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GOVERNMENT GAZETTE

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GENERAL NOTICE

NOTICE 344 OF 1980

It is hereby made known that the Minister of Transport Affairs will submit a bill as indicated hereunder for approval.

Any person intending to submit representations or objections in this regard shall forward such representations or objections to the Director-General of Transport, Private Bag X193, Pretoria, 0001, within a period of 60 days from the date of publication of this notice.

J. J. DU PLESSIS, for A. B. EKSTEEN, Director-General: Transport.

BILL

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.

Introduced by the Minister of Transport Affairs

Be it enacted by the State President, the Senate 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)

(ii) "bareboat charterer" means the person chartering a ship or a tanker on the condition, whether or not in addition to any other conditions, that such person shall have exclusive possession and control of such ship or tanker during the currency of the charter; (xi)

(iii) "certificate" contemplated in section 13 (1); (xx)

(iv) "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 58 of 1978 in *Government Gazette* 5867 of 27 January 1978, and

ALGEMENE KENNISGEWING

KENNISGEWING 344 VAN 1980

Kennis geskied hiermee dat die Minister van Vervoerwese beoog om die wetsontwerp soos hieronder verstrekkend voor te lê vir goedkeuring.

Iemand wat vertoë of besware in hierdie verband wil rig, moet sodanige vertoë of besware aan die Direkteur-generaal van Vervoer, Privaatsak X193, Pretoria, 0001, rig binne 'n tydperk van 60 dae vanaf publikasie van hierdie kennisgewing.

J. J. DU PLESSIS, namens A. B. EKSTEEN, Direkteur-generaal: Vervoer.

WETSONTWERP

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.

Ingedien deur die Minister van Vervoerwese

Daar word bepaal deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:

Woordomskrywing

1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—

(i) "aardolie" aardolie soos omskryf in artikel 1 van die Wet op Mynregte, 1967 (Wet 20 van 1967); (xiv)

(ii) "Direkteur-generaal" die Direkteur-generaal: Vervoer; (vi)

(iii) "eerste beamppte" die beamppte wat in bevel is van die kantoor van die Tak Marine van die Departement van Vervoer by 'n hawe; (xx)

(iv) "eienaar", met betrekking tot 'n skip of 'n tenkskip, die persoon wat as die eienaar van die skip of tenkskip of van 'n aandeel in die skip of tenkskip geregistreer is of, by ontstentenis van registrasie, die

includes any amendments thereof and additions thereto signed, ratified or acceded to by the Republic of South Africa; (xii)

(v) "Convention State" means a state which is a party to the Convention; (xiii)

(vi) "Director-General" means the Director-General: Transport; (ii)

(vii) "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; (xxiv)

(viii) "Fund" means the Oil Pollution Prevention Fund referred to in section 26 (1); (v)

(ix) "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)

(x) "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)

(xi) "low-water mark" means the lowest line to which the water of the sea recedes during periods of ordinary spring tides; (xiv)

(xii) "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)

(xiii) "Minister" means the Minister of Transport Affairs; (xv)

(xiv) "natural oil" means natural oil as defined in section 1 of the Mining Rights Act, 1967 (Act 20 of 1967); (i)

(xv) "nautical mile" means the international nautical mile of 1 852 metres; (xix)

(xvi) "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 from such point on land to such ship or 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; (xviii)

(xvii) "oil", in relation to a discharge of oil from—

(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 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 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 the mixture;

but in relation to loss or damage caused as contemplated in section 9 (1) (a) by pollution resulting from the discharge of oil from a tanker, means oil as defined in paragraph 5 of Article 1 of the Convention; (xvi)

persoon aan wie die skip of tenkskip of 'n aandeel in die skip of tenkskip behoort maar, met betrekking tot 'n skip of 'n tenkskip onderworpe aan 'n huur van die boot alleen, beteken "eienaar" die huurder van die boot alleen; (xviii)

(v) "Fonds" die Fonds ter Voorkoming van Olie-besoedeling bedoel in artikel 26 (1); (viii)

(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; (x)

(vii) "gebied van die Republiek" ook die territoriale waters van die Republiek; (i)

(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; (xii)

(ix) "hierdie Wet" ook enige regulasie daarkragtens uitgevaardig; (xxvi)

(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; (ix)

(xi) "huurder van die boot alleen" die persoon wat 'n skip of 'n tenkskip huur onderworpe aan die voorwaarde, hetsy bykomend by enige ander voorwaardes al dan nie, dat bedoelde persoon die uitsluitende besit en beheer van daardie skip of tenkskip sal hê solank die huur van krag is; (ii)

(xii) "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 58 van 1978 in *Staatskoerant* 5867 van 27 Januarie 1978, en ook enige wysigings daarvan en byvoegings daarby onderteken of bekragtig deur die Republiek van Suid-Afrika of waartoe hy toegetree het; (iv)

(xiii) "Konvensiestaat" 'n staat wat toegetree het tot die Konvensie; (v)

(xiv) "laagwatermerk" die laagste lyn tot waar die water van die see gedurende tydperke van gewone springgetye sak; (xi)

