REPUBLIC OF SOUTH AFRICA

PORTFOLIO COMMITTEE AMENDMENTS TO

SOUTH AFRICAN WEATHER SERVICE AMENDMENT BILL

[B 23—2013]

(As agreed to by the Portfolio Committee on Water and Environmental Affairs (National Assembly))

[B 23A—2013]

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AMENDMENTS AGREED TO

SOUTH AFRICAN WEATHER SERVICE AMENDMENT BILL
[B 23—2013]

CLAUSE 1

1. On page 2, after line 6, to insert the following paragraph:

(b) by the insertion before the definition of ''advisory services'' of the following definition:

'' **'advisory alert'** means an alert raising awareness up to 5 days in advance to either expected large scale potential disruptive weather systems that could later lead to specific watches or warnings with time, or to less urgent alerts of uncommon conditions;''.

2. On page 2, in line 12, after ''services,'' to insert ''ambient''.

3. On page 2, after line 21, to insert the following definitions:

'' **'ambient air quality information'** means information regarding ambient air quality generated by—

(i) the NAAQMN in terms of this Act and the Air Quality Act; or

(ii) a private entity's ambient monitoring station that feeds into the SAAQIS in terms of a memorandum of understanding;''.

4. On page 3, from line 6, to omit paragraphs *(e)* and *(f)*.

5. On page 3, in line 16, after ''SAAQIS'' to insert ''and consists of a network of government-owned ambient air quality monitoring stations located around the country''.

6. On page 3, in line 18, after ''Act;'' to omit '' ''; and'';

7. On page 3, after line 18, to insert the following definition:

'prescribe' means prescribe by regulation;'';

8. On page 3, in line 20, to omit ''definition'' and to substitute ''definitions''.

9. On page 3, in line 24, to omit full stop and closed inverted comma and substitute colon.

10. On page 3, after line 24, to insert the following definitions:

'' **'severe weather'** is an extreme meteorological event or phenomenon, which represents a real hazard to human life or property and has the potential to cause damage, serious social disruption, loss of human life, or economic loss;

'severe weather warning' means an alert issued by the Weather Service with regard to severe weather which includes an advisory, watch or warning alert;''; and

11. On page 3, after line 24, to insert the following paragraph:

(h) by the insertion after the definition of ''specialised service'' of the following definitions:

" **'warning alert'** means an alert calling for action due to a very high certainty of a severe weather hazard that is already occurring or imminent within 24 hours and that could lead to disruptive and disastrous conditions;
'watch alert' means an alert calling for preparedness to weather hazards that most likely will occur within 1 to 3 days and that could lead to disruptive and disastrous conditions;".

NEW CLAUSE

1. That the following be a new Clause:

Insertion of sections 2A and 2B in Act 8 of 2001

2. The following sections are hereby inserted in the principal Act, after section 2:

"**Determination of policy**

2A. (1) The Minister must, after consultation with the Board, determine and publish the policy within which the Weather Service must exercise its powers and perform its functions.

(2) The Minister, after consultation with the Board, may amend, substitute or withdraw the policy determined in terms of subsection (1), and must publish the amended policy.

(3) The Minister must, 30 days before the final publication of a policy contemplated in subsections (1) and (2), table the policy in Parliament.

(4) The Minister must, within 6 months after the commencement of the South African Weather Service Amendment Act, 2013, table the existing policies in Parliament.

Minister's supervisory powers

2B. (1) The Weather Service must exercise its powers and perform its functions subject to the policy determined in terms of section 2A(1), the norms and standards contemplated in subsection (2)*(b)* and any directives issued by the Minister in terms of subsection (2)*(c)*.

(2) The Minister—

(a) must monitor the exercise of powers and performance of the functions of the Weather Service against the policy determined in terms of section 2A(1);

(b) may set norms and standards for the Weather Service to exercise its powers and perform its functions; or

(c) must issue directives to the Weather Service on non compliance with the policy determined in terms of section 2A(1) or the norms and standards issued in terms of subsection 2*(b)*, to ensure the effective and efficient functioning of the Weather Service,

for the achievement of the objectives of this Act.".

CLAUSE 2

1. On page 3, from line 36, after "climatological" to omit ", emission, greenhouse gas.".

CLAUSE 3

1. On page 3, from line 53, to omit paragraph *(a*D*)*.

2. On page 3, in line 57, to omit ''subsection'' and to substitute ''subsections''.

3. On page 3, from line 58, after ''forecasts'' to omit ''and ambient air quality warnings''.

4. On page 3, after line 59, to add the following subsections:

''(6) The Weather Service may issue ambient air quality warnings.

(7) Before issuing ambient air quality warnings the Weather Service must—

(a) inform the Minister;

(b) provide the Minister with all relevant information pertaining to the ambient air quality warning; and

(c) afford the Minister a reasonable opportunity to consult with relevant Minister or any other stakeholder whose area of responsibility may be affected by the ambient air quality warning.''.

CLAUSE 4

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Amendment of section 6 of Act 8 of 2001

6. Section 6 of the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph *(a)* of the following words:

''The Board must within the policy determined by the Minister in terms of section 2A(1) and in compliance with any norms and standards issued in terms of section 2B*(b)* and any directive issued in terms of section 2B*(c)*—'';

(b) by the substitution for paragraphs *(c)* of the following paragraph:

''*(c)* set operational policy, standards, and objectives **[within the framework issued by the Minister]** and ensure that the executive management implements these policies, standards and objectives;'' and

(c) by the substitution for paragraph *(h)* of the following paragraph:

''*(h)* subject to the Departmental human resources and transformation framework, set policy for recruitment, training and transformation of the Weather Service;''.

NEW CLAUSE

1. That the following be a new Clause:

Substitution of section 13 of Act 8 of 2001

7. The following section is hereby substituted for section 13 of the principal Act:

"**Chief Executive Officer**

13. (1) The members of the Board contemplated in section 5(1)*(b)* and *(c)*, acting with the concurrence of the Minister, must appoint a person as the Chief Executive Officer in accordance with the process set out in subsections (2), (3), (4) and (5).

(2) The Chief Executive Officer must be appointed—

(a) for a term or terms not exceeding five years; and

(b) on each occasion in terms of the process set out in subsections (3), (4) and (5).

(3) The appointment of the Chief Executive Officer must be made after following a transparent and competitive selection process, which must include an invitation of applications for the post contemplated in subsection (1) by publishing advertisements in the media circulating nationally.

(4) The Board must consider the appointment of the Chief Executive Officer after following the prescribed recruitment and selection process.

(5) A person appointed in terms of subsection (2) must be a fit and proper person with appropriate qualifications and experience to perform the functions of a Chief Executive Officer.

(6) The Chief Executive Officer is employed subject to such terms and conditions of employment as the Board may determine with the concurrence of the Minister.

(7) The Chief Executive Officer must be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

(8) The Board must enter into an annual performance agreement with the Chief Executive Officer within three months of his or her employment and thereafter, at the beginning of each financial year.

(9) The Chief Executive Officer is accountable to the Board.

(10) The Chief Executive Officer is responsible for—

(a) the management of the Weather Service;

(b) ensuring the exercise of the powers and performance of the functions of the Weather Service; and

(c) reporting to the Board on aspects of management, the exercise of the powers and performance of the functions of the Weather Service.

(11) When there is a vacancy in the office of the Chief Executive Officer, if the Chief Executive Officer is absent or unable to perform his or her duties, the Chairperson of the Board may, with the concurrence of the members of the Board and the Minister appoint another employee of the Weather Service to act as the Chief Executive Officer.

(12) The acting Chief Executive Officer has all the powers and may perform all the functions of the Chief Executive Officer.".

NEW CLAUSE

1. That the following be a new Clause:

Insertion of section 13A in Act 8 of 2001

8. The following section is hereby inserted in the principal Act after section 13:

"**Removal of the Chief Executive Officer from office**

13A. (1) The Chief Executive Officer vacates his or her office—

(a) when he or she dies;

(b) in the case of resignation, on the date the resignation takes effect;

(c) on expiry of the term of his or her contract of employment; or

(d) upon having been removed from office in terms of subsection (2).

(2) Subject to subsections (6), (7), (8) and (9), the Board, in concurrence with the Minister, may remove the Chief Executive Officer from office in terms of subsection 1*(d)*—

(a) for misconduct;

(b) for failing to perform the functions connected with that office or to exercise the powers and to perform the functions adequately, diligently and efficiently;

(c) if, because of any physical or mental illness or disability, the holder of that office has become incapable of performing or efficiently exercising the powers or performing the functions connected with that office;

(d) where an irreparable breakdown in the working relationship between the Board and the Chief Executive Officer has occurred;

(e) for being absent from duty or Board meetings, without the leave of the Board or for good reason.

(3) If the Board for any reason needs to have any allegation or allegations levelled at the Chief Executive Officer investigated, or if the Minister requests an investigation of any matter relating to the Chief Executive Officer, the Board must request the Minister to institute a preliminary investigation.

(4) If the preliminary investigation outcome indicates any of the grounds of removal in subsection (2)*(a)*, *(b)*, *(d)* or *(e)*, the Minister must, within 60 days, proceed with the independent investigation contemplated in subsection (9).

(5) If the preliminary investigation outcome does not indicate the grounds of removal in subsection (2)*(a)*, *(b)*, *(d)* or *(e)* but a lesser transgression, the Board must deal with the allegation or allegations in accordance with its internal disciplinary code.

(6) The Chief Executive Officer may be removed from office for the reasons mentioned in subsections (2) *(a)*, *(b)*, *(d)* and *(e)* if the Board is satisfied that removal from office is justified in the circumstances and only—

(a) on a finding to that effect by the Board after disciplinary proceedings contemplated in subsection (13) have been concluded;

(b) on the adoption by the Board of a resolution calling for the Chief Executive Officer's removal from office; and

(c) if the Minister concurs with the finding of the Board; or

(d) in the event that the Minister does not concur with the findings of the Board, but is of the view that some other good cause found during the investigation contemplated in terms of this section justifies the removal of the Chief Executive Officer, the Chief Executive Officer may be removed from office on such good cause shown if the Board concurs with the Minister.

(7) The Chief Executive Officer may be removed from office in the case of subsection (2)*(c)*, if the Board is satisfied that removal from office is justified in the circumstances based on the report and recommendation of a medical practitioner with the necessary expertise.

(8) Where the Chief Executive Officer does not agree with the medical practitioner's report and recommendation contemplated in subsection (7), the Chief Executive Officer is entitled to obtain a second medical opinion from a medical practitioner of his or her choice and to submit such report and recommendation to the Board for consideration.

(9) *(a)* Where the Chief Executive Officer—

(i) denies, or does not admit the allegation or allegations that are relied upon by the Board for the removal of the Chief Executive Officer in terms of subsection (2)*(a)*, *(b)*, *(d)* or *(e)*; or

(ii) alleges that the allegation or allegations do not justify removal from office,

the Minister must, within 60 days, appoint an independent investigator to investigate the allegation or allegations levelled at the Chief Executive Officer.

(10) The independent investigator must, as soon as possible, but at least within a period of 60 days of his or her appointment, submit a report containing all the information gathered, any findings and recommendations to the Board.

(11) The independent investigator must provide the Chief Executive Officer with a reasonable opportunity to provide any relevant information to the independent investigator, including a reasonable opportunity to respond to any allegation or show cause why the allegations do not justify his or her removal.

(12) If the Chief Executive Officer, in the opinion of the independent investigator, fails or refuses fully or partially or adequately to co-operate with the independent investigator or in any other manner delays or undermines the investigation, the independent investigator may continue with the investigation in the absence of or without the participation of the Chief Executive Officer.

(13) If there is evidence or information available which may support the allegation or allegations against the Chief Executive Officer or if the independent investigator for any reason so recommends, the Board must, within 60 days after receiving the report contemplated in subsection (10), institute disciplinary proceedings against the Chief Executive Officer in accordance with prescribed disciplinary procedure.

(14) The Minister must appoint an independent Chairperson to preside over the disciplinary proceedings.

(15) A disciplinary procedure instituted in terms of this Act must not be postponed, suspended or dispensed with as a result of criminal, civil or other legal action having been instituted, or pending the outcome of such action.

(16) The Minister, after consultation with the Board, may, for any reason he or she deems fit, suspend the Chief Executive Officer from office, pending the outcome of the investigation contemplated in subsections (3) or (9) or disciplinary procedures contemplated in subsections (5) or (13), on any condition as to remuneration or any other matter relating to the employment of the Chief Executive Officer that the Minister, after consultation with the Board, may approve.''.

CLAUSE 6

1. On page 4, in line 21, before ''Chief Executive Officer'' to omit ''The'' and to insert ''Subject to section 6*(h)*, the''.

2. On page 4, in line 24, after ''to'' to insert ''exercise its powers and''.

3. On page 4, in line 24, after ''functions.'' '' to omit full stop and to substitute ''; and''

4. On page 4, after line 24, to insert the following paragraph:

(b) by the deletion of subsection (3).

NEW CLAUSE

1. That the following be a new Clause:

Amendment of section 26 of Act 8 of 2001

12. Section 26 of the principal Act is hereby amended by the addition of the following subsections:

''(4) Ambient air quality data that the Weather Service has not collected itself remains the property of the collector of that ambient air quality data, even if the provision of such ambient air quality data is required by legislation.

(5) The use of such externally sourced ambient air quality data is governed by the objectives of this Act and the Air Quality Act.''.

CLAUSE 9

1. On page 4, in line 37, after ''nor'' to insert ''any person employed by the Weather Service nor''.

NEW CLAUSE

1. That the following be a new clause:

Amendment of section 28 of Act 8 of 2001

14. Section 28 of the principal Act is hereby amended—

(a) by the insertion after paragraph *(a)* of the following paragraphs:

''*(a*A*)* the recruitment and selection process for the Chief Executive Officer contemplated in section 13;

*(a*B*)* the disciplinary procedure for the Chief Executive Officer contemplated in section 13A of this Act;''; and

(b) by the addition of the following subsection, the existing section becoming subsection (1):

''(2) The Minister must table the draft regulations made under subsection (1)*(a*B*)* in Parliament, before the final publication of such regulations.''.

CLAUSE 10

1. On page 5, in line 8, after ''misleading;'' to omit ''and'' and to substitute ''or''.

2. On page 5, in line 9, to omit ''that it''.

3. On page 5, in line 9, after ''reaction'' to omit ''and'' and to substitute ''which''.

4. On page 5, in line 10, after ‘‘alarm’’ to omit the comma and to substitute ‘‘or’’.

5. On page 5, in line 10, after ‘‘evacuations’’ to insert a comma.

6. On page 5, in line 11, after ‘‘loss’’ to insert ‘‘arising from such actions; or’’.

7. On page 5, in line 17, after ‘‘for’’ to omit ‘‘the’’ and to substitute ‘‘a’’.

8. On page 5, after line 21, to insert the following subsection:

> ‘‘(1A) Whenever a person lays a criminal charge relating to an incident contemplated in subsection (1)*(a)*, the Director of Public Prosecutions who has jurisdiction in the area where the incident occurred, must take the decision whether to institute criminal proceedings on behalf of the State.’’.

9. On page 5, in line 33, after ‘‘person’’ to omit comma and insert ‘‘—’’.

10. On page 5, from line 33, to omit ‘‘inquire summarily and without pleadings into the amount of the loss or damage so caused.’’ and to substitute the following:

> ‘‘*(a)* inquire summarily and without pleadings into the amount of the loss or damage so caused; and
>
> *(b)* upon proof of such amount, the court may give judgment therefore in favour of the organ of state or other person concerned against the convicted person, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court.

11. On page 5, from line 35, to omit ‘‘Upon proof of such amount, the court may give judgment therefore in favour of the organ of state or other person concerned against the convicted person, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court’’.

12. On page 5, in line 51, to omit ‘‘prescribed by’’ and to substitute ‘‘or any other sanction in terms of’’.

CLAUSE 11

1. On page 6, from line 8, to omit item 18 and 19.

CLAUSE 13

1. On page 6, in line 27, to omit ‘‘takes effect on a date fixed by the President by proclamation in the *Gazette*’’ and to substitute ‘‘comes into effect on the date two months from the date of publication in the *Gazette* as contemplated in section 81 of the Constitution of the Republic of South Africa of 1996, or such earlier date determined by proclamation by the President in the *Gazette*.’’.

NEW CLAUSE

1. That the following be a new clause:

Substitution of Arrangement of Sections of Act 8 of 2001

18. The following Arrangement of Sections is hereby substituted for the Arrangement of Sections of the principal Act:

"**ARRANGEMENT OF SECTIONS**

CHAPTER 1

INTRODUCTION

1. Definitions

CHAPTER 2

SOUTH AFRICAN WEATHER SERVICE

2. Establishment of South African Weather Service
2A. Determination of policy
2B. Minister's supervisory powers
3. Objectives of Weather Service
4. Functions of Weather Service

CHAPTER 3

BOARD OF WEATHER SERVICE

5. Board of Weather Service and its composition
6. Functions of Board
7. Removal
8. Vacancies
9. Remuneration
10. Meetings of Board
11. Committees of Board
12. Meteorological advisory committees

CHAPTER 4

MANAGEMENT OF WEATHER SERVICE

13. Chief Executive Officer
13A. Removal of the Chief Executive Officer from office

CHAPTER 5

STAFF OF WEATHER SERVICE

14. Staff and conditions of service
15. Pensions

CHAPTER 6

FINANCIAL MATTERS

16. Funds
17. Accounting authority

CHAPTER 7

TRANSITIONAL PROVISIONS

18. Transfer of staff of Chief Directorate to Weather Service
19. Transfer of certain assets and liabilities to Weather Service

CHAPTER 8

REGