement of the Minister in terms of subsection (1), incurs any expenses and—

- (a) the discharge or likelihood of a discharge of the oil in question was due wholly to the fault of the State; or
- (b) the discharge or likelihood of a discharge of the oil in question was due partly to the fault of the State,

the amount of such expenses, in the event contemplated in paragraph (a), or the applicable proportion of the amount of such expenses determined in accordance with the provisions of the Apportionment of Damages Act, 1956 (Act No. 34 of 1956), in the event contemplated in paragraph (b), shall become payable to the owner by the State.

(4) The provisions of subsections (1) (a), (d), (g) and (h), (2) (a) and (b) and (3) shall *mutatis mutandis* apply in respect of oil discharged or, in the opinion of the Minister, likely to be discharged from an offshore installation.

Prevention or removal of pollution of the sea by oil.

5. (1) If in the opinion of the Minister oil is likely to be discharged from a ship or a tanker he may take such measures, including the destruction, burning or disposal in any other manner of oil in such ship or tanker, as he may deem fit to guard against or to prevent pollution of the sea by such oil.

(2) If any oil is discharged from a ship or a tanker the Minister may cause any pollution of the sea caused thereby to be removed.

(3) If the Minister takes measures in terms of subsection (1) or causes any pollution to be removed in terms of subsection (2), he may order any person who—

- (a) is capable of supplying any goods or services; or
- (b) is capable of manufacturing, producing, processing or treating any goods; or
- (c) is the owner of or has the power to dispose of or has in his possession or under his control any goods, or is a supplier of any service,

which may be required for the purpose of such measures or the removal of such pollution, to supply or deliver or sell such goods or a specified quantity or number thereof, or to supply such service, to the Minister or a specified person, or to manufacture, produce, process or treat a specified quantity or number of such

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Minister verleen is, onvoldoende is vir die doeleindes wat in daardie subartikel beoog word, kan die Minister die een of ander van die stappe laat doen ten opsigte waarvan hy ingevolge genoemde subartikel kan eis dat hulle gedoen word.

(b) 'n Verwysing in paragraaf (a) na die bevoegdheid van die Minister om ingevolge subartikel (1) te eis dat stappe gedoen word, behels ook 'n verwysing na die bevoegdheid van die Minister ingevolge daardie subartikel om te eis dat 'n bepaalde stap nie gedoen word nie.

(c) Indien enige persoon bergingswerk in verband met 'n skip of tenkskip verrig, moet enige eis ingevolge subartikel (1) deur die Minister gestel in verband met daardie skip of tenkskip of sy vrag of olie ook aan daardie berger bekend gemaak word, en enige sodanige eis dat 'n bepaalde stap nie gedoen word nie is daarna, tensy die Minister anders gelas, ook vir daardie berger bindend, en enige sodanige eis dat 'n bepaalde handeling verrig moet word, word, tensy die Minister anders gelas, ook uitgelê as 'n eis ingevolge daardie subartikel en bindend vir sodanige berger dat geen stappe deur bedoelde berger gedoen mag word nie wat die verrigting van die bepaalde handeling sou belemmer of waarskynlik sou belemmer.

(3) Indien die eienaar van 'n skip of 'n tenkskip uitgawes aangaan by voldoening aan 'n eis van die Minister ingevolge subartikel (1) en—

(a) die uitlating of waarskynlike uitlating van die betrokke olie geheel en al aan die skuld van die Staat toe te skryf was; of

(b) die uitlating of waarskynlike uitlating van die betrokke olie deels aan die skuld van die Staat toe te skryf was, word die bedrag van daardie uitgawes, in die geval in paragraaf (a) beoog, of die toepaslike deel van die bedrag van daardie uitgawes bepaal ooreenkomstig die bepalings van die Wet op Verdeling van Skadevergoeding, 1956 (Wet No. 34 van 1956), in die geval in paragraaf (b) beoog, deur die Staat aan die eienaar betaalbaar.

(4) Die bepalings van subartikels (1) (a), (d), (g) en (h), (2) (a) en (b) en (3) is *mutatis mutandis* van toepassing ten opsigte van olie uitgelaat, of wat, na die oordeel van die Minister, waarskynlik uitgelaat sal word, uit 'n see-installasie.

5. (1) Indien na die oordeel van die Minister olie waarskynlik uit 'n skip of 'n tenkskip uitgelaat sal word, kan hy die maatreëls tref, met inbegrip van die vernietiging of verbranding van of beskikking op enige ander wyse oor olie in sodanige skip of tenkskip, wat hy goedgevind ten einde te waak teen besoedeling van die see deur daardie olie of ten einde sodanige besoedeling te voorkom.

(2) Indien olie uit 'n skip of 'n tenkskip uitgelaat word, kan die Minister besoedeling van die see wat daardeur veroorsaak is, laat verwyder.

(3) Indien die Minister ingevolge subartikel (1) maatreëls tref of ingevolge subartikel (2) besoedeling laat verwyder, kan hy iemand wat—

(a) in staat is om goedere of dienste te verskaf; of

(b) in staat is om goedere te vervaardig, te produseer, te verwerk of te behandel; of

(c) die eienaar is van of die bevoegdheid besit om te beskik oor goedere, of goedere in sy besit of onder sy toesig het of wat 'n verskaffer van 'n diens is,

wat vir die doeleindes van daardie maatreëls of die verwydering van daardie besoedeling nodig is, gelas om, binne 'n vermelde tydperk en op 'n vermelde plek, na gelang van die geval, daardie goedere of 'n vermelde hoeveelheid of getal daarvan aan die Minister of 'n vermelde persoon te verskaf, te lewer of te verkoop, of daardie diens aan die Minister of so 'n persoon te verskaf, of 'n vermelde hoeveelheid of getal van daardie goedere

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goods and to supply or deliver or sell it to the Minister or to a specified person, within a specified period and at a specified place, as the case may be.

(4) Any person who has received an order under subsection (3) shall be deemed to be capable of performing the act which he has been ordered to perform, unless he proves that he is not so capable. 5

(5) In respect of any goods supplied, delivered, sold, manufactured, produced, processed or treated or any service supplied in terms of this section, the person concerned shall, when called upon to do so, declare and certify the cost to him of every item invoiced, in addition to stating the selling price, in the case of goods, and the amount of the compensation, in the case of a service, claimed by him. 10

(6) The Minister may institute, through an independent chartered accountant designated by him for that purpose, a cost investigation in connection with any goods or service in respect of which an order has been issued in terms of subsection (3). 15

(7) In every contract resulting from an order issued in terms of subsection (3), or from the acceptance, by or on behalf of the Minister, of an offer for the manufacture, production, processing, treating or supply of any goods or for the supply of any service, there shall be deemed to be incorporated a condition that the price or compensation stipulated by the seller or supplier concerned shall be subject to confirmation or adjustment by the Minister. 20 25

(8) Every person who supplies any service, or supplies, delivers, sells, manufactures, produces, processes or treats any goods, in accordance with an order issued in terms of subsection (3), shall, in the absence of agreement, be paid by the Minister or the person concerned, as the case may be, compensation or a price equal to the amount of the cost to him of the supply of the service in question, or of the goods in question, or of the manufacture, production, processing or treating thereof, plus a percentage of such cost or an amount fixed in the notice in question, or, where the Minister has instituted a cost investigation in terms of subsection (6), the compensation or price determined by the Minister. 30 35

(9) If the discharge or likelihood of the discharge of the oil in question was due— 40

(a) wholly to the fault of the State, the owner of the ship or tanker in question shall not be liable under the provisions of section 9 (1) (b) for any expenditure incurred by the Minister by virtue of the provisions of this section; 45

(b) partly to the fault of the State, the amount of any expenditure so incurred by the Minister and recoverable from the owner concerned in terms of the provisions of section 9 (1) (b), shall be reduced to such extent as is just and equitable regard being had to the degree in which the State was at fault in relation to the discharge or likely discharge. 50

(10) The provisions of this section, excluding the provisions of subsection (1), shall *mutatis mutandis* apply in respect of a discharge of oil from an offshore installation. 55

Moving of ship or tanker from certain area.

6. The Minister may order the master of any ship or tanker to move, subject to such instructions as the Minister may issue, his ship or tanker and any object it may have in tow from an area in which removal of pollution of the sea by oil is in progress or about to be undertaken. 60

Inspection of ship or tanker and of records, and taking of samples of oil.

7. Any person authorized thereto by the Minister and any member of the South African Police or of the police force of the South African Railways and Harbours Administration may go on board any ship or tanker in any part of the prohibited area to ascertain whether any document required by this Act to be carried on board such ship or tanker is so carried on board or, if 65

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te vervaardig, te produseer, te verwerk of te behandel en dit aan die Minister of 'n vermelde persoon te verskaf, te lewer of te verkoop.

(4) Iemand wat 'n bevel kragtens subartikel (3) ontvang het, 5 word geag in staat te wees om die handeling te verrig wat hy gelas is om te verrig, tensy hy bewys dat hy nie aldus in staat is nie.

(5) Die betrokke persoon moet, wanneer hy aangesê is om dit te doen, ten opsigte van goedere verskaf, gelewer, verkoop, 10 vervaardig, geproduseer, verwerk of behandel of 'n diens verskaf ingevolge hierdie artikel, die koste vir hom van elke gefaktureerde item verklaar en sertifiseer, benewens die verkoopprijs, in die geval van goedere, en die bedrag van die vergoeding, in die geval van 'n diens, wat hy eis, vermeld.

(6) Die Minister kan deur middel van 'n onafhanklike 15 geoktrooieerde rekenmeester deur hom vir die doel aangewys, 'n koste-ondersoek instel in verband met goedere of 'n diens ten opsigte waarvan hy 'n bevel ingevolge subartikel (3) uitgereik het.

(7) In elke kontrak wat ontstaan uit 'n bevel uitgereik 20 ingevolge subartikel (3), of uit die aanname, deur of namens die Minister, van 'n aanbod vir die vervaardiging, produsering, verwerking, behandeling of verskaffing van goedere of vir die verskaffing van 'n diens, word geag 'n voorwaarde ingelyf te 25 wees dat die prys of vergoeding deur die betrokke verkoper of verskaffer beding, onderworpe is aan bevestiging of aanpassing deur die Minister.

(8) Aan elkeen wat 'n diens verskaf of goedere verskaf, 30 lewer, verkoop, vervaardig, produseer, verwerk of behandel ooreenkomstig 'n bevel uitgereik ingevolge subartikel (3), word, by ontstentenis van ooreenkoms, deur die Minister of die betrokke persoon, na gelang van die geval, vergoeding of 'n prys betaal gelyk aan die bedrag wat die verskaffing van die betrokke diens of die betrokke goedere, of die vervaardiging, produse- 35 ring, verwerking of behandeling daarvan, hom gekos het, plus 'n persentasie van sodanige koste of 'n bedrag vasgestel in die betrokke kennisgewing of, waar die Minister 'n koste-ondersoek ingevolge subartikel (6) ingestel het, die vergoeding of prys wat die Minister bepaal.

(9) Indien die uitlating of waarskynlike uitlating van die 40 betrokke olie—

(a) geheel en al aan die skuld van die Staat toe te skryf 45 was, is die eienaar van die betrokke skip of tenkskip nie kragtens die bepalings van artikel 9 (1) (b) aanspreeklik nie vir uitgawes deur die Minister uit hoofde van die bepaling van hierdie artikel aangegaan;

(b) deels aan die skuld van die Staat toe te skryf was, word 50 die bedrag van enige uitgawes aldus deur die Minister aangegaan en wat ingevolge die bepalings van artikel 9 (1) (b) op die betrokke eienaar verhaalbaar is, in so 'n mate verminder as wat, met inagneming van die mate van die Staat se skuld met betrekking tot die uitlating of waarskynlike uitlating, regverdig en billik is.

(10) Die bepalings van hierdie artikel, uitgesonderd die 55 bepalings van subartikel (1), is *mutatis mutandis* van toepassing met betrekking tot 'n uitlating van olie uit 'n see-installasie.

6. Die Minister kan die gesagvoerder van enige skip of 60 Minister uitreik, sy skip of tenkskip en enige voorwerp wat dit op sleeptou mag hê, te verwyder uit 'n gebied waar verwydering van besoedeling van die see deur olie aan die gang is of begin staan te word.

Verwydering van skip of tenkskip uit sekere gebied.

7. Iemand wat deur die Minister daartoe gemagtig is, en 'n lid 65 van die Suid-Afrikaanse Polisie of van die polisiemag van die Suid-Afrikaanse Spoorweg- en Hawe-administrasie kan aan boord gaan van enige skip of tenkskip in enige gedeelte van die verbode gebied ten einde vas te stel of enige stuk wat ingevolge hierdie Wet aan boord van daardie skip of tenkskip moet wees,

Ondersoek van skip of tenkskip en van aantekeninge, en neem van oliemonsters.

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he has reasonable grounds for believing that any provision of this Act has been or is being contravened in connection with such ship or tanker, may so go on board and inspect such ship or tanker or any part or cargo thereof, inspect and make copies of any documents or records kept in respect of such ship or tanker or in respect of its cargo or oil on board thereof, take samples of any oil on board such ship or tanker, take soundings of tanks, spaces and bilges and test any equipment on board such ship or tanker which is intended for use in preventing a discharge of oil from such ship or tanker.

Right of entry upon land.

8. (1) Any person or member referred to in section 7 and any other person authorized thereto by the Minister may enter upon any land with such workmen, machinery, vehicles, equipment, appliances, instruments and other articles, and may perform all such acts thereon, as may be necessary for the purpose of complying with any provision of this Act, or for the purpose of making any enquiries or undertaking any investigations with a view to determining whether any pollution of the sea by oil has occurred and whether the removal of such pollution is feasible, or for the purpose of erecting camps or other temporary works which may be considered necessary in connection with the removal of such pollution of the sea by oil, or for the purpose of ascertaining whether or not any provision of this Act or condition imposed thereunder is being complied with, and may, for the purpose of gaining access to such land, enter upon and cross any other land with the said workmen, machinery, vehicles, equipment, appliances, instruments and other articles: Provided that—

- (a) no such entry shall be made into any building, or upon any enclosed space attached to a dwelling, except with the consent of the occupier thereof;
- (b) as little damage, loss or inconvenience as possible shall be caused in the exercise of the powers conferred by this subsection, and such compensation as may be agreed upon or, failing agreement, determined by a competent court, shall be paid from the Fund for any damage, loss or inconvenience so caused.

(2) Any person who prevents any entry authorized or the exercise of any powers conferred by subsection (1) or who wilfully obstructs or hinders any person so entering in the performance of his functions under this Act shall be guilty of an offence.

Liability for loss, damage or costs caused by discharge of oil.

9. (1) Subject to the provisions of this Act the owner of any ship, tanker or offshore installation shall be liable for—

- (a) any loss or damage caused, elsewhere than on such ship, tanker or offshore installation, in the area of the Republic by pollution resulting from the discharge of oil from such ship, tanker or offshore installation;
- (b) the costs of any measures taken or caused to be taken by the Minister in terms of this Act after an incident has occurred in respect of such ship, tanker or offshore installation, for the purposes of reducing loss or damage caused as contemplated in paragraph (a) through the discharge of any oil, or for the purposes of preventing such loss or damage being caused, whether or not a discharge as contemplated in paragraph (a) has occurred and whether or not such a discharge in fact subsequently occurs; and
- (c) any loss or damage caused in the area of the Republic by any measures so taken or caused to be taken after a discharge as contemplated in paragraph (a) has occurred.

(2) For the purposes of subsection (1) (b)—

- (a) any measures taken or caused to be taken by the Minister in terms of this Act to remove or prevent

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aldus aan boord is of kan, indien hy redelike gronde het om te vermoed dat 'n bepaling van hierdie Wet oortree is of word in verband met daardie skip of tenkskip, aldus aan boord gaan en daardie skip of tenkskip of enige gedeelte of vrag daarvan 5 ondersoek, enige stukke of aantekeninge wat ten opsigte van daardie skip of tenkskip of ten opsigte van sy vrag of olie aan boord daarvan gehou word, ondersoek en afskrifte daarvan maak, monsters neem van olie wat op dié skip of tenkskip is, peilings doen van tenke, ruimtes en buike en enige toerusting 10 aan boord van daardie skip of tenkskip wat bestem is vir gebruik by die voorkoming van 'n uitlating van olie uit daardie skip of tenkskip toets.

8. (1) 'n Persoon of lid bedoel in artikel 7 en enige ander persoon wat deur die Minister daartoe gemagtig is, kan enige 15 grond met die nodige werksmense, masjinerie, voertuie, toerusting, toestelle, instrumente en ander artikels betree en aldaar die handelinge verrig wat nodig is ten einde aan 'n bepaling van hierdie Wet te voldoen of ten einde navrae te doen of ondersoek in te stel om te bepaal of besoedeling van die see deur olie 20 plaasgevind het en of die verwydering van sodanige besoedeling uitvoerbaar is, of ten einde kampe of ander tydelike werke op te rig wat in verband met die verwydering van sodanige besoedeling van die see deur olie nodig geag mag word, of ten einde vas te stel of daar aan 'n bepaling van hierdie Wet of 'n voorwaarde 25 daarkragtens opgelê, voldoen word al dan nie en kan, ten einde toegang tot sodanige grond te verkry, enige ander grond met genoemde werksmense, masjinerie, voertuie, toerusting, toestelle, instrumente en ander artikels betree en daarvoor gaan: Met dien verstande dat—

30 (a) geen gebou of omslote ruimte verbonde aan 'n woning sonder toestemming van die okkupeerder daarvan aldus betree mag word nie;

(b) by die uitoefening van die bevoegdhede by hierdie subartikel verleen so min skade, verlies of ongerief as 35 moontlik veroorsaak moet word, en dat daar uit die Fonds die vergoeding waartoe ooreengekom word of wat by ontstentenis van ooreenkoms deur 'n bevoegde hof vasgestel word, vir enige skade, verlies of ongerief aldus veroorsaak, betaal moet word.

40 (2) Iemand wat deur subartikel (1) gemagtigde toegang of die uitoefening van daardeur verleende bevoegdhede verhinder, of 'n persoon wat aldus toegang verkry, opsetlik by die verrigting van sy werksaamhede kragtens hierdie Wet dwarsboom of hinder, is aan 'n misdryf skuldig.

Reg om grond te betree.

45 9. (1) Die eienaar van 'n skip, tenkskip of see-installasie is, behoudens die bepalings van hierdie Wet, aanspreeklik vir—

(a) enige verlies of skade elders as op daardie skip, tenkskip of see-installasie maar binne die gebied van die Republiek veroorsaak deur besoedeling wat voort- 50 spruit uit die uitlating van olie uit daardie skip, tenkskip of see-installasie;

(b) die koste van maatreëls wat die Minister ingevolge hierdie Wet getref of laat tref het nadat 'n gebeurtenis ten opsigte van daardie skip, tenkskip of see-installasie 55 plaasgevind het, ten einde verlies of skade, veroorsaak soos beoog in paragraaf (a) deur die uitlating van enige olie, te verminder, of ten einde te voorkom dat sodanige verlies of skade veroorsaak word, hetsy 'n uitlating soos beoog in paragraaf (a) plaasgevind het, al dan nie, en hetsy so 'n uitlating inderdaad daarop- 60 volgens plaasvind, al dan nie; en

(c) enige verlies of skade binne die gebied van die Republiek veroorsaak deur enige maatreëls wat aldus getref of laat tref is nadat 'n uitlating soos beoog in 65 paragraaf (a) plaasgevind het.

(2) By die toepassing van subartikel (1) (b)—

(a) word enige maatreëls wat die Minister ingevolge hierdie Wet getref of laat tref het om besoedeling van

Aanspreeklikheid vir verlies, skade of koste veroorsaak deur uitlating van olie.

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- pollution of the sea by oil discharged or likely to be discharged from any ship, tanker or offshore installation, shall be deemed to be measures taken or caused to be taken by the Minister for the purposes contemplated in that subsection; 5
- (b) the costs referred to in that subsection shall include—
- (i) expenses reasonably incurred in connection with the taking of measures referred to in that subsection;
 - (ii) an amount deemed by the Director-General to be sufficient to compensate the South African National Foundation for the Conservation of Coastal Birds, an organization registered under the National Welfare Act, 1965 (Act No. 79 of 1965), as a welfare organization, or any similar organization approved by the Minister, for expenses incurred in rescuing, conveying, treating, feeding, cleaning and rehabilitating coastal birds polluted by oil discharged from the ship, tanker or offshore installation in question. 20
- (3) The owner of any ship, tanker or offshore installation shall not be liable for any loss, damage or costs as set out in subsection (1) if he proves that the discharge or, as the case may be, the anticipated discharge in question—
- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or 25
 - (b) was wholly caused by an act or omission on the part of any person, not being the owner or a servant or agent of the owner, with intent to do damage; or 30
 - (c) was wholly caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lights or other navigational aids, in the exercise of that function.
- (4) Where a ship or a tanker is together with another ship or tanker or with an offshore installation involved in an incident and a liability is incurred by virtue of the provisions of subsection (1) by each of the owners concerned, but the loss, damage or costs for which each of the owners would be liable cannot reasonably be separated from that or those for which the other owner or owners would be liable, the owners concerned shall be jointly and severally liable for all such loss, damage or costs. 40
- (5) If the owner of any ship, tanker or offshore installation incurs a liability in terms of the provisions of subsection (1) for any loss or damage suffered or costs incurred as a result of an incident which occurred without such owner's actual fault or privity— 45
- (a) the provisions of section 261 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), shall not apply in respect of such liability; 50
 - (b) the aggregate of all amounts payable by such owner in respect of such liability, in so far as it relates to a particular incident, shall not exceed—
 - (i) in the case of a ship or a tanker, one hundred and thirty-three units of account for each ton of the ship's or tanker's tonnage, or fourteen million units of account, whichever is the lesser; 55
 - (ii) in the case of an offshore installation, a sum determined by the Minister, but not exceeding fourteen million units of account. 60
- (6) The provisions of subsection (1) (b) shall not be construed as rendering, in the case of a tanker, any costs incurred in terms of the said subsection before a discharge of oil from such tanker

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- die see deur olie wat uit 'n skip, tenkskip of see-
installasie uitgelaat is of waarskynlik uitgelaat sou
word, te verwyder of te voorkom, geag maatreëls te
wees wat deur die Minister getref of laat tref is vir die
doeleindes wat in daardie subartikel beoog word;
- 5 (b) is by die koste bedoel in daardie subartikel inbe-
grepe—
- (i) uitgawes redelikerwys aangegaan in verband met
die tref van maatreëls bedoel in daardie sub-
artikel;
- 10 (ii) 'n bedrag wat deur die Direkteur-generaal geag
word voldoende te wees om die Suid-Afrikaanse
Nasionale Stigting vir die Bewaring van Kusvoëls,
'n organisasie wat kragtens die Nasionale Wel-
synswet, 1965 (Wet No. 79 van 1965), as 'n
15 welsynsorganisasie geregistreer is, of enige soort-
gelyke organisasie wat deur die Minister
goedgekeur is, te vergoed vir uitgawes aangegaan
by die redding, vervoer, behandeling, voer,
skoonmaak en rehabilitering van kusvoëls wat
20 bevuil is met olie wat uit die betrokke skip,
tenkskip of see-installasie uitgelaat is.
- (3) Die eienaar van 'n skip, tenkskip of see-installasie is nie
aanspreeklik vir enige verlies, skade of koste vermeld in
25 subartikel (1) nie indien hy bewys dat die betrokke uitlating of,
na gelang van die geval, verwagte uitlating—
- (a) die gevolg is van 'n oorlogsdaad, vyandelikhede,
burgeroorlog, oproer of 'n natuurverskynsel van 'n
buitengewone, onafwendbare en onweerstaanbare
30 aard; of
- (b) geheel en al veroorsaak is deur 'n handeling of versuim
van die kant van iemand wat nie die eienaar of 'n
werknemer of agent van die eienaar is nie, met die
opset om skade te berokken; of
- 35 (c) geheel en al veroorsaak is deur die nalatigheid of
ander onregmatige handeling van enige regering of
ander owerheidsliggaam wat verantwoordelik is vir
die instandhouding van ligte of ander navigasiehulp-
middels, by die uitoefening van daardie funksie.
- 40 (4) Indien 'n skip of 'n tenkskip tesame met 'n ander skip of
tenkskip of met 'n see-installasie by 'n gebeurtenis betrokke is
en 'n aanspreeklikheid uit hoofde van die bepalings van
subartikel (1) deur elk van die betrokke eienaars opgeloo-
p word, maar die verlies, skade of koste waarvoor elk van die
45 eienaars aanspreeklik sou wees nie op redelike gronde geskei
kan word van dié waarvoor die ander eienaar of eienaars
aanspreeklik sou wees nie, is die betrokke eienaars gesamentlik
en afsonderlik aanspreeklik vir al daardie verlies, skade of
koste.
- 50 (5) Indien die eienaar van 'n skip, tenkskip of see-installasie
ingevalge die bepalings van subartikel (1) 'n aanspreeklikheid
oploop vir verlies of skade gelyk of koste aangegaan as gevolg van
'n gebeurtenis wat plaasgevind het sonder daardie eienaar se
wesentlike skuld of medewete—
- 55 (a) is die bepalings van artikel 261 van die Handelskeep-
vaartwet, 1951 (Wet No. 57 van 1951), nie met
betrekking tot daardie aanspreeklikheid van toepassing
nie;
- (b) oorskry die som van alle bedrae betaalbaar deur
60 bedoelde eienaar ten opsigte van bedoelde aanspreek-
likheid, vir sover dit op 'n bepaalde gebeurtenis
betrekking het, nie—
- (i) in die geval van 'n skip of 'n tenkskip, honderd
drie-en-dertig rekeneenhede vir elke ton van die
65 skip of tenkskip se tonnemaat, of veertien miljoen
rekeneenhede, na gelang van watter die minste is,
nie;
- (ii) in die geval van 'n see-installasie, 'n som deur die
Minister bepaal, maar hoogstens veertien miljoen
rekeneenhede, nie.
- (6) Die bepalings van subartikel (1) (b) word nie so uitgelê dat
dit, in die geval van 'n tenkskip, enige koste ingevolge

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has occurred, recoverable by virtue of the application of the provisions of the Convention.

(7) No legal proceedings to enforce a claim in respect of a liability incurred in terms of subsection (1) shall be entertained by any court unless such proceedings are commenced with not later than three years after the date on which such claim arose: Provided that no such proceedings shall be so entertained after the expiration of a period of six years after the date on which the incident by reason of which the said liability was incurred, took place, or in the case where the incident consists of a series of occurrences having the same origin, six years after the date on which the first of those occurrences took place.

(8) For the purposes of this section—

- (a) "unit of account" means a Special Drawing Right as defined by the International Monetary Fund, and the value of such Special Drawing Right in South African currency shall be calculated in accordance with the method of valuation applied by the International Monetary Fund and which is in effect at the time when payment is made, or, in the event of an application in terms of section 12 (1), at the time when such application is considered by the court;
- (b) the tonnage of a ship or a tanker shall be its net tonnage with the addition of any engine room space deducted for the purpose of ascertaining its net tonnage.

Limitation of liability.

10. (1) When an incident has occurred in respect of a ship, tanker or offshore installation the owner of such ship, tanker or offshore installation shall not be liable otherwise than under the provisions of this Act to any person for any—

(a) loss or damage referred to in section 9 (1) (a) or (c); or

(b) costs referred to in section 9 (1) (b),

suffered or incurred as a result of that incident.

(2) No servant or agent of the owner of a ship, tanker or offshore installation shall be liable to any person for any loss, damage or costs referred to in subsection (1).

(3) Any person performing salvage operations in connection with a ship, tanker or offshore installation with the agreement of the owner or master thereof, shall, for the purposes of subsection (2), be regarded as the agent of such owner.

(4) Any person in the service of the State 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, 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 oil in the prohibited area, any person in the service of the State, 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 oil, caused by or arising out of or in any manner connected with the taking of such measures.

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genoemde subartikel aangegaan voordat 'n uitlating van olie uit sodanige tenkskip plaasgevind het, uit hoofde van die toepassing van die bepalings van die Konvensie verhaalbaar maak nie.

(7) Geen geregtelike verrigtinge vir die afdwinging van 'n vordering ten opsigte van 'n aanspreeklikheid opgeloopt ingevolge subartikel (1) word deur enige hof aangehoor nie tensy sodanige verrigtinge begin word nie later nie as drie jaar na die datum waarop daardie vordering ontstaan het: Met dien verstande dat geen sodanige verrigtinge aldus aangehoor word nie na die verstryking van 'n tydperk van ses jaar na die datum waarop die gebeurtenis as gevolg waarvan genoemde aanspreeklikheid opgeloopt is, plaasgevind het of, in die geval waar die gebeurtenis bestaan uit 'n reeks voorvalle met dieselfde oorsprong, ses jaar na die datum waarop die eerste van daardie voorvalle plaasgevind het.

(8) By die toepassing van hierdie artikel—

(a) beteken „rekeneenheid” 'n Spesiale Trekkingsreg soos omskryf deur die Internasionale Monetêre Fonds, en word die waarde van so 'n Spesiale Trekkingsreg in Suid-Afrikaanse betaalmiddele bereken ooreenkomstig die waarderingsgrondslag wat deur die Internasionale Monetêre Fonds toegepas word en wat van krag is op die tydstip waarop betaling gedoen word of, in die geval van 'n aansoek ingevolge artikel 12 (1), op die tydstip waarop so 'n aansoek deur die hof oorweeg word;

(b) is die tonnemaat van 'n skip of 'n tenkskip sy netto laairuimte met byvoeging van enige masjienkamer-ruimte wat afgetrek is ten einde sy netto laairuimte te bepaal.

10. (1) Wanneer 'n gebeurtenis ten opsigte van 'n skip, tenkskip of see-installasie plaasgevind het, is die eienaar van daardie skip, tenkskip of see-installasie nie anders as kragtens die bepalings van hierdie Wet teenoor enigiemand aanspreeklik nie vir enige—

Beperking van aanspreeklikheid.

(a) verlies of skade bedoel in artikel 9 (1) (a) of (c); of

(b) koste bedoel in artikel 9 (1) (b),

gely of aangegaan as gevolg van daardie gebeurtenis.

(2) Geen werknemer of agent van die eienaar van 'n skip, tenkskip of see-installasie is teenoor enigiemand aanspreeklik vir enige verlies, skade of koste bedoel in subartikel (1) nie.

(3) Iemand wat met die toestemming van die eienaar of gesagvoerder van 'n skip, tenkskip of see-installasie bergingswerk in verband daarmee verrig, word, by die toepassing van subartikel (2), as die agent van daardie eienaar beskou.

(4) Iemand in diens van die Staat of iemand in diens geneem ingevolge artikel 27 (1) saamgelees met artikel 4 (2) (a) of artikel 22 (1), na gelang van die geval, om 'n handeling te verrig wat ingevolge artikel 4 (1) verrig moet word, is nie aanspreeklik nie (behalwe in die geval van 'n opsetlike handeling of versuim van die kant van so iemand) teenoor enige persoon vir enige verlies van of skade aan enige skip, tenkskip of see-installasie of, in die geval van so 'n skip of tenkskip, sy vrag of olie, wat veroorsaak word deur of voortspruit uit of op enige wyse in verband staan met die verrigting van sodanige handeling.

(5) Indien daar uit hoofde van die bepalings van artikel 5 maatreëls getref word om te waak teen of ter voorkoming of verwydering van besoedeling van die see deur olie in die verbode gebied, is iemand in diens van die Staat, 'n offisier van of lid van die bemanning van enige vaartuig wat gebruik word by die tref van bedoelde maatreëls, die werkgewer van so 'n offisier of lid, of die eienaar van so 'n vaartuig, nie aanspreeklik nie (behalwe in die geval van 'n opsetlike handeling of versuim van die kant van so iemand of so 'n offisier, lid, werkgewer of eienaar) teenoor enige persoon vir enige verlies van of skade aan enige skip, tenkskip of see-installasie in bedoelde gebied, of, in die geval van so 'n skip of tenkskip, sy vrag of olie, wat veroorsaak word deur of voortspruit uit of op enige wyse in verband staan met die tref van bedoelde maatreëls.

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(6) Any person in the service of the State 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 oil. 5

Exemption in respect of warships or tankers used in the service of a State.

11. (1) The provisions of section 9 (1) shall not apply in respect of any warship or in respect of any tanker for the time being used exclusively in the service of any State for other than commercial purposes. 10

(2) In relation to a tanker owned by a State and for the time being used for commercial purposes, section 13 (1) shall be deemed to have been complied with if there is in force in respect of such tanker a certificate, issued by the government of such State, in which it is stated that the tanker is owned by that State and that any liability which may be incurred in connection with such tanker by virtue of the provisions of section 9 (1) will be met by the government concerned to the extent of the aggregate amount contemplated in section 9 (5). 15 20

(3) Every Convention State shall, for the purposes of any legal proceedings brought in a court referred to in section 20 (1) to enforce a claim in respect of a liability incurred under section 9 (1) as a result of a discharge of oil from a tanker referred to in subsection (2), be deemed to have submitted to the jurisdiction of that court: Provided that nothing in this subsection contained shall authorize the issue of execution against the property of any Convention State. 25 30

Applications to court.

12. (1) If the owner of a ship, tanker or offshore installation has or is alleged to have incurred a liability in terms of the provisions of subsection (1) of section 9 in the circumstances contemplated in subsection (5) of that section, he may in the prescribed manner apply to the court for the determination, in accordance with the provisions of the said subsection (5), of the aggregate amount payable by him in respect of such liability. 35

(2) If on an application referred to in subsection (1) the court finds that the applicant has incurred the liability in question and is, by virtue of the provisions of section 9 (5), entitled to pay in respect of such liability an aggregate amount not exceeding an amount calculated in accordance with the provisions of section 9 (5), the court shall, after determining such aggregate amount in accordance with the provisions of section 9 (5), direct the applicant to deposit such amount with the Master of the said court or to furnish the said Master with a written guarantee, acceptable to the court, for the payment of such amount, and any amount so deposited or guarantee so furnished shall, for the purposes of this section, be deemed to constitute a fund. 40 45

(3) The Master referred to in subsection (2) shall appoint a person nominated by the applicant and a person nominated by the Director-General as joint trustees of the fund referred to in subsection (2). 50

(4) The trustees referred to in subsection (3) shall in the prescribed manner administer the fund referred to in subsection (2) and distribute it among the several persons establishing claims in connection with the incident from which the liability originated. 55

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(6) Iemand in diens van die Staat of iemand in diens geneem ingevolge artikel 27 (1) saamgelees met artikel 4 (2) (a) of artikel 22 (1), na gelang van die geval, om 'n handeling te verrig wat ingevolge artikel 4 (1) verrig moet word, is nie aanspreeklik 5 nie (behalwe in die geval van 'n opsetlike handeling of versuim van die kant van so iemand) vir enige verlies of skade gely of koste aangegaan deur enige persoon as gevolg van enige maatreëls getref, of as gevolg van enige versuim om maatreëls te tref, ingevolge hierdie Wet, ter voorkoming of verwydering van 10 besoedeling van die see deur olie.

11. (1) Die bepalings van artikel 9 (1) is nie van toepassing nie met betrekking tot enige oorlogskip of enige tenkskip wat vir tyd en wyl uitsluitlik in die diens van 'n Staat gebruik word vir ander doeleindes as handelsdoeleindes.

Vrystelling ten opsigte van oorlogskippe of tenkskepe wat in diens van 'n Staat gebruik word.

15 (2) Met betrekking tot 'n tenkskip wat die eiendom is van 'n Staat en vir tyd en wyl vir handelsdoeleindes gebruik word, word daar geag dat daar aan artikel 13 (1) voldoen is indien daar ten opsigte van daardie tenkskip 'n sertifikaat van krag is, uitgereik deur die regering van bedoelde Staat, waarin ver- 20 klaar word dat die tenkskip die eiendom van bedoelde Staat is en dat enige aanspreeklikheid wat uit hoofde van die bepalings van artikel 9 (1) in verband met daardie tenkskip opgeloopt mag word, deur die betrokke regering nagekom sal word tot 'n bedrag gelyk aan die totaalbedrag beoog in artikel 9 25 (5).

(3) Vir die doeleindes van 'n regsgeeding wat in 'n hof bedoel in artikel 20 (1) ingestel word ter afdwinging van 'n vordering ten opsigte van 'n aanspreeklikheid kragtens artikel 9 (1) opgeloopt as gevolg van 'n uitlating van olie uit 'n tenkskip bedoel in 30 subartikel (2), word daar geag dat elke Konvensiestaat hom aan die regsbevoegdheid van daardie hof onderwerp het: Met dien verstande dat die bepalings van hierdie artikel nie magtiging verleen vir tenuitvoerlegging teen die goed van 'n Konvensiestaat nie.

35 12. (1) Indien die eienaar van 'n skip, tenkskip of see-installasie wel of na bewering 'n aanspreeklikheid opgeloopt het ingevolge die bepalings van subartikel (1) van artikel 9 in die omstandighede beoog in subartikel (5) van daardie artikel, kan hy op die voorgeskrewe wyse by die hof aansoek doen om die 40 vasstelling, ooreenkomstig die bepalings van genoemde subartikel (5), van die totaalbedrag ten opsigte van die aanspreeklikheid deur hom betaalbaar.

Aansoek by hof.

(2) Indien die hof by 'n aansoek bedoel in subartikel (1) bevind dat die aansoeker die betrokke aanspreeklikheid opge- 45 loop het en, uit hoofde van die bepalings van artikel 9 (5), daarop geregtig is om ten opsigte van daardie aanspreeklikheid 'n totaalbedrag te betaal wat nie 'n bedrag ooreenkomstig die bepalings van artikel 9 (5) bereken, oorskry nie, moet die hof, na vasstelling van bedoelde totaalbedrag ooreenkomstig die 50 bepalings van artikel 9 (5), die aansoeker gelas om sodanige bedrag by die Meester van genoemde hof te deponeer of om 'n skriftelike waarborg wat vir die hof aanneemlik is, vir die betaling van sodanige bedrag aan genoemde Meester te verstrek, en 'n bedrag aldus gedeponeer of waarborg aldus verstrek, 55 word by die toepassing van hierdie artikel geag 'n fonds uit te maak.

(3) Die Meester bedoel in subartikel (2) moet iemand wat deur die aansoeker benoem is en iemand wat deur die Direkteur-generaal benoem is, as gesamentlike trustees van die 60 fonds bedoel in subartikel (2) aanstel.

(4) Die trustees bedoel in subartikel (3) moet die fonds bedoel in subartikel (2) op die voorgeskrewe wyse administreer en tussen die verskeie persone wat vorderings bewys in verband met die gebeurtenis waaruit die aanspreeklikheid voortgespruit 65 het, verdeel.

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(5) Where any amount has already been paid in or towards satisfaction of any claim in respect of the loss, damage or costs to which the liability relates, by the owner of the ship, tanker or offshore installation in question or by the person referred to in section 15 as the insurer, the person who paid such amount shall, to the extent of that amount, be in the same position with respect to any distribution made by the trustees in terms of subsection (4) as the person to whom such amount was paid would have been. 5

(6) If the owner concerned has made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce loss or damage to which the liability relates, he shall be in the same position with respect to any distribution made by the trustees in terms of subsection (4) as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures. 10

(7) If the owner or insurer referred to in subsection (5) establishes that he may be compelled to pay, at a date subsequent to the distribution in terms of subsection (4) of the fund referred to in subsection (2), an amount in or towards satisfaction of any claim as contemplated in subsection (5), which payment would have entitled him to the right envisaged in subsection (5) had it been made before the said distribution, the trustees may out of the said fund provisionally set aside an amount in order to enable the said owner or insurer to enforce the said right against the said fund at such subsequent date. 20

(8) For the purposes of this section "court" means any division of the Supreme Court of South Africa. 25

Compulsory insurance against liability for loss, damage or costs.

13. (1) No tanker carrying more than 2 000 long tons of oil in bulk as cargo shall enter or leave a port in the Republic or arrive at or leave an offshore installation in the territorial waters of the Republic nor, if such tanker is registered in the Republic, a port in any other country or an installation similar to an offshore installation in the territorial waters of any other country, unless it carries on board a valid certificate, issued by the competent authority specified in subsection (2), stating that there is in force in respect of such tanker a contract of insurance or other financial security for an amount not less than an amount fixed, *mutatis mutandis*, in accordance with the provisions of section 9 (5) (b), to cover the liability of the owner of such tanker for any loss, damage or costs which may become payable by him in terms of the provisions of section 9 (1) as a result of any incident which may occur in respect of such tanker. 30

(2) The certificate referred to in subsection (1) shall be a certificate issued— 45

- (a) in the case of a tanker registered in the Republic, by the Director-General in terms of the provisions of section 14;
- (b) in the case of a tanker registered in a Convention State other than the Republic, by or under the authority of the government of such other Convention State. 50

(3) (a) A certificate shall not be a valid certificate for the purposes of subsection (1) if the period of validity of the insurance or other financial security to which it relates, will expire while the tanker concerned will be within the territorial waters of the Republic at a time before a new contract for such insurance or other financial security becomes operative. 55

- (b) Insurance or other financial security shall be deemed not to satisfy the requirements of this section if such insurance or other financial security can be terminated, for reasons other than the expiry of the period of validity thereof, before the expiration of a period of 60

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- (5) Indien 'n bedrag alreeds ter voldoening of gedeeltelike voldoening aan 'n vordering ten opsigte van die verlies, skade of koste waarop die aanspreeklikheid betrekking het deur die eienaar van die betrokke skip, tenkskip of see-installasie of deur 5 die persoon wat in artikel 15 die versekeraar genoem word, betaal is, het die persoon wat daardie betaling gedoen het, tot die bedrag daarvan, dieselfde regte by 'n verdeling wat ingevolge subartikel (4) deur die trustees gedoen word as wat die persoon aan wie sodanige bedrag betaal is, sou gehad het.
- 10 (6) Indien die betrokke eienaar redelike opofferinge gedoen of ander redelike maatreëls getref het om verlies of skade waarop die aanspreeklikheid betrekking het, te voorkom of te verminder, het hy dieselfde regte by 'n verdeling wat ingevolge 15 subartikel (4) deur die trustees gedoen word, asof hy 'n vordering ten opsigte van die aanspreeklikheid gehad het gelykstaande met die koste van daardie opofferinge of ander maatreëls.
- (7) Indien die eienaar of versekeraar bedoel in subartikel (5) bewys dat hy verplig mag wees om, op 'n datum na die verdeling 20 ingevolge subartikel (4) van die fonds bedoel in subartikel (2), 'n bedrag ter voldoening of gedeeltelike voldoening aan 'n vordering beoog in subartikel (5) te betaal, welke betaling die reg beoog in subartikel (5) aan hom sou verleen het indien dit voor genoemde verdeling gedoen was, kan die trustees uit genoemde 25 fonds voorlopig 'n bedrag opsysit ten einde genoemde eienaar of versekeraar in staat te stel om op so 'n later datum genoemde reg teen genoemde fonds af te dwing.
- (8) By die toepassing van hierdie artikel beteken „hof” enige afdeling van die Hooggeregshof van Suid-Afrika.

- 30 13. (1) Geen tenkskip wat meer as 2 000 groot ton olie in massa as vrag vervoer, mag 'n hawe in die Republiek binnegaan of verlaat nie of by 'n see-installasie binne die territoriale waters van die Republiek aandoen of dit verlaat nie of, indien daardie tenkskip in die Republiek geregistreer is, 'n hawe in 'n ander 35 land binnegaan of verlaat nie of binne die territoriale waters van 'n ander land by 'n installasie soortgelyk aan 'n see-installasie aandoen of dit verlaat nie, tensy daar 'n geldige sertifikaat, uitgereik deur die bevoegde gesag vermeld in subartikel (2), aan boord is waarin verklaar word dat daar ten 40 opsigte van bedoelde tenkskip 'n kontrak van krag is vir versekering of ander finansiële sekuriteit vir 'n bedrag wat nie minder is nie as 'n bedrag *mutatis mutandis* ooreenkomstig die bepalings van artikel 9 (5) (b) bepaal, ter dekking van die aanspreeklikheid van die eienaar van daardie tenkskip vir enige 45 verlies, skade of koste wat ingevolge die bepalings van artikel 9 (1) deur hom betaalbaar mag word as gevolg van 'n gebeurtenis wat ten opsigte van daardie tenkskip mag plaasvind.
- (2) Die sertifikaat bedoel in subartikel (1) moet 'n sertifikaat wees uitgereik—
- 50 (a) deur die Direkteur-generaal ingevolge die bepalings van artikel 14 in die geval van 'n tenkskip wat in die Republiek geregistreer is;
- (b) in die geval van 'n tenkskip geregistreer in 'n ander 55 Konvensiestaat as die Republiek, deur of op gesag van die regering van daardie ander Konvensiestaat.
- (3) (a) 'n Sertifikaat is nie 'n geldige sertifikaat by die toepassing van subartikel (1) nie indien die tydperk van geldigheid van die versekering of ander finansiële sekuriteit waarop dit betrekking het, sal verstryk 60 terwyl die betrokke tenkskip binne die territoriale waters van die Republiek sal wees op 'n tydperk voordat 'n nuwe kontrak vir sodanige versekering of ander finansiële sekuriteit van krag word.
- (b) Versekering of ander finansiële sekuriteit word geag 65 nie aan die vereistes van hierdie artikel te voldoen nie indien sodanige versekering of ander finansiële sekuriteit opgesê kan word, om ander redes as die verstryking van die tydperk van geldigheid daarvan, voor die verstryking van 'n tydperk van drie maande vanaf die

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three months from the date on which notice of such termination is given to the authority who issued the certificate in question, unless a new certificate is issued within the said period of three months.

(4) The master of a tanker referred to in subsection (1) shall at the request of any principal officer, oil pollution officer, customs officer, pilot, port captain or person authorized by the Minister in terms of section 7, produce the certificate in question to such principal officer, oil pollution officer, customs officer, pilot, port captain or person.

(5) If a tanker attempts to leave a port in the Republic or an offshore installation in the territorial waters of the Republic in contravention of the provisions of subsection (1), the Minister may cause such tanker to be detained until a valid certificate in respect of such tanker is produced.

(6) If a tanker enters or leaves, or attempts to enter or to leave, a port or arrives at or leaves, or attempts to arrive at or to leave, an offshore installation in contravention of the provisions of subsection (1), the master of such tanker and, if the master is not the owner of such tanker, also the owner thereof, shall be guilty of an offence.

(7) If the master of a tanker refuses or fails to produce a certificate when requested in terms of subsection (4) to do so, the said master shall be guilty of an offence.

(8) (a) No ship carrying more than 2 000 long tons of oil in bulk as cargo and which is registered in a state other than a Convention State shall enter or leave a port in the Republic or arrive at or leave an offshore installation in the territorial waters of the Republic unless it carries on board a certificate as contemplated in subsection (1), issued by or under the authority of the government of a Convention State, or such a certificate recognized by the Director-General.

(b) The provisions of subsections (3) to (7), inclusive, shall *mutatis mutandis* apply in respect of any ship and any certificate referred to in paragraph (a).

Issue of certificate
by Director-
General.

14. (1) (a) Every person desiring a certificate referred to in section 13 (2) (a) shall in writing apply therefor to the Director-General.

(b) An application referred to in paragraph (a) shall be accompanied by the prescribed particulars and such other particulars as may be required by the Director-General in connection therewith, as well as a prescribed amount.

(2) If, on an application referred to in subsection (1), the Director-General is satisfied that there will be in force in respect of the tanker in question, throughout the period for which the certificate is to be issued, a contract of insurance or other financial security for an amount contemplated in section 13 (1), he shall issue to the applicant such certificate in the prescribed form.

(3) If, on such an application, the Director-General is of the opinion that a doubt exists as to whether the person providing the insurance or other financial security will be able to meet his obligations under the relevant contract, or as to whether the insurance or other financial security in question will in all circumstances cover the owner's liability for any loss, damage or costs which may become payable by him in terms of the provisions of section 9 (1), he may refuse to issue a certificate.

(4) (a) If at any time after the issue of a certificate in terms of this section the Director-General is of the opinion that due to a change in the circumstances a doubt of the nature contemplated in subsection (3) has arisen, he may cancel such certificate and shall upon such cancellation immediately notify the owner of the

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datum waarop kennis van sodanige opsegging gegee word aan die gesag wat die betrokke sertifikaat uitgereik het, tensy 'n nuwe sertifikaat binne genoemde tydperk van drie maande uitgereik word.

5 (4) Die gesagvoerder van 'n tenkskip bedoel in subartikel (1) moet op die versoek van 'n eerste beampte, oliebesoedelings-beampte, doeanebeampte, loods, hawekaptein of persoon wat ingevolge artikel 7 deur die Minister gemagtig is, die betrokke
10 sertifikaat aan so 'n eerste beampte, oliebesoedelingsbeampte, doeanebeampte, loods, hawekaptein of persoon toon.

(5) Indien 'n tenkskip poog om in stryd met die bepalings van subartikel (1) 'n hawe in die Republiek of 'n see-installasie binne die territoriale waters van die Republiek te verlaat, kan die Minister daardie tenkskip laat aanhou totdat 'n geldige serti-
15 fikaat ten opsigte van die tenkskip getoon word.

(6) Indien 'n tenkskip in stryd met die bepalings van subartikel (1) 'n hawe binnegaan of verlaat of poog om dit binne te gaan of te verlaat, of by 'n see-installasie aandoen of dit verlaat of poog om daarby aan te doen of dit te verlaat, is die
20 gesagvoerder van daardie tenkskip en, indien die gesagvoerder nie die eienaar van die tenkskip is nie, ook die eienaar daarvan, aan 'n misdryf skuldig.

(7) Indien die gesagvoerder van 'n tenkskip weier of versuim om 'n sertifikaat te toon wanneer hy ingevolge subartikel (4)
25 versoek word om dit te doen, is daardie gesagvoerder aan 'n misdryf skuldig.

(8) (a) Geen skip wat meer as 2 000 groot ton olie in massa as vrag vervoer en wat geregistreer is in 'n ander staat as 'n Konvensiestaat mag 'n hawe in die Republiek binne-
30 gaan of verlaat nie of by 'n see-installasie binne die territoriale waters van die Republiek aandoen of dit verlaat nie tensy daar 'n sertifikaat soos beoog in subartikel (1), uitgereik deur of op gesag van die regering van 'n Konvensiestaat, of so 'n sertifikaat wat deur die Direkteur-generaal erken word, aan boord van daardie skip is.

(b) Die bepalings van subartikels (3) tot en met (7) is *mutatis mutandis* van toepassing ten opsigte van enige skip en enige sertifikaat bedoel in paragraaf (a).

40 14. (1) (a) Iemand wat 'n sertifikaat bedoel in artikel 13 (2) (a) verlang, moet skriftelik by die Direkteur-generaal daarom aansoek doen. Uitreiking van sertifikaat deur Direkteur-generaal.

(b) 'n Aansoek bedoel in paragraaf (a) moet vergesel gaan van die voorgeskrewe besonderhede en die ander besonderhede wat die Direkteur-generaal in verband daarmee vereis, sowel as van 'n voorgeskrewe bedrag.

(2) Indien die Direkteur-generaal by 'n aansoek bedoel in subartikel (1) oortuig is dat daar gedurende die tydperk waarvoor die sertifikaat uitgereik moet word deurgaans 'n
50 kontrak ten opsigte van die betrokke tenkskip van krag sal wees vir versekering of ander finansiële sekuriteit vir 'n bedrag beoog in artikel 13 (1), moet hy so 'n sertifikaat in die voorgeskrewe vorm aan die aansoeker uitreik.

(3) Indien die Direkteur-generaal by so 'n aansoek van
55 oordeel is dat daar twyfel bestaan daaromtrent of die persoon wat die versekering of ander finansiële sekuriteit verskaf, in staat sal wees om sy verpligtinge kragtens die tersaaklike kontrak na te kom, of daaromtrent of die betrokke versekering of ander finansiële sekuriteit in alle omstandighede die eienaar se aanspreeklikheid sal dek vir verlies, skade of koste wat deur hom betaalbaar mag word ingevolge die bepalings van artikel 9
60 (1), kan hy weier om 'n sertifikaat uit te reik.

(4) (a) Indien die Direkteur-generaal te eniger tyd na die uitreiking, ingevolge hierdie artikel, van 'n sertifikaat,
65 van oordeel is dat daar weens 'n verandering in die omstandighede twyfel soos beoog in subartikel (3) ontstaan het, kan hy daardie sertifikaat intrek en moet hy, by sodanige intrekking, onverwyld die eienaar van

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tanker in question and the person providing the insurance or other financial security thereof.

- (b) Whenever the person to whom a certificate was issued by the Director-General in terms of this section, ceases to be the owner of the tanker to which the certificate relates, the Director-General shall cancel such certificate.

(5) The Director-General shall send a copy of every certificate issued by him and a copy of every notice of cancellation in terms of subsection (4) to every principal officer, who shall hold such copies available for public inspection.

(6) Whenever a certificate is cancelled in terms of subsection (4) the person to whom the certificate was issued shall at the request of the Director-General return such certificate to him within a period of thirty days as from the date of such request.

Proceedings against insurers.

15. (1) If it is alleged that the owner of a tanker has incurred a liability in terms of the provisions of section 9 (1) as a result of an incident which occurred in respect of such tanker while there was in force in respect of such tanker a contract of insurance or other financial security to which a certificate referred to in section 13 (1) related, proceedings to enforce a claim in respect of that liability may be brought against the person (hereinafter in this section referred to as the insurer) who provided the insurance or other financial security.

(2) In any proceedings brought against the insurer by virtue of the provisions of this section it shall be a defence, in addition to any defence relating to the liability of the owner concerned, for such insurer to prove that the incident in question was caused by the wilful act or omission of the owner himself.

(3) The insurer may, whether or not the incident in question occurred without the owner's actual fault or privity, limit his liability in respect of claims relating to such incident, instituted against him by virtue of the provisions of this section, to an aggregate amount determined in accordance with the provisions of section 9 (5) (b) and shall for that purpose make an application to the court *mutatis mutandis* in accordance with the provisions of section 12.

(4) Where the owner as well as the insurer made an application to the court in terms of the provisions of section 12, any amount deposited or the payment of which was guaranteed in terms of section 12 (2) in pursuance of either application shall be deemed to have been so deposited or guaranteed also in pursuance of the other application.

Depositing of amount or furnishing of guarantee by owner of ship, tanker or offshore installation in respect of certain costs.

16. If an amount has in terms of the provisions of section 9 (1) (b) become payable by the owner of a ship, a tanker to which the provisions of section 13 (1) do not apply or an offshore installation in respect of costs referred to in section 9 (1) (b), or if the Director-General believes, on reasonable grounds, that an amount may become so payable, such owner shall either deposit with the Director-General an amount, or furnish the Director-General with a written guarantee, acceptable to him, for the payment of an amount deemed by the Director-General to be sufficient to satisfy the amount which has or may become so payable by the said owner.

Refund of excess costs paid by owner.

17. (1) If the Director-General is satisfied that no amount in respect of costs referred to in section 9 (1) (b) is, or will become, payable in terms of the provisions of that section by an owner referred to in section 16 and that no pollution or further pollution of the sea by oil will be caused by the ship, tanker or offshore installation in question, he shall—

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- die betrokke tenkskip sowel as die persoon wat die
versekering of ander finansiële sekuriteit verskaf,
daarvan in kennis stel.
- 5 (b) Wanneer die persoon aan wie 'n sertifikaat ingevolge
hierdie artikel deur die Direkteur-generaal uitgereik is,
ophou om die eenaar te wees van die tenkskip waarop
die sertifikaat betrekking het, moet die Direkteur-
generaal daardie sertifikaat intrek.
- 10 (5) Die Direkteur-generaal moet 'n afskrif van elke sertifikaat
wat deur hom uitgereik is en 'n afskrif van elke kennisgewing
van intrekking ingevolge subartikel (4), aan alle eerste beamptes
stuur, wat sodanige afskrifte vir openbare insae beskikbaar moet
hou.
- 15 (6) Wanneer 'n sertifikaat ingevolge subartikel (4) ingetrek
word, moet die persoon aan wie die sertifikaat uitgereik is
daardie sertifikaat op versoek van die Direkteur-generaal aan
hom terugbesorg binne 'n tydperk van dertig dae vanaf die
datum van sodanige versoek.
- 20 15. (1) Indien daar beweer word dat die eenaar van 'n tenkskip
opgehoop het as gevolg van 'n gebeurtenis wat ten opsigte van
daardie tenkskip plaasgevind het terwyl daar ten opsigte van
daardie tenkskip 'n kontrak vir versekering of ander finansiële
sekuriteit van krag was waarop 'n sertifikaat bedoel in artikel 13
25 (1) betrekking gehad het, kan 'n regsding om 'n vordering ten
opsigte van daardie aanspreeklikheid af te dwing, ingestel word
teen die persoon (hieronder in hierdie artikel die versekeraar
genoem) wat die versekering of ander finansiële sekuriteit
verskaf het.
- 30 (2) In 'n regsding wat uit hoofde van die bepalings van
hierdie artikel teen die versekeraar ingestel word, maak bewys
deur die versekeraar dat die betrokke gebeurtenis veroorsaak is
deur die opsetlike handeling of versuim van die betrokke
eenaar self, 'n verweer uit, benewens enige verweer betreffende
35 die aanspreeklikheid van die eenaar.
- (3) Die versekeraar kan, hetsy die betrokke gebeurtenis
sonder die eenaar se wesentlike skuld of medewete plaasgevind
het al dan nie, sy aanspreeklikheid ten opsigte van vorderinge
teen hom ingevolge die bepalings van hierdie artikel en wat
40 betrekking het op daardie gebeurtenis, beperk tot 'n totaalbe-
drag ooreenkomstig die bepalings van artikel 9 (5) (b) vasgestel,
en moet vir daardie doel by die hof aansoek doen *mutatis*
mutandis ooreenkomstig die bepalings van artikel 12.
- (4) Indien die eenaar sowel as die versekeraar ingevolge die
45 bepalings van artikel 12 by die hof aansoek gedoen het, word 'n
bedrag wat uit hoofde van die een aansoek gedeponeer is of
waarvan die betaling gewaarborg is ingevolge artikel 12 (2), geag
ook uit hoofde van die ander aansoek aldus gedeponeer of
gewaarborg te gewees het.
- 50 16. Indien 'n bedrag ingevolge die bepalings van artikel 9 (1)
(b) deur die eenaar van 'n skip, 'n tenkskip ten opsigte waarvan
die bepalings van artikel 13 (1) nie van toepassing is nie of 'n
see-installasie, ten opsigte van koste bedoel in artikel 9 (1) (b)
55 betaalbaar is, of indien die Direkteur-generaal op redelike
gronde van oordeel is dat 'n bedrag aldus betaalbaar mag word,
moet daardie eenaar of by die Direkteur-generaal 'n bedrag
deponeer, of aan die Direkteur-generaal 'n vir hom aanvaarbare
skriftelike waarborg verstrek vir die betaling van 'n bedrag wat
die Direkteur-generaal voldoende ag om te voldoen aan die
60 bedrag wat deur genoemde eenaar aldus betaalbaar is of mag
word.
17. (1) Indien die Direkteur-generaal oortuig is dat geen
bedrag ten opsigte van koste bedoel in artikel 9 (1) (b) deur 'n
eenaar bedoel in artikel 16 ingevolge die bepalings van
eersgenoemde artikel betaalbaar is of sal word nie en dat geen
65 besoedeling of verdere besoedeling van die see deur olie deur
die betrokke skip, tenkskip of see-installasie veroorsaak sal
word nie, moet hy—

Regsgeding teen
versekeraars.Deponering van
bedrag of verstre-
king van waarborg
deur eenaar van
skip, tenkskip of
see-installasie ten
opsigte van sekere
koste.Terugbetaling van
oortollige koste
deur eenaar betaal.

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- (a) refund any amount deposited in terms of section 16, or so much thereof as has not been utilized to satisfy any amount which had become payable by such owner in respect of such costs;
- (b) cancel any guarantee furnished in terms of section 16 if no amount is payable in terms thereof in respect of such costs or if any amount which became so payable in respect of such costs has been paid.

(2) The Director-General may at any time refund so much of any amount deposited in terms of section 16, or, as the case may be, agree to a reduction of any amount guaranteed in terms of the said section by so much, as, in his opinion, is not required to satisfy any costs referred to in section 9 (1) (b).

(3) In the event of an application having been made to the court in terms of section 12 in respect of the incident in question, the Director-General shall refund to the owner concerned so much of any amount deposited in terms of section 16, or, as the case may be, agree to a reduction of any amount guaranteed in terms of the said section by so much, as exceeds the amount to which the State is entitled in terms of a distribution made in terms of section 12 (4).

Ratification by
Minister of certain
expenses.

18. The Minister may ratify the incurring of any expenses by the State (otherwise than in pursuance of section 5 (1) or (2)) or by any local authority or other public body or any other person in removing pollution of the sea by oil discharged from any ship, tanker or offshore installation, to the extent to which such expenses could have been incurred by the Minister in terms of section 5 (1) or (2), and any expenses the incurring of which has been so ratified, shall be deemed to be costs referred to in section 9 (1) (b).

Detention of ships
pending payment of
costs for which
owner is liable.

19. (1) If the owner of a ship fails to pay costs payable by him in terms of section 9 (1) (b), or fails to make a deposit or to furnish a guarantee which he is in terms of section 16 required to make or to furnish, the Minister may, in the prescribed manner—

- (a) cause the ship in question or any other ship or ships, or the ship in question and any other ship or ships of the owner—
- (i) to be detained until such costs have been paid or such deposit has been made or guarantee furnished, as the case may be: Provided that such detention shall not exceed a period of seven days or such further period as the division of the Supreme Court of South Africa having jurisdiction may authorize; and
- (ii) on the authority of the said division of the Supreme Court of South Africa and subject to its directions—
- (aa) where such detention has been effected because of a failure to pay such costs due, to be seized and, after notice in the *Gazette* of the proposed realization thereof, to be realized in satisfaction of those costs;
- (bb) where such detention has been effected because of a failure to make a deposit or to furnish a guarantee, and costs become payable by the owner in terms of section 9 (1) (b) at a time when the required deposit has not yet been made or guarantee has not yet been furnished, to be seized and, after notice as prescribed in item (aa), to be realized in satisfaction of those costs;
- (b) on the authority of the said division of the Supreme Court of South Africa and subject to its directions, cause to be seized and realized in satisfaction of those costs, any goods of such owner on such ship or ships.

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- (a) 'n bedrag wat ingevolge artikel 16 gedeponeer is of soveel daarvan as wat nie aangewend is nie om te voldoen aan 'n bedrag wat deur sodanige eienaar ten opsigte van sodanige koste betaalbaar geword het, terugbetaal;
- 5 (b) 'n waarborg rojeer wat ingevolge artikel 16 verstrekk indien geen bedrag uit hoofde daarvan ten opsigte van sodanige koste betaalbaar is nie of indien 'n bedrag wat ten opsigte van sodanige koste aldus betaalbaar geword het, betaal is.
- 10 (2) Die Direkteur-generaal kan te eniger tyd soveel terugbetaal van 'n bedrag wat ingevolge artikel 16 gedeponeer is, of, na gelang van die geval, toestem tot 'n vermindering van enige bedrag ingevolge genoemde artikel gewaarborg met soveel, as
- 15 wat, volgens sy oordeel, nie nodig is om aan enige koste bedoel in artikel 9 (1) (b) te voldoen nie.
- (3) In die geval waar daar ingevolge artikel 12 aansoek by die hof gedoen is ten opsigte van die betrokke gebeurtenis, moet die Direkteur-generaal aan die betrokke eienaar soveel terugbetaal
- 20 van 'n bedrag wat ingevolge artikel 16 gedeponeer is, of, na gelang van die geval, toestem tot 'n vermindering van enige bedrag ingevolge genoemde artikel gewaarborg met soveel, as wat die bedrag oorskry waarop die Staat ingevolge 'n verdeling ingevolge artikel 12 (4) gedoen, geregtig is.
- 25 **18.** Die Minister kan die aangaan van enige uitgawes deur die Staat (anders as uit hoofde van artikel 5 (1) of (2)) of deur 'n plaaslike bestuur of ander openbare liggaam of enige ander persoon by die verwydering van besoedeling van die see deur olie wat uitgelaat is uit 'n skip, tenkskip of see-installasie,
- 30 bekragtig vir sover daardie uitgawes deur die Minister ingevolge artikel 5 (1) of (2) aangegaan kon gewees het, en uitgawes waarvan die aangaan aldus bekragtig is, word geag koste bedoel in artikel 9 (1) (b) te wees.
- Bekragtiging deur
Minister van sekere
uitgawes.
- 35 **19.** (1) Indien die eienaar van 'n skip versuim om koste te betaal wat ingevolge artikel 9 (1) (b) deur hom betaalbaar is, of versuim om geld te deponeer of 'n waarborg te verstrekk wat hy ingevolge artikel 16 moet deponeer of verstrekk, kan die Minister op die voorgeskrewe wyse—
- Aanhouding van
skepe hangende be-
taling van koste
waarvoor eienaar
aanspreeklik is.
- 40 (a) die betrokke skip of enige ander skip of skepe, of die betrokke skip sowel as enige ander skip of skepe van die eienaar—
- (i) laat aanhou totdat bedoelde koste betaal is of bedoelde geld gedeponeer of waarborg verstrekk is, na gelang van die geval: Met dien verstande dat sodanige aanhouding nie 'n tydperk van sewe dae of die verdere tydperk wat die afdeling van die Hooggeregshof van Suid-Afrika wat regsbevoegdheid het, magtig, mag oorskry nie;
- 45 (ii) op gesag van bedoelde afdeling van die Hooggeregshof van Suid-Afrika en behoudens sy voorskrifte—
- (aa) waar die aanhouding bewerkstellig is vanweë 'n versuim om sodanige verskuldigde koste te betaal, daarop beslag laat lê en, na kennisgewing in die *Staatskoerant* van die voorgenome tegeldemaking daarvan, dit te gelde laat maak ter voldoening aan daardie koste;
- 55 (bb) waar die aanhouding bewerkstellig is vanweë 'n versuim om geld te deponeer of 'n waarborg te verstrekk, en koste ingevolge artikel 9 (1) (b) deur die eienaar betaalbaar word op 'n tydstip waarop die vereiste geld nog nie gedeponeer of waarborg nog nie verstrekk is nie, daarop beslag laat lê en, na kennisgewing soos voorgeskryf in item (aa), dit te gelde laat maak ter voldoening aan daardie koste;
- 60 (b) op gesag van bedoelde afdeling van die Hooggeregshof van Suid-Afrika en behoudens sy voorskrifte, op goed van daardie eienaar wat op daardie skip of skepe is, beslag laat lê en dit te gelde laat maak ter voldoening aan daardie koste.
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(2) The Minister shall cause any ship or goods detained or seized in terms of subsection (1) to be released forthwith from detention or seizure if the owner concerned pays the costs, makes the deposit or furnishes the guarantee referred to in that subsection or by virtue of a direction contemplated in section 12 (2) deposits an amount with the Master concerned or furnishes the said Master with a guarantee as contemplated in that section, before the realization, in terms of the said subsection, of the ship or goods in question.

(3) Notwithstanding anything to the contrary in any law contained, the proceeds of the realization of any ship or goods which took place in terms of this section, shall be applied to satisfy the costs in connection with which the realization took place, with preference over the satisfaction of any lien upon such ship or any obligation secured by a mortgage over such ship or goods or a share therein.

(4) The provisions of this section shall *mutatis mutandis* apply to the owner of a tanker to which the provisions of section 13 (1) do not apply.

Jurisdiction of courts.

20. (1) Any division of the Supreme Court of South Africa, and within the limits of its jurisdiction as determined in section 29 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), but subject to the provisions of section 12 (8), any magistrate's court, shall have jurisdiction in respect of all causes of action arising out of the provisions of this Act.

(2) Any division of the Supreme Court of South Africa, and, within the limits of its jurisdiction as determined in section 92 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), any magistrates' court for a regional division, shall have jurisdiction in all criminal matters arising out of the provisions of this Act.

(3) No prosecution in respect of an offence under this Act shall be instituted except on the authority, which may be given in writing or otherwise, of the attorney-general having jurisdiction in the area of the court in question.

Minister's permission required for transfer of oil or for certain other acts in respect of ships or tankers.

21. (1) No person shall—

(a) outside a harbour as defined in section 1 (1) of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957), or a fishing harbour as defined in section 1 of the Sea Fisheries Act, 1973 (Act No. 58 of 1973), and within the prohibited area, render any ship having oil on board (whether as cargo or otherwise), or any tanker, incapable of sailing or manoeuvring under its own power;

(b) within the prohibited area transfer any oil from any ship or tanker to any other ship or tanker or to an offshore installation or from such offshore installation to any ship or tanker,

except with the permission of the Minister and in accordance with the provisions of this Act.

(2) In giving his permission for the performance of any act referred to in subsection (1), the Minister may impose any conditions subject to which such act shall be performed, and such conditions may include the obligation to obtain the services of one or more tugs, spray boats or other vessels to stand by during a period determined by the Minister.

Powers of Minister in case of default by master or owner.

22. (1) If—

(a) the master or owner of a ship or a tanker refuses or fails to perform, within the time specified by the Minister, any act which he has in terms of paragraph (a), (b), (e), (f), (g) or (h) of section 4 (1) been required to perform;

(b) the master of an offshore installation refuses or fails to perform, within the time specified by the Minister, any act which he has in terms of paragraph (a), (g) or (h) of section 4 (1) been required to perform; or

(c) any person refuses or fails to comply with a condition imposed by the Minister in terms of section 21 (2),

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- (2) Die Minister moet enige skip of goed wat ingevolge subartikel (1) aangehou word of beslag op gelê is, onverwyld van aanhouding of beslaglegging laat vrystel indien die betrokke eienaar die in daardie subartikel bedoelde koste betaal, geld 5 deponeer of waarborg verstrek, of uit hoofde van 'n lasgewing beoog in artikel 12 (2) 'n bedrag by die betrokke Meester deponeer of 'n in daardie artikel beoogde waarborg aan genoemde Meester verstrek, voor die tegeldemaking, ingevolge genoemde subartikel, van die betrokke skip of goed.
- 10 (3) Ondanks andersluidende wetsbepalings moet die opbrengs van die tegeldemaking van 'n skip of goed wat ingevolge hierdie artikel plaasgevind het, aangewend word om aan die koste in verband waarmee die tegeldemaking plaasgevind het, te vol-
15 daardie skip of enige verpligting wat verseker is by wyse van 'n doen, voordat daar voldoen word aan enige retensiereg op daardie skip of enige verpligting wat verseker is by wyse van 'n verband oor daardie skip of goed of 'n aandeel daarin.
- (4) Die bepaling van hierdie artikel is *mutatis mutandis* van toepassing op die eienaar van 'n tenkskip waarop die bepaling van artikel 13 (1) nie van toepassing is nie.
- 20 **20.** (1) Enige afdeling van die Hooggeregshof van Suid-Afrika, en, binne die perke van sy regsbevoegdheid soos bepaal Regsbevoegdheid van howe.
in artikel 29 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), maar behoudens die bepaling van artikel 12 (8), enige landdroshof, het regsbevoegdheid ten opsigte van alle
25 skuldoorsaak wat uit die bepaling van hierdie Wet ontstaan.
- (2) Enige afdeling van die Hooggeregshof van Suid-Afrika, en, binne die perke van sy regsbevoegdheid soos bepaal in artikel 92 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), enige landdroshof vir 'n streekafdeling, het regsbevoegd-
30 heid in alle strafsake wat uit die bepaling van hierdie Wet ontstaan.
- (3) Geen vervolging ten opsigte van 'n misdryf kragtens hierdie Wet mag ingestel word nie behalwe kragtens die magtiging, wat skriftelik of op 'n ander wyse verleen kan word,
35 van die prokureur-generaal wat regsbevoegdheid het in die gebied van die betrokke hof.
- 21.** (1) Niemand mag—
- (a) buite 'n hawe soos omskryf in artikel 1 (1) van die Konsolidasiewet op die Beheer en Bestuur van Spoorweë en Hawens, 1957 (Wet No. 70 van 1957), of 'n
40 vissershawe soos omskryf in artikel 1 van die Wet op Seevisserye, 1973 (Wet No. 58 van 1973), en binne die verbode gebied, 'n skip wat olie aan boord het (hetsy as vrag of andersins), of 'n tenkskip, onbekwaam maak om op eie krag te vaar of te manoevreer nie;
- (b) binne die verbode gebied enige olie vanaf 'n skip of tenkskip na 'n ander skip of tenkskip of na 'n see-installasie, of vanaf so 'n see-installasie na 'n skip of tenkskip, oorplaas nie,
45 behalwe met die toestemming van die Minister en ooreenkomstig die bepaling van hierdie Wet.
- (2) By die gee van sy toestemming vir die verrigting van 'n handeling bedoel in subartikel (1), kan die Minister enige voorwaardes oplê onderworpe waaraan die handeling verrig
55 moet word, en by sodanige voorwaardes kan die verpligting inbegrepe wees om die dienste te verkry van een of meer sleepbote, spuitbote of ander vaartuie om vir die tydperk wat die Minister bepaal, gereed te staan.
- 22.** (1) Indien—
- (a) die gesagvoerder of eienaar van 'n skip of 'n tenkskip weier of versuim om binne die tydperk deur die Minister bepaal 'n handeling te verrig wat hy ingevolge paragraaf (a), (b), (e), (f), (g) of (h) van artikel 4 (1) moes verrig;
60
- (b) die gesagvoerder van 'n see-installasie weier of versuim om binne die tydperk deur die Minister bepaal 'n handeling te verrig wat hy ingevolge paragraaf (a), (g) of (h) van artikel 4 (1) moes verrig; of
65
- (c) iemand weier of versuim om aan 'n voorwaarde ingevolge artikel 21 (2) deur die Minister opgelê, te voldoen,
- Ministerse toestemming nodig vir oorplasing van olie of vir sekere ander handeling ten opsigte van skeep of tenkskepe.
- Bevoegdheid van Minister in geval van versuim deur gesagvoerder of eienaar.

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the Minister may cause such act to be performed or such condition to be complied with, and for that purpose may cause steps to be taken which may include the taking over of control of such ship, tanker or offshore installation.

(2) All expenses reasonably incurred by the Minister by virtue of the provisions of subsection (1), shall be deemed to be costs referred to in section 9 (1) (b). 5

Salvor not to be prejudiced.

23. Subject to the provisions of section 19 (3) no provision of this Act shall be construed as derogating from any right to a salvage award, nor shall a salvor who would otherwise be entitled to a salvage award in respect of an act of salvage actually performed, cease to be so entitled merely on the ground that such act was carried out as a direct or indirect result of a requirement laid down or an order issued in terms of this Act. 10

Pollution safety certificate required for operation of offshore installation.

24. (1) Subject to the provisions of subsection (2) no person shall operate an offshore installation unless a pollution safety certificate issued in terms of the provisions of this section is in force in respect thereof. 15

(2) No offshore installation which is operated at the date of commencement of this Act shall continue to be so operated after the expiration of a period of twelve months as from the said date unless a pollution safety certificate has in terms of the provisions of this section been issued in respect thereof.

(3) Any person desiring a pollution safety certificate shall in writing apply therefor to the Director-General, and the Director-General shall, subject to the provisions of subsection (4), upon receipt of such an application issue a pollution safety certificate in the prescribed form in respect of the offshore installation in question, subject to such conditions relating to the operation of the offshore installation as may be determined by the Director-General and specified in the pollution safety certificate. 25

(4) No pollution safety certificate shall be issued by the Director-General in terms of this section unless the offshore installation in question complies with such conditions and requirements relating to the construction and operation thereof as the Minister may prescribe by regulation. 30

(5) Any person who—
(a) operates an offshore installation in contravention of the provisions of subsection (1) or (2); 40
(b) in operating an offshore installation fails to comply with any condition specified in the pollution safety certificate in question, shall be guilty of an offence.

Exemptions by Minister.

25. (1) The Minister may exempt any ship or any class of ships or any tanker or any class of tankers or any offshore installation from any of or all the provisions of this Act. 45

(2) The Minister may exempt any person performing salvage operations in connection with a ship or a tanker from which oil is being discharged or, in the opinion of the Minister, is likely to be discharged, from any liability in respect of any consequences of the discharge of the oil in question. 50

Continued existence of Oil Pollution Prevention Fund.

26. (1) The Oil Pollution Prevention Fund established by section 9 of the Prevention and Combating of Pollution of the Sea by Oil Act, 1971 (Act No. 67 of 1971), shall, notwithstanding the repeal of that Act by this Act, continue to exist. 55

(2) There shall be paid into the Fund—

(a) as a charge to the State Oil Fund referred to in section 1 (1) of the State Oil Fund Act, 1977 (Act No. 38 of 1977), an amount calculated at the rate of 0,055 cents per litre of the customs or excise duty referred to in section 1 (1) (a) (ii) of the said Act or such higher amount as the Minister of Industries, Commerce and Tourism may approve in terms of the provisions of section 1 (2) (a) (ii) of the said Act; 60
65

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- kan die Minister daardie handeling laat verrig of aan daardie voorwaarde laat voldoen en vir daardie doel stappe laat doen, met inbegrip van die oornome van beheer oor die skip, tenkskip of see-installasie.
- 5 (2) Alle uitgawes redelikerwys deur die Minister aangegaan uit hoofde van die bepalings van subartikel (1), word geag koste bedoel in artikel 9 (1) (b) te wees.
23. Behoudens die bepalings van artikel 19 (3) word geen bepaling van hierdie Wet so uitgelê nie dat dit afbreuk doen aan
- 10 'n reg op 'n bergloon, en 'n berger wat andersins geregtig sou wees op 'n bergloon ten opsigte van bergingswerk wat wel gedoen is, verbeur nie daardie reg bloot op grond daarvan dat die betrokke werk verrig is as 'n direkte of indirekte gevolg van 'n vereiste gestel of bevel uitgereik ingevolge hierdie Wet nie.
- 15 24. (1) Behoudens die bepalings van subartikel (2) mag niemand 'n see-installasie bedryf nie tensy 'n besoedelingsveiligheidsertifikaat wat ingevolge die bepalings van hierdie artikel uitgereik is, ten opsigte daarvan van krag is.
- Besoedelingsveiligheidsertifikaat nodig vir bedryf van see-installasie.
- (2) Geen see-installasie wat op die datum van inwerkingtre-
ding van hierdie Wet reeds bedryf word, mag aldus in bedryf gehou word nie na die verstryking van 'n tydperk van twaalf maande vanaf genoemde datum, tensy 'n besoedelingsveiligheidsertifikaat ingevolge die bepalings van hierdie artikel ten opsigte daarvan uitgereik is.
- 25 (3) Iemand wat 'n besoedelingsveiligheidsertifikaat verlang, moet skriftelik by die Direkteur-generaal daarom aansoek doen en die Direkteur-generaal moet, behoudens die bepalings van subartikel (4), by ontvangs van so 'n aansoek 'n besoedelingsveiligheidsertifikaat in die voorgeskrewe vorm ten opsigte van
- 30 die betrokke see-installasie uitreik, onderworpe aan die voorwaardes betreffende die bedryf van die see-installasie wat deur die Direkteur-generaal bepaal en in die besoedelingsveiligheidsertifikaat vermeld word.
- (4) Geen besoedelingsveiligheidsertifikaat mag ingevolge hierdie artikel deur die Direkteur-generaal uitgereik word nie tensy die betrokke see-installasie voldoen aan die voorwaardes en vereistes betreffende die konstruksie en bedryf daarvan wat die Minister by regulasie voorskryf.
- (5) Iemand wat—
- 40 (a) in stryd met die bepalings van subartikel (1) of (2) 'n see-installasie bedryf;
- (b) by die bedryf van 'n see-installasie versuim om te voldoen aan 'n voorwaarde in die betrokke besoedelingsveiligheidsertifikaat vermeld,
- 45 is aan 'n misdryf skuldig.
25. (1) Die Minister kan 'n skip of 'n klas skepe of 'n tenkskip of 'n klas tenkskepe of 'n see-installasie van die een of ander bepaling of al die bepalings van hierdie Wet vrystel.
- Vrystellings deur Minister.
- (2) Die Minister kan iemand wat bergingswerk verrig in
- 50 verband met 'n skip of 'n tenkskip waaruit olie uitgelaat word of, na die oordeel van die Minister, waarskynlik uitgelaat sal word, vrystel van aanspreeklikheid ten opsigte van die gevolge van die uitlating van die betrokke olie.
26. (1) Die Fonds ter Voorkoming van Oliebesoedeling
- 55 ingestel by artikel 9 van die Wet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1971 (Wet No. 67 van 1971), bly, ondanks die herroeping van daardie Wet deur hierdie Wet, voortbestaan.
- Voortbestaan van Fonds ter Voorkoming van Oliebesoedeling.
- (2) In die Fonds word gestort—
- 60 (a) ten laste van die Staatsoliefonds bedoel in artikel 1 (1) van die Wet op die Staatsoliefonds, 1977 (Wet No. 38 van 1977), 'n bedrag bereken teen die koers van 0,055 sent per liter van die doeane- of aksynsreg bedoel in artikel 1 (1) (a) (ii) van daardie Wet of die groter bedrag wat die Minister van Nywerheidswese, Handel en Toerisme ingevolge die bepalings van artikel 1 (2)
- 65 (a) (ii) van daardie Wet goedkeur;

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- (b) all moneys appropriated by Parliament for the purpose of combating or removing any pollution of the sea by oil;
 - (c) any amount deposited in terms of section 16 and any amount paid to the State by virtue of the provisions of section 9 (1);
 - (d) the proceeds of the realization of any goods, property or assets in terms of section 19;
 - (e) any fines paid or recovered in consequence of the conviction of any person under section 30;
 - (f) any interest earned in terms of subsection (6);
 - (g) all moneys paid to or recovered by the Minister in consequence of a removal in terms of section 27 (6) of pollution of the sea by oil;
 - (h) any other moneys which may become payable to the Fund by virtue of the provisions of this Act;
 - (i) any other moneys which may accrue to the Fund from any other source.
- (3) The Director-General shall, subject to the provisions of this Act, be responsible for the administration of the Fund, 20 including—
- (a) the control over expenditure from the Fund; and
 - (b) the collection, for the benefit of the Fund, of all moneys due or accruing to the Fund, and the taking of steps to obtain payment of claims in favour of the Fund in terms of this Act,
- and shall for the purposes of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), and the regulations made thereunder, be the accounting officer in relation to the affairs of the Fund.
- (4) The Director-General shall keep a proper record of all 30 moneys paid into and out of the Fund, and the accounts relating to the Fund shall be audited by the Auditor-General at a remuneration determined in accordance with the provisions of section 48 (2) of the Exchequer and Audit Act, 1975.
- (5) The moneys in the Fund shall be used— 35
- (a) to undertake or promote the research determined by the Minister, on any matter which, in the opinion of the Minister, is connected with the pollution of the sea by oil;
 - (b) for defraying expenditure incurred in preventing or removing the pollution of the sea by oil in or discharged from ships, tankers or offshore installations and in connection with matters incidental thereto, and such moneys shall, subject to the provisions of this Act, be so used when the Minister deems it necessary or expedient in the public interest to do so: Provided that such defraying of expenditure incurred in preventing or removing pollution of the sea by oil 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;
 - (c) for the payment of the 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 incidental to the administration of the Fund, and determined from time to time by the Minister with the concurrence of the Minister of Finance;
 - (e) for the defraying of expenses incurred in removing, or in taking steps to prevent, pollution of the sea by oil, in terms of section 27 (6);
 - (f) for the hire or purchase of equipment, buildings, machinery and accessories, apparatus, seagoing ves-

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- (b) geld wat die Parlement bewillig om besoedeling van die see deur olie te bestry of te verwyder;
- (c) enige bedrag wat ingevolge artikel 16 gedeponeer is en enige bedrag wat uit hoofde van die bepalings van artikel 9 (1) aan die Staat betaal is;
- (d) die opbrengs van die tegeldemaking van enige goed, eiendom of bates ingevolge artikel 19;
- (e) boetes wat betaal of verhaal is ten gevolge van die veroordeling van iemand kragtens artikel 30;
- (f) rente wat ingevolge subartikel (6) verdien is;
- (g) geld betaal aan of ingevorder deur die Minister ten gevolge van 'n verwydering ingevolge artikel 27 (6) van besoedeling van die see deur olie;
- (h) ander geld wat aan die Fonds betaalbaar word uit hoofde van die bepalings van hierdie Wet;
- (i) ander geld wat die Fonds uit enige ander bron toeval.
- (3) Behoudens die bepalings van hierdie Wet is die Direkteur-generaal verantwoordelik vir die bestuur van die Fonds, met inbegrip van—
- (a) die beheer oor besteding uit die Fonds; en
- (b) die invordering, ten bate van die Fonds, van al die geld wat aan die Fonds verskuldig is of die Fonds toeval, en die doen van stappe ten einde voldoening te verkry van eise ten gunste van die Fonds ingevolge hierdie Wet,
- en is hy by die toepassing van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975), en die regulasies daarkragtens uitgevaardig, die rekenpligtige beampte met betrekking tot die sake van die Fonds.
- (4) Die Direkteur-generaal moet behoorlike aantekeninge hou van alle geld wat in die Fonds inbetaal en daaruit betaal word, en rekeninge wat op die Fonds betrekking het, moet deur die Ouditeur-generaal geouditeer word teen 'n vergoeding ooreenkomstig die bepalings van artikel 48 (2) van die Skatkis- en Ouditwet, 1975, vasgestel.
- (5) Die geld in die Fonds word aangewend—
- (a) om die navorsing wat die Minister bepaal ten opsigte van enige aangeleentheid wat, na die oordeel van die Minister, in verband staan met die besoedeling van die see deur olie, te onderneem of te bevorder;
- (b) ter bestryding van uitgawes aangegaan by die voorkoming of verwydering van besoedeling van die see deur olie wat in skepe, tenkskepe of see-installasies is of uit skepe, tenkskepe of see-installasies uitgelaat word, en in verband met aangeleenthede wat daarmee in verband staan, en daardie geld word, behoudens die bepalings van hierdie Wet, aldus aangewend wanneer die Minister dit in die openbare belang nodig of dienstig ag om dit te doen: Met dien verstande dat sodanige bestryding van uitgawes wat aangegaan is by die voorkoming of verwydering van besoedeling van die see deur olie wat in 'n skip, tenkskip of see-installasie is of wat uit 'n skip, tenkskip of see-installasie uitgelaat word, nie die eienaar van dié skip, tenkskip of see-installasie van aanspreeklikheid kragtens hierdie Wet vir die betaling van dié uitgawes onthef nie;
- (c) vir die betaling van die besoldiging en toelaes van persone wat ingevolge artikel 27 (1) in diens geneem is en van persone bedoel in artikel 27 (3) (b);
- (d) ter bestryding van uitgawes verbonde aan die bestuur van die Fonds en wat van tyd tot tyd deur die Minister met die instemming van die Minister van Finansies bepaal word;
- (e) ter bestryding van uitgawes aangegaan by die verwydering, of by die doen van stappe ter voorkoming, ingevolge artikel 27 (6), van besoedeling van die see deur olie;
- (f) vir die huur of koop van toerusting, geboue, masjinerie en bybehore, apparate, seevaartuie, voertuie, lug-

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- sels, vehicles, aircraft and any other movable or immovable property deemed by the Minister to be necessary for or conducive to the performance of his functions in terms of the provisions of this Act;
- (g) for the defraying of expenses incurred in the instruction of officers of the Department of Transport and other persons in connection with pollution of the sea by oil and in the training of such officers and persons in the prevention and removal of such pollution and in activities incidental thereto; 5 10
- (h) for any purpose connected with the performance by the Minister of his functions in terms of the provisions of this Act; and
- (i) for the defraying of expenses incurred by the Director-General which are incidental or conducive to the performance of his functions in terms of the provisions of this Act. 15
- (6) Any moneys in the Fund which are not required for immediate use shall, subject to the provisions of subsection (8), be invested with the Public Debt Commissioners and may be withdrawn when required for use. 20
- (7) Any unexpended balance in the Fund at the end of any financial year shall be carried forward as a credit in the Fund to the ensuing financial year.
- (8) Any moneys in the Fund which, in the opinion of the Minister, are at any time surplus to the requirements of the Fund, shall be paid into the State Revenue Fund. 25

Sundry powers of
Minister.

27. (1) The Minister may, subject to the laws governing the public service, engage as many persons as he may deem necessary to perform such functions as may be required to be performed in order to carry out the provisions of this Act. 30
- (2) If a person who is or was employed by virtue of the provisions of subsection (1) caused the Fund any loss or damage because he—
- (a) is or was responsible for a deficiency in moneys in the Fund, or for the destruction of, or damage to, any property acquired with moneys from the Fund or any other State property; 35
- (b) due to any wilful act or omission on his part, is or was responsible for any claim necessitating any payment from the Fund, 40
- such loss or damage may be recovered from such person in the prescribed manner.
- (3) (a) The Minister may establish such bodies as he may deem necessary to assist him in carrying out the provisions of this Act. 45
- (b) The remuneration and other conditions of service of persons serving on any body contemplated in paragraph (a) shall from time to time be determined by the Minister with the concurrence of the Minister of Finance. 50
- (4) The Minister may establish and maintain a patrol service by means of boats, ships and aircraft to patrol the prohibited area with a view to combating pollution of the sea by oil.
- (5) The Minister may do all such other things as are incidental or conducive to the performance of his functions in terms of this Act. 55
- (6) The Minister may cause steps to be taken to remove or prevent pollution of the sea by oil outside the prohibited area in such circumstances and on such conditions as he may deem fit. 60

Regulations.

28. (1) The Minister may make regulations—
- (a) prescribing measures to be taken on board or in respect of a ship or a tanker when such ship or tanker is rendered incapable of sailing or manoeuvring under its own power as contemplated in section 21; 65

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- vaartuie en enige ander roerende of onroerende goed wat die Minister nodig of bevorderlik ag vir die verrigting van sy werksaamhede ingevolge die bepalings van hierdie Wet;
- 5 (g) ter bestryding van uitgawes aangegaan by die onderrig van beamptes van die Departement van Vervoer en ander persone in verband met besoedeling van die see deur olie en by die opleiding van sodanige beamptes en persone in die voorkoming en verwydering van
- 10 sodanige besoedeling en in aanverwante bedrywighede;
- (h) vir enige doel wat in verband staan met die verrigting deur die Minister van sy werksaamhede ingevolge die bepalings van hierdie Wet; en
- 15 (i) ter bestryding van uitgawes deur die Direkteur-generaal aangegaan en wat verbonde is aan of bevorderlik is vir die verrigting van sy werksaamhede ingevolge die bepalings van hierdie Wet.

(6) Geld in die Fonds wat nie vir onmiddellike gebruik nodig is nie, moet, behoudens die bepalings van subartikel (8), by die Staatskuldkommissarisse belê word en kan opgeveer word wanneer dit vir gebruik nodig is.

(7) 'n Onbestede saldo in die Fonds aan die einde van 'n boekjaar word as 'n krediet in die Fonds na die daaropvolgende

25 boekjaar oorgedra.

(8) Geld in die Fonds wat, na die oordeel van die Minister, te eniger tyd nie vir die behoeftes van die Fonds nodig is nie, word in die Staatsinkomstefonds gestort.

27. (1) Die Minister kan, behoudens die wette op die staatsdiens, soveel persone as wat hy nodig ag, in diens neem om die werksaamhede te verrig wat verrig moet word ten einde uitvoering te gee aan die bepalings van hierdie Wet.

Diverse bevoegdhede van Minister.

(2) Indien iemand wat uit hoofde van die bepalings van subartikel (1) in diens is of was die Fonds 'n verlies of skade

35 berokken het deurdat hy—

- (a) vir 'n tekort in geld in die Fonds of 'n vernietiging of beskadiging van eiendom wat met geld uit die Fonds verkry is of ander Staatsgoed verantwoordelik is of was;
- 40 (b) weens 'n opsetlike handeling of versuim van sy kant vir 'n vordering wat 'n betaling uit die Fonds genoodsaak het, verantwoordelik is of was,
- kan bedoelde verlies of skade op die voorgeskrewe wyse op so iemand verhaal word.

45 (3) (a) Die Minister kan die liggame instel wat hy nodig ag om hom by te staan by die uitvoering van die bepalings van hierdie Wet.

(b) Die besoldiging en ander diensvoorwaardes van persone wat dien in 'n liggaam beoog in paragraaf (a), word van tyd tot tyd deur die Minister met die instemming van die Minister van Finansies bepaal.

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(4) Die Minister kan 'n patrolliediens deur middel van bote, skepe en lugvaartuie instel en onderhou om die verbode gebied te patrolleer met die oog op die bestryding van besoedeling van

55 die see deur olie.

(5) Die Minister kan die ander dinge doen wat verbonde is aan of bevorderlik is vir die verrigting van sy werksaamhede ingevolge hierdie Wet.

(6) Die Minister kan stappe laat doen om, in die omstandighede en op die voorwaardes wat hy goedvind, besoedeling van die see deur olie buite die verbode gebied te verwyder of te voorkom.

28. (1) Die Minister kan regulasies uitvaardig—

Regulasies.

- 65 (a) waarby die maatreëls voorgeskryf word wat aan boord of ten opsigte van 'n skip of 'n tenkskip getref moet word wanneer daardie skip of tenkskip onbekwaam gemaak word om op eie krag te vaar of te manoevreer soos beoog in artikel 21;

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- (b) prescribing the machinery and equipment to be installed and maintained on or in connection with a ship, tanker or offshore installation for the purposes of the removal or prevention of pollution of the sea by oil discharged or likely to be discharged from such ship, tanker or offshore installation during a transfer of oil as contemplated in section 21 (1) (b) or, in the case of such ship or tanker, during the period when such ship or tanker has been rendered incapable of sailing or manoeuvring under its own power as contemplated in section 21 (1) (a); 5
- (c) prescribing, in respect of ships or tankers registered in the Republic under the Merchant Shipping Act, 1951 (Act No. 57 of 1951), and in respect of ships or tankers not so registered but which ply between a port in the Republic or an offshore installation and any other port or installation similar to an offshore installation, the equipment to be carried on board such ships or tankers for use in preventing a discharge of oil, and standards for the maintenance of such equipment; 20
- (d) as to the powers, duties and conditions of service of trustees appointed in terms of section 12 (3);
- (e) as to all matters which in terms of this Act are required or permitted to be prescribed by regulation, and, generally, for the better achievement of the objects and purposes of this Act. 25

(2) Regulations made under subsection (1) may prescribe for any contravention thereof or failure to comply therewith penalties not exceeding the penalties prescribed in section 30 (2) (a). 30

Delegation of powers.

29. The Minister as well as the Director-General may delegate to any person or to two or more persons any of the powers conferred upon them respectively in terms of the provisions of this Act other than, in the case of the Minister, the provisions of section 28. 35

Offences and penalties.

30. (1) Any person who—

- (a) contravenes or fails to comply with the provisions of—
(i) section 14 (6); or
(ii) section 21 (1);
- (b) wilfully fails to comply with an order or requirement of the Minister in terms of—
(i) section 4 (1);
(ii) section 4 (2) (c);
(iii) section 5 (3); or
(iv) section 6; 45
- (c) hinders or obstructs any person in the performance of his functions by virtue of the provisions of—
(i) section 4 (2) (a);
(ii) section 5 (6);
(iii) section 7; or
(iv) section 22 (1), 50

shall be guilty of an offence.

(2) Any person convicted of an offence referred to in—

- (a) section 3 (4), 8 (2), 13 (7), 24 (5) or subsection (1) (a) (i), shall be liable to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment; 55
- (b) subsection (1) (b) (iii), (b) (iv), (c) (i), (c) (ii), (c) (iii) or (c) (iv), shall be liable to a fine not exceeding two thousand rand or to imprisonment for a period not 60

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- (b) waarby die masjinerie en toerusting voorgeskryf word wat op of in verband met 'n skip, tenkskip of see-installasie geïnstalleer en onderhou moet word vir doeleindes van die verwydering of voorkoming van besoedeling van die see deur olie wat uit daardie skip, tenkskip of see-installasie uitgelaat is of waarskynlik uitgelaat sal word gedurende 'n oorplasing van olie soos beoog in artikel 21 (1) (b) of, in die geval van so 'n skip of tenkskip, gedurende die tydperk wanneer daardie skip of tenkskip onbekwaam gemaak is om op eie krag te vaar of te maneuvreer soos beoog in artikel 21 (1) (a);
- (c) waarby, ten opsigte van skepe of tenkskepe wat kragtens die Handelskeepvaartwet, 1951 (Wet No. 57 van 1951), in die Republiek geregistreer is en ten opsigte van skepe of tenkskepe wat nie aldus geregistreer is nie maar wat heen en weer vaar tussen 'n hawe in die Republiek of 'n see-installasie en 'n ander hawe of installasie soortgelyk aan 'n see-installasie, die toerusting wat aan boord van sodanige skepe of tenkskepe moet wees vir gebruik by die voorkoming van 'n uitlating van olie, en standarde vir die onderhoud van daardie toerusting, voorgeskryf word;
- (d) betreffende die bevoegdhede, pligte en diensvoorwaardes van trustees wat ingevolge artikel 12 (3) aangestel is;
- (e) betreffende alle aangeleenthede wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word, en, oor die algemeen, vir die beter verwesenliking van die oogmerke en doeleindes van hierdie Wet.
- (2) Regulasies kragtens subartikel (1) uitgevaardig, kan vir 'n oortreding daarvan of versuim om daaraan te voldoen strawwe voorskryf wat nie die strawwe te bowe gaan wat by artikel 30 (2) (a) voorgeskryf word nie.

35 **29.** Die Minister sowel as die Direkteur-generaal kan enige van die bevoegdhede wat ingevolge die bepalings van hierdie Wet, uitgesonderd, in die geval van die Minister, die bepalings van artikel 28, aan hulle onderskeidelik verleen word, aan iemand of aan twee of meer persone delegeer.

Delegering van bevoegdhede.

- 40 **30.** (1) Iemand wat—
- (a) die bepalings van—
- (i) artikel 14 (6); of
- (ii) artikel 21 (1), oortree of versuim om daaraan te voldoen;
- 45 (b) opsetlik versuim om te voldoen aan 'n bevel of eis van die Minister ingevolge—
- (i) artikel 4 (1);
- (ii) artikel 4 (2) (c);
- (iii) artikel 5 (3); of
- 50 (iv) artikel 6;
- (c) enige persoon by die verrigting van sy werksaamhede uit hoofde van die bepalings van—
- (i) artikel 4 (2) (a);
- (ii) artikel 5 (6);
- 55 (iii) artikel 7; of
- (iv) artikel 22 (1), hinder of dwarsboom, is aan 'n misdryf skuldig.
- (2) Iemand wat skuldig bevind word aan 'n misdryf bedoel
- 60 in—
- (a) artikel 3 (4), 8 (2), 13 (7), 24 (5) of subartikel (1) (a) (i), is strafbaar met 'n boete van hoogstens duisend rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met daardie boete sowel as daardie gevangenisstraf;
- 65 (b) subartikel (1) (b) (iii), (b) (iv), (c) (i), (c) (ii), (c) (iii) of (c) (iv), is strafbaar met 'n boete van hoogstens tweeduisend rand of met gevangenisstraf vir 'n tydperk

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exceeding one year or to both such fine and such imprisonment;

(c) subsection (1) (a) (ii), shall be liable to a fine not exceeding five thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;

(d) section 2 (1) or 13 (6) or subsection (1) (b) (i) or (b) (ii), shall be liable to a fine not exceeding twenty thousand rand or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Repeal of laws, and savings.

31. (1) Subject to the provisions of subsection (2), the Prevention and Combating of Pollution of the Sea by Oil Act, 1971 (Act No. 67 of 1971), the Prevention and Combating of Pollution of the Sea by Oil Amendment Act, 1972 (Act No. 92 of 1972), and the Prevention and Combating of Pollution of the Sea by Oil Amendment Act, 1973 (Act No. 72 of 1973), are hereby repealed.

(2) Any notice, approval, authorization or document given, granted or issued and any other thing done under any provision of any law repealed by this Act shall, unless inconsistent with the provisions of this Act, be deemed to have been given, granted, issued or done under this Act.

Short title and commencement.

32. This Act shall be called the Prevention and Combating of Pollution of the Sea by Oil Act, 1981, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

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van hoogstens 'n jaar of met daardie boete sowel as daardie gevangenisstraf;

- 5 (c) subartikel (1) (a) (ii), is strafbaar met 'n boete van hoogstens vyfduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met daardie boete sowel as daardie gevangenisstraf;
- 10 (d) artikel 2 (1) of 13 (6) of subartikel (1) (b) (i) of (b) (ii), is strafbaar met 'n boete van hoogstens twintigduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met daardie boete sowel as daardie gevangenisstraf.

- 15 **31.** (1) Die Wet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1971 (Wet No. 67 van 1971), die Wysigingswet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1972 (Wet No. 92 van 1972), en die Wysigingswet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1973 (Wet No. 72 van 1973), word, behoudens die bepalings van subartikel (2), hierby herroep.
- 20 (2) 'n Kennisgewing, goedkeuring, magtiging of dokument gegee, verleen of uitgereik en enigiets anders gedoen kragtens 'n bepaling van 'n wet wat by hierdie Wet herroep is, word, tensy onbestaanbaar met die bepalings van hierdie Wet, geag kragtens hierdie Wet gegee, verleen, uitgereik of gedoen te gewees het.
- 25 **32.** Hierdie Wet heet die Wet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1981, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Herroeping van wette, en voorbehoude.

Kort titel en inwerkingtreding.