(xv) "Minister" die Minister van Vervoerwese; (xiii)

(xvi) "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;

(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;

maar met betrekking tot verlies of skade veroorsaak soos beoog in artikel 9 (1) (a) deur besoedeling wat voortspruit uit die uitlating van olie uit 'n tenkskip, beteken dit olie soos omskryf in paragraaf 5 van Artikel 1 van die Konvensie; (xvii)

(xvii) "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 21 van 1935); (xxii)

(xviii) "owner", in relation to a ship or a tanker, means the person registered as the owner of such ship or tanker or of a share in such ship or tanker or, in the absence of registration, the person to whom such ship or tanker or a share in such ship or tanker belongs but, in relation to ship or tanker under bareboat charter, "owner" means the bareboat charterer; (iv)

(xix) "prescribed" means prescribed by regulation; (xxvi)

(xx) "principal officer" means the officer in charge of the office of the Marine Branch of the Department of Transport at any port; (iii)

(xxi) "prohibited area" means the territorial waters of the Republic and that portion of the fishing zone, as defined in section 3 of the Territorial Waters Act, 1963 (Act 87 of 1963), situated within a distance of 50 nautical miles from the low-water mark, and includes the sea 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 (Act 21 of 1935); (xxv)

(xxii) "sea" means the water and the bed of the sea and 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 (Act 21 of 1935); (xvii)

(xxiii) "ship" means any kind of vessel or other sea-borne object, excluding a tanker, from which oil can be discharged, 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 sunk; (xxi)

(xxiv) "tanker" means any seagoing vessel of any type whatsoever, actually carrying oil in bulk as cargo and in respect of which the provisions of the Convention are applicable; (xxii)

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

(xxvi) "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 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 unless—

(a) the oil in question was discharged for the purpose of securing the safety of such ship, tanker or offshore installation or any other ship or tanker or of preventing damage to such ship, tanker or offshore installation or 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 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 oil; or

(xviii) "see-installasie" 'n fasiliteit van 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 so 'n punt op land na so '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; (xvi)

(xix) "seemyl" die internasionale seemyl van 1 852 meter; (xv)

(xx) "sertifikaat" 'n sertifikaat beoog in artikel 13 (1); (iii)

(xxi) "skip" enige soort vaartuig of ander oor see aangevoerde voorwerp, uitgesonderd 'n tenkskip, waaruit olie uitgelaat kan word, hetsy sodanige vaartuig of voorwerp vergaan het of verlaat is, gestrand het, in nood verkeer, ontredder of beskadig is, skipbreuk gely, uitmekaargebreek of gesink het, al dan nie; (xxiii)

(xxii) "tenkskip" enige seevaartuig van watter tipe ook al, wat inderdaad olie gestort as vrag aan boord het en ten opsigte waarvan die bepalings van die Konvensie van toepassing is; (xxiv)

(xxiii) "territoriale waters van die Republiek" die territoriale waters van die Republiek soos omskryf in artikel 2 van die Wet op Territoriale Waters, 1963 (Wet 87 van 1963); (xxv)

(xxiv) "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; (vii)

(xxv) "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 50 seemyl vanaf die laagwatermerk geleë is, en ook die see tussen die hoog- en laagwatermerk sowel as enige getystrandmeer of getyrvier soos omskryf in artikel 1 van die Strandwet, 1935; (xxi)

(xxvi) "voorgeskryf" by regulasie voorgeskryf en het "voorgeskrewe" 'n ooreenstemmende betekenis. (xix)

Verbod op uitlating van olie

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, skuldig aan 'n misdryf tensy—

(a) die betrokke olie uitgelaat is om die veiligheid van daardie skip, tenkskip of see-installasie of 'n ander skip of tenkskip te verseker of om skade aan daardie skip, tenkskip of see-installasie of '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) the oil in question escaped by reason of leakage, and neither such leakage nor any delay in discovering it was due to any want of reasonable care and as soon as practicable after the escape was discovered, all reasonable 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 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 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 of 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 of the port in the Republic nearest to where such ship, tanker or offshore installation is.

(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 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 of the port in the Republic nearest to where such ship or tanker then is the fact that such damage was sustained, the nature and the location 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, 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.

(3) For the purposes of subsection (2) damage to a ship or 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.

(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.

(c) die betrokke olie ontsnap het vanweë uitlekking, en nóg dié uitlekking nóg 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 dit vermoed, tensy die teendeel bewys word, dat bedoelde mengsel honderd dele of meer olie in 'n miljoen dele van die mengsel bevat het.

Rapportering van uitlating en beskadiging wat uitlating of waarskynlikheid van uitlating veroorsaak 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 van die hawe in die Republiek wat die naaste is aan die plek waar daardie skip, tenkskip of see-installasie is, rapporteer.

(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 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 registrasie-hawe, sy amptelike nommer, sy posisie, 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 van die hawe in die Republiek wat die naaste is aan die plek waar daardie skip of tenkskip op daardie tydstip is, rapporteer.

(3) By die toepassing van subartikel (2) word dit vermoed dat beskadiging van 'n skip of tenkskip die waarskynlikheid van 'n uitlating van olie uit daardie skip of tenkskip laat ontstaan het 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 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.

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—

(a) to, in such manner as the Minister may direct if he deems fit to do so—

(i) unload the oil from the ship or tanker or oil from a specified part of the ship or tanker;

(ii) transfer oil from a specified part of the ship or tanker to another specified part of the ship or tanker;

(iii) dispose of any oil so unloaded or transferred;

(b) to move the ship or tanker or cause the ship or tanker to be moved to a place specified by the Minister;

(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;

(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;

(f) to steer such course, while the ship or tanker is within the prohibited area, as the Minister may specify;

(g) to obtain the services of one or more suitable vessels used in the combating of pollution of the sea by oil, 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.

(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 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.

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

4. (1) Indien olie uit 'n skip of 'n tenkskip uitgelaat word of, na die oordeel van die Minister, waarskynlik uitgelaat sal word, 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—

(a) op die wyse wat die Minister gelas indien hy goed dink 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 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 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 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 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 wat by die bestryding van besoedeling van die see deur olie gebruik word, 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 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 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 nie redelikerwys verwag kan word om aan so 'n eis te voldoen nie, of die bevoegdheid wat ingevolge subartikel (1) aan die 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) 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 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 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 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.

(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 bekendgemaak 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 bepaling van die Wet op Verdeling van Skadevergoeding, 1956 (Wet 34 van 1956), in die geval in paragraaf (b) beoog, deur die Staat aan die eienaar betaalbaar.

(4) Die bepalinge 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.

Voorkoming of verwydering van besoedeling van die see deur olie

5. (1) Indien na die oordeel van die Minister olie waarskynlik uit 'n skip of 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 goedvind 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 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) 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) 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.

(6) The Minister may institute, through any person 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).

(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.

(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.

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

(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;

(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.

(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.

Moving of ship or tanker from certain area

6. The Minister may order the master of a ship or a 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.

(4) Iemand wat 'n bevel kragtens subartikel (3) ontvang het, word geag in staat te wees om die handelinge 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, 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 iemand 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 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 wees dat die prys of vergoeding deur die betrokke verkoper of verskaffer beding, onderworpe is aan bevestiging of aanpassing deur die Minister.

(8) Aan iedereen wat 'n diens verskaf of goedere verskaf, lewer, verkoop, vervaardig, produseer, verwerk of behandel ooreenkomstig 'n bevel uitgereik ingevolge subartikel (3), word, by onstentenis 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, produsering, 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 betrokke olie—

(a) geheel en al aan die skuld van die staat toe te skryf 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 die bedrag van enige uitgawes aldus deur die Minister aangegaan en wat ingevolge die bepalings van artikel 9 (1) (b) van 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 bepalings van subartikel (1), is *mutatis mutandis* van toepassing met betrekking tot 'n uitlating van olie uit 'n see-installasie.

Verwydering van skip of tenkskip uit sekere gebied.

6. Die Minister kan die gesagvoerder van 'n skip of 'n tenkskip gelas om, onderworpe aan die opdragte wat die 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.

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

7. Any person authorised 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 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 may 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 authorised 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 authorised 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

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

7. Iemand wat deur die Minister daartoe gemagtig is, en 'n lid 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, 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 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, ruime en vullings en kan enige toerusting 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.

Reg om grond te betree

8. (1) 'n Persoon of lid bedoel in artikel 7 en enige ander persoon wat deur die Minister daartoe gemagtig is, kan enige 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 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 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—

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

(2) Iemand wat deur subartikel (1) gemagtigde toegang of die uitoefening van daardeur verleende bevoegdheid 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.

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

9. (1) Die eienaar van die skip, tenkskip of seeinstallasie is, behoudens die bepalings van hierdie Wet, aanspreeklik vir—

(a) enige verlies of skade elders as op daardie skip, tenkskip of seeinstallasie maar binne die gebied

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 preventing or reducing such loss or damage in the area of the Republic, 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 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;

(b) the costs referred to in that subsection shall include—

(i) such amount as the Director-General may determine in respect of administration fees, to be calculated as a percentage of the said costs (before addition thereto of the said fees) at the following rate, namely—

(aa) 10 per cent of the said costs if such costs are R50 000 or less;

(bb) 10 per cent of R50 000 of the said costs if such costs are more than R50 000; plus

7½ per cent of the said costs in so far as such costs exceed R50 000 but do not exceed R100 000; plus

5 per cent of the said costs in so far as such costs exceed R100 000;

(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 organisation registered under the National Welfare Act, 1965 (Act 79 of 1965), as a welfare organisation, or any similar organisation 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.

(3) The owner of any ship, tanker or offshore installation shall not be liable for any loss, damage or costs in the circumstances contemplated 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

(b) was wholly caused by an act or omission on the part of any person, not being a servant or agent of the owner, with intent to do damage; or

van die Republiek veroorsaak deur besoedeling wat voortspruit 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 plaasgevind het, ten einde sodanige verlies of skade binne die gebied van die Republiek te voorkom of te verminder, hetsy 'n uitlating soos beoog in paragraaf (a) plaasgevind het, al dan nie, en hetsy so 'n uitlating inderdaad daaropvolgens 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 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 besoeiding van 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;

(b) is by die koste bedoel in daardie subartikel inbegrepe—

(i) die bedrag wat die Direkteur-generaal ten opsigte van administrasiegelde bepaal en wat bereken moet word as 'n persentasie van genoemde koste (voor die byvoeging daarby van genoemde gelde) teen die volgende koers, naamlik:

(aa) 10 persent van genoemde koste indien daardie koste R50 000 of minder bedra;

(bb) 10 persent van R50 000 van genoemde koste indien daardie koste meer as R50 000 bedra; plus 7½ persent van genoemde koste vir sover daardie koste R50 000 oorskry maar nie R100 000 oorskry nie; plus 5 persent van genoemde koste vir sover daardie koste R100 000 oorskry;

(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 Welsynswet, 1965 (Wet 79 van 1965), as 'n welsynsorganisasie geregistreer is, of enige soortgelyke organisasie wat deur die Minister goedgekeur is, te vergoed vir uitgawes aangegaan by die redding, vervoer, behandeling, voer, skoonmaak en rehabilitering van kusvoëls wat 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 in die omstandighede beoog in 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 aard; of

(b) geheel en al veroorsaak is deur 'n handeling of versuim van die kant van iemand wat nie 'n werknemer of agent van die eienaar is nie, met die opset om skade te berokken; of

(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 tanker is together with another ship or tanker involved in an incident and a liability is incurred by virtue of the provisions of subsection (1) by the owner of each of such ships or tankers but the loss, damage or costs for which each of the owners would be liable cannot reasonably be separated from that 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.

(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—

(a) the provisions of section 261 of the Merchant Shipping Act, 1951 (Act 57 of 1951), shall not apply in respect of such liability;

(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, 133 units of account for each ton of the ship's or tanker's tonnage, or 14 million units of account, whichever is the lesser;

(ii) in the case of an offshore installation, 14 million units of account.

(6) 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).

(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 navigasie-hulpmiddels, by die uitoefening van daardie funksie.

(4) Indien 'n skip of 'n tenkskip tesame met 'n ander skip of tenkskip by 'n gebeurtenis betrokke is en 'n aanspreeklikheid uit hoofde van die bepalings van subartikel (1) deur die eienaar van elk van daardie skepe of tenkskepe opgeloopt word, maar die verlies, skade of koste waarvoor elk van die eienaars aanspreeklik sou wees nie op redelike gronde geskei kan word van daardie 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.

(5) Indien die eienaar van 'n skip, tenkskip of see-installasie ingevolge die bepalings van subartikel (1) 'n aanspreeklikheid oploopt vir verlies of skade gelyk of koste aangegaan as gevolg van 'n gebeurtenis wat plaasgevind het sonder daardie eienaar se wesentlike skuld of medewete—

(a) is die bepalings van artikel 261 van die Handelskeepvaartwet, 1951 (Wet 57 van 1951), nie met betrekking tot daardie aanspreeklikheid van toepassing nie;

(b) oorskry die som van alle bedrae betaalbaar deur bedoelde eienaar ten opsigte van bedoelde aanspreeklikheid, vir sover dit op 'n bepaalde gebeurtenis betrekking het, nie—

(i) in die geval van 'n skip of 'n tenkskip, 133 rekeneenhede vir elke ton van die skip of tenkskip se tonnemaat, of 14 miljoen rekeneenhede, na gelang van watter die minste is, nie;

(ii) in die geval van 'n see-installasie, 14 miljoen rekeneenhede nie.

(6) By die toepassing van hierdie artikel—

(a) beteken "rekenenheid" '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 wanneer betaling gedoen word of, in die geval van 'n aansoek ingevolge artikel 12 (1), op die tydstip wanneer 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 masjienkamerruimte wat afgetrek is ten einde sy netto laairuimte te bepaal.

Bepërking van aanspreeklikheid

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—

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

(b) koste bedoel in artikel 9 (1) (b), gelyk 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) 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) The State, any person in the service of the State, 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) or the Minister 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, the State, 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, the owner of such vessel or the Minister 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.

(6) The State, any person in the service of the State, 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) or the Minister 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.

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.

(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).

(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

(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) Die Staat, iemand in diens van die Staat, 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, of die Minister, 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 bepalinge 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 die Staat, 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, die eienaar van so 'n vaartuig, of die Minister, 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.

(6) Die Staat, iemand in diens van die Staat, 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, of die Minister, is nie aanspreeklik nie (behalwe in die geval van 'n opsetlike handeling of versuim van die kant van so iemand) vir enige verlies of skade gelyk 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 besoedeling van die see deur olie.

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

11. (1) Die bepalinge 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.

(2) Met betrekking tot 'n tenkskip wat die eiendom is van 'n Staat en vir tyd en wyl vir handelsdoeleindes gebruik word, word dit 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 dit verklaar word dat die tenkskip die eiendom van bedoelde Staat is en dat enige aanspreeklikheid wat uit hoofde van die bepalinge 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 (5).

(3) Vir die doeleindes van 'n regsgeding 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

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 authorise the issue of execution against the property of any Convention State.

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 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.

(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.

(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).

(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.

(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.

(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.

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

'n uitlating van olie uit 'n tenkskip bedoel in subartikel (2), word dit geag dat elke Konvensiestaat hom aan die regsbevoegdheid van daardie hof onderwerp het: Met dien verstande dat die bepaling van hierdie artikel nie magtiging verleen vir tenuitvoerlegging teen die goed van 'n Konvensiestaat nie.

Aansoek by hof

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

(2) Indien die hof by 'n aansoek bedoel in subartikel (1) bevind dat die applikant die betrokke aanspreeklikheid opgeloopt het en, uit hoofde van die bepaling van artikel 9 (5), daarop geregtig is om ten opsigte van daardie aanspreeklikheid 'n totaalbedrag te betaal wat nie 'n bedrag ooreenkomstig die bepaling van artikel 9 (5) bereken, oorskry nie, moet die hof, na vasstelling van bedoelde totaalbedrag ooreenkomstig die bepaling van artikel 9 (5), die applikant 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, 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 applikant benoem is en iemand wat deur die Direkteur-generaal benoem is as gesamentlike trustees van die 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 het, verdeel.

(5) Indien 'n bedrag alreeds tervoldoening 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 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.

(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 subartikel (4) deur die trustees gedoen word, asof hy 'n vordering ten opsigte van die aanspreeklikheid gehad het gelykstaande aan die koste van daardie opofferinge of ander maatreëls.

(7) By die toepassing van hierdie artikel beteken "hof" enige afdeling van die Hooggeregshof van Suid-Afrika.

Compulsory insurance against liability for loss, damage or costs involving tankers

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.

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

(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.

(3) 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.

(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 authorised 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.

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.

Verpligte versekering teen aanspreeklikheid vir verlies, skade of koste waarby tenkskepe betrokke is

13. (1) Geen tenkskip wat meer as 2 000 groot ton olie gestort as vrag vervoer, mag 'n hawe in die Republiek binne gaan 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 land binne gaan 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 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 bepalinge van artikel 9 (5) (b) bepaal, ter dekking van die aanspreeklikheid van die eienaar van daardie tenkskip vir enige verlies, skade of koste wat ingevolge die bepalinge 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—

(a) deur die Direkteur-generaal ingevolge die bepalinge 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 Konvensiestaat as die Republiek, deur of op gesag van die regering van daardie ander Konvensiestaat.

(3) '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 terwyl die betrokke tenkskip binne die territoriale waters van die Republiek sal wees op 'n tydstip voordat 'n nuwe kontrak vir sodanige versekering of ander finansiële sekuriteit van krag word.

(4) Die gesagvoerder van 'n tenkskip bedoel in subartikel (1) moet op die versoek van 'n eerste beamppte, oliebesoedelingsbeamppte, doeanebeamppte, loods, hawekaptein of persoon wat ingevolge artikel 7 deur die Minister gemagtig is, die betrokke sertifikaat aan so 'n eerste beamppte, oliebesoedelingsbeamppte, doeanebeamppte, loods, hawekaptein of persoon toon.

(5) Indien 'n tenkskip poog om in stryd met die bepalinge 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 sertifikaat ten opsigte van die tenkskip getoon word.

(6) Indien 'n tenkskip in stryd met die bepalinge van subartikel (1) 'n hawe binne gaan 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 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) versoek word om dit te doen, is daardie gesagvoerder aan 'n misdryf skuldig.

Uitreiking van sertifikaat deur Direkteur-generaal

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

(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 the desired certificate to the applicant.

(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 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 30 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.

(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 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 die verlangde sertifikaat aan die aansoeker uitreik.

(3) Indien die Direkteur-generaal by so 'n aansoek van 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 (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, 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 die betrokke tenkskip sowel as die persoon wat die versekering of ander finansiële sekuriteit verskaf, daarvan in kennis stel.

(b) Wanneer die persoon aan wie 'n sertifikaat ingevolge hierdie artikel deur die Direkteur-generaal uitgereik is, ophou om die eienaar te wees van die tenkskip waarop die sertifikaat betrekking het, moet die Direkteur-generaal daardie sertifikaat intrek.

(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.

(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 30 dae vanaf die datum van sodanige versoek.

Regsgeding teen versekeraars

15. (1) Indien dit beweer word dat die eienaar van 'n tenkskip ingevolge die bepalings van artikel 9 (1) 'n aanspreeklikheid opgeloopt 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 (1) betrekking gehad het, kan 'n regsgeding om 'n vordering ten opsigte van daardie aanspreeklikheid af te dwing teen die persoon (hieronder in hierdie artikel die versekeraar genoem) ingestel word wat die versekering of ander finansiële sekuriteit verskaf het.

(2) In 'n regsgeding 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 eienaar self, 'n verweer uit, benewens enige verweer betreffende die aanspreeklikheid van die eienaar.

(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—

(a) refund any amount deposited in terms of section 16, or so much thereof as has not been utilised 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).

(3) Die versekeraar kan, hetsy die betrokke gebeurtenis sonder die eienaar 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 betrekking het op daardie gebeurtenis, beperk tot 'n totaalbedrag 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 eienaar sowel as die versekeraar ingevolge die 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.

Deponering van bedrag of verstrekking van waarborg deur eienaar van skip, tenkskip of see-installasie ten opsigte van sekere koste

16. Indien 'n bedrag ingevolge die bepalings van artikel 9 (1) (b) deur die eienaar 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) betaalbaar is, of indien die Direkteur-generaal op redelike gronde van oordeel is dat 'n bedrag aldus betaalbaar mag word, moet daardie eienaar 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 bedrag wat deur genoemde eienaar aldus betaalbaar is of mag word.

Terugbetaling van oortollige koste deur eienaar betaal

17. (1) Indien die Direkteur-generaal oortuig is dat geen bedrag ten opsigte van koste bedoel in artikel 9 (1) (b) deur 'n eienaar bedoel in artikel 16 ingevolge die bepalings van eersgenoemde artikel betaalbaar is of sal word nie en dat geen besoedeling of verdere besoedeling van die see deur olie deur die betrokke skip, tenkskip of see-installasie veroorsaak sal word nie, moet hy—

(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;

(b) 'n waarborg roeier wat ingevolge artikel 16 verstrek is 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.

(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 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 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.

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; and

(ii) if he deems it necessary—

(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 proposed realisation thereof, to be realised 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 realised in satisfaction of those costs;

(b) cause to be seized and realised in satisfaction of those costs, any goods of such owner on such ship or ships or any other property or assets held by him or on his behalf in the Republic.

(2) The Minister shall cause any ship, goods, property or assets 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 realisation, in terms of the said subsection, of the ship, goods, property or assets in question.

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

Bekragtiging deur Minister van sekere uitgawes

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, 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.

Aanhouding van skepe hangende betaling van koste waarvoor eienaar aanspreeklik is

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 verstrek wat hy ingevolge artikel 16 moet deponeer of verstrek, kan die Minister op die voorgeskrewe wyse—

(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 verstrek is, na gelang van die geval; en

(ii) indien hy dit nodig ag—

(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 voorgenome tegeldemaking daarvan, dit te gelde laat maak ter voldoening aan daardie koste;

(bb) waar die aanhouding bewerkstellig is vanweë 'n versuim om geld te deponeer of 'n waarborg te verstrek, en koste ingevolge artikel 9 (1) (b) deur die eienaar betaalbaar word op 'n tydstip wanneer die vereiste geld nog nie gedeponeer of waarborg nog nie verstrek is nie, daarop beslag laat lê en, na kennisgewing soos voorgeskryf in item (aa), dit te gelde laat maak ter voldoening aan daardie koste;

(b) op goed van daardie eienaar wat op daardie skip of skepe is, of op ander eiendom of bates wat hy of iemand namens hom in die Republiek besit, beslag laat lê en dit te gelde laat maak ter voldoening aan daardie koste.

(2) Die Minister moet enige skip, goed, eiendom of bates 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 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, goed, eiendom of bates.

(3) Ondanks andersluidende wetsbepalings moet die opbrengs van die tegeldemaking van 'n skip, goed, eiendom of bates wat ingevolge hierdie artikel plaasgevind het, aangewend word om aan die koste in verband waarmee die tegeldemaking plaasgevind het, te voldoen, voordat daar voldoen word aan enige retensiereg op daardie skip of enige verpligting wat versker is by wyse van 'n verband oor daardie skip, goed, eiendom of bates, of 'n aandeel daarin.

(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 32 of 1944), but subject to the provisions of section 12 (7), 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 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.

(4) Notwithstanding anything to the contrary contained in any law, any judgment given by a competent court of a Convention State other than the Republic to enforce a claim against the owner of a tanker in respect of a liability corresponding to a liability incurred by virtue of the provisions of this Act, shall, without the merits of the case being capable of re-opening, be enforceable in the Republic as if it were a civil judgment of a competent court referred to in subsection (1), provided—

(a) such judgment is enforceable in the Convention State where it originated and no longer subject to review;

(b) the judgment was not obtained by fraud;

(c) the defendant was given reasonable notice and a fair opportunity to present his case.

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 70 of 1957), or a fishing harbour as defined in section 1 of the Sea Fisheries Act, 1973 (Act 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 used in the combating of pollution of the sea by oil, to stand by during a period determined by the Minister.

(4) Die bepalings van hierdie artikel is *mutatis mutandis* van toepassing op die eienaar van 'n tenkskip waarop die bepalings van artikel 13 (1) nie van toepassing is nie.

Regsbevoegdheid van howe

20. (1) Enige afdeling van die Hooggeregshof van Suid-Afrika, en, binne die perke van sy regsbevoegdheid soos bepaal in artikel 29 van die Wet op Landdroshof, 1944 (Wet 32 van 1944), maar behoudens die bepalings van artikel 12 (7), enige landdroshof, het regsbevoegdheid ten opsigte van alle skuldoorsake wat uit die bepalings 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 Landdroshof, 1944 (Wet 32 van 1944), enige landdroshof vir 'n streekafdeling, het regsbevoegdheid in alle strafsake wat uit die bepalings 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, van die prokureur-generaal wat regsbevoegdheid het in die gebied van die betrokke Hof.

(4) Ondanks andersluidende wetsbepalings is 'n vonnis vir die afdwinging van 'n vordering teen die eienaar van 'n tenkskip ten opsigte van 'n aanspreeklikheid wat ooreenstem met 'n aanspreeklikheid opgeloopt uit hoofde van die bepalings van hierdie Wet, gevel deur 'n bevoegde hof van 'n ander Konvensiestaat as die Republiek, sonder dat daar weer op die meriete van die saak ingegaan kan word in die Republiek afdwingbaar asof dit 'n siviele vonnis van 'n bevoegde hof bedoel in subartikel (1) is, mits—

(a) daardie vonnis afdwingbaar is in die Konvensiestaat waar dit sy oorsprong het en nie meer aan hersiening onderworpe is nie;

(b) die vonnis nie deur bedrog verkry is nie;

(c) aan die verweerder redelike kennis gegee is asook 'n billike geleentheid om sy saak te stel.

Minister se toestemming nodig vir oorplasing van olie of vir sekere ander handelinge ten opsigte van skepe of tenkskepe

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 70 van 1957), of 'n vissershawe soos omskryf in artikel 1 van die Wet op Seevisserye, 1973 (Wet 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;

behalwe met die toestemming van die Minister en ooreenkomstig die bepalings 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 opleë onderworpe waarvan die handeling verrig moet word, en by sodanige voorwaardes kan inbegrepe wees die verpligting om die dienste te verkry van een of meer sleepbote, spuitbote of ander vaartuie wat by die bestryding van besoedeling van die see deur olie gebruik word, om vir die tydperk wat die Minister bepaal, gereed te staan.

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);

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).

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, 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.

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 safety certificate issued in terms of the provisions of this section is in force in respect thereof.

(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 12 months as from the said date unless a safety certificate has in terms of the provisions of this section been issued in respect thereof.

(3) Any person desiring a 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 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 safety certificate.

(4) No 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.

(5) Any person who—

(a) operates an offshore installation in contravention of the provisions of subsection (1) or (2);

(b) in operating an offshore installation fails to comply with any condition specified in the safety certificate in question;

shall be guilty of an offence.

Bevoegdheid van Minister in geval van versuim deur gesagvoerder of eienaar

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;

(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

(c) iemand weier of versuim om aan 'n voorwaarde ingevolge artikel 21 (2) deur die Minister opgelê, te voldoen;

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.

(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.

Berger nie benadeel te word nie

23. Behoudens die bepalings van artikel 19 (3) word geen bepalings van hierdie Wet so uitgelê nie dat dit afbreuk doen aan 'n reg op 'n bergloon en 'n berger wat andersins geregtig sou wees op 'n bergloon ten opsigte van bergingswerk, 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.

Veiligheidsertifikaat nodig vir inbedryfstelling van see-installasie

24. (1) Behoudens die bepalings van subartikel (2) mag niemand 'n see-installasie in bedryf stel nie tensy 'n veiligheidsertifikaat wat ingevolge die bepalings van hierdie artikel uitgereik is ten opsigte daarvan van krag is.

(2) Geen see-installasie wat op die datum van inwerkingtreding van hierdie Wet reeds in bedryf gestel is, mag aldus in bedryf gehou word nie na die verstryking van 'n tydperk van 12 maande vanaf genoemde datum, tensy 'n veiligheidsertifikaat ingevolge die bepalings van hierdie artikel ten opsigte daarvan uitgereik is.

(3) Iemand wat 'n veiligheidsertifikaat 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 veiligheidsertifikaat in die voorgeskrewe vorm ten opsigte van die betrokke see-installasie uitreik, onderworpe aan die voorwaardes betreffende die inbedryfstelling van die see-installasie wat deur die Direkteur-generaal bepaal en in die veiligheidsertifikaat vermeld word.

(4) Geen veiligheidsertifikaat 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 inbedryfstelling daarvan wat die Minister by regulasie voorskryf.

(5) Iemand wat—

(a) in stryd met die bepalings van subartikel (1) of (2) 'n see-installasie in bedryf stel;

(b) by die inbedryfstelling van 'n see-installasie versuim om te voldoen aan 'n voorwaarde in die betrokke veiligheidsertifikaat vermeld;

is aan 'n misdryf skuldig.

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.

(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.

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 67 of 1971), shall, notwithstanding the repeal of that Act by this Act, continue to exist.

(2) Into the Fund shall be paid—

(a) as a charge to the State Oil Fund referred to in section 1 (1) of the State Oil Fund Act, 1977 (Act 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 may approve in terms of the provisions of section 1 (2) (a) (ii) of the said Act;

(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 realisation 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, 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 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 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.

Vrystellings deur Minister

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.

(2) Die Minister kan iemand wat bergingswerk verrig in 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.

Voortbestaan van Fonds ter Voorkoming van Oliebesoedeling

26. (1) Die Fonds ter Voorkoming van Oliebesoedeling ingestel by artikel 9 van die Wet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1971 (Wet 67 van 1971), bly, ondanks die herroeping van daardie Wet deur hierdie Wet, voortbestaan.

(2) In die Fonds word gestort—

(a) ten laste van die Staatsoliefonds bedoel in artikel 1 (1) van die Wet op die Staatsoliefonds, 1977 (Wet 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 ingevolge die bepalings van artikel 1 (2) (a) (ii) van daardie Wet goedkeur;

(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 66 van 1975), en die regulasies daarkragtens uitgevaardig, die rekenpligtige beampste met betrekking tot die sake van die Fonds.

(4) Die Direkteur-generaal moet behoorlik 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) The moneys in the Fund shall be used—

(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 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 vessels, 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;

(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.

(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.

(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.

(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 uitgelaat word, en in verband met aangeleentheid 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, lugvaartuie 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;

(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 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

(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 Staatskuldkommissaris belê word en kan opgevra word wanneer dit vir gebruik nodig is.

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

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;

(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;

(b) due to any wilful act or omission on his part, is or was responsible for any claim necessitating any payment from the Fund;

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.

(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.

(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.

(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.

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;

(b) prescribing the machinery and equipment to be installed and maintained on or in connection with a ship, tanker or offshore installation for 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);

(c) prescribing, in respect of ships or tankers registered in the Republic under the Merchant Shipping Act, 1951 (Act 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;

Diverse bevoegdhede van Minister

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.

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

(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 van so iemand verhaal word.

(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 op 'n liggaam beoog in paragraaf (a), word van tyd tot tyd deur die Minister met die instemming van die Minister van Finansies bepaal.

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

(5) Die Minister kan die ander dinge doen wat verbode 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 goed vind, besoedeling van die see deur olie buite die verbode gebied te verwyder of te voorkom.

Regulasies

28. (1) Die Minister kan regulasies uitvaardig—

(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 maneuvreer soos beoog in artikel 21;

(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 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) 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.

(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).

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.

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;

(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);

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 R1 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment;

(b) subsection (1) (b) (iii), (b) (iv), (c) (i), (c) (ii), (c) (iii) or (c) (iv), shall be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;

(c) subsection (1) (a) (ii), shall be liable to a fine not exceeding R5 000 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 R20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(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.

Delegering van bevoegdhede

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

Misdrywe en strawwe

30. (1) Iemand wat—

(a) die bepalinge van—

- (i) artikel 14 (6); of
- (ii) artikel 21 (1);

oortree of versuim om daaraan te voldoen;

(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
- (iv) artikel 6;

(c) enige persoon by die verrigting van sy werksaamhede uit hoofde van die bepalinge van—

- (i) artikel 4 (2) (a);
- (ii) artikel 5 (6);
- (iii) artikel 7; of
- (iv) artikel 22 (1),

hinder of dwarsboon;

is aan 'n misdryf skuldig.

(2) Iemand wat skuldig bevind word aan 'n misdryf bedoel in—

(a) artikel 3 (4), 8 (2), 13 (7) 24 (5) of subartikel (1) (a) (i), is strafbaar met 'n boete van hoogstens R1 000 of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met daardie boete sowel as daardie gevangenisstraf;

(b) subartikel (1) (b) (iii), (b) (iv), (c) (i), (c) (ii), (c) (iii) of (c) (iv), is strafbaar met 'n boete van hoogstens R2 000 of met gevangenisstraf vir 'n tydperk van hoogstens 'n jaar of met daardie boete sowel as daardie gevangenisstraf;

(c) subartikel (1) (a) (ii), is strafbaar met 'n boete van hoogstens R5 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met daardie boete sowel as daardie gevangenisstraf;

(d) artikel 2 (1) of 13 (6) of subartikel (1) (b) (i) of (b) (ii), is strafbaar met 'n boete van hoogstens R20 000 of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met daardie boete sowel as daardie gevangenisstraf.

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 67 of 1971), the Prevention and Combating of Pollution of the Sea by Oil Amendment Act, 1972 (Act 92 of 1972), and the Prevention and Combating of Pollution of the Sea by Oil Amendment Act, 1973 (Act 72 of 1973), are hereby repealed.

(2) Any notice, approval, authorisation 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*.

Herroeping van wette en voorbehoude

31. (1) Die Wet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1971 (Wet 67 van 1971), die Wysigingswet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1972 (Wet 92 van 1972), en die Wysigingswet op die Voorkoming en Bestryding van Besoedeling van die See deur Olie, 1973 (Wet 72 van 1973), word, behoudens die bepalings van subartikel (2), hierby herroep.

(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.

Kort titel en inwerkingtreding

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.

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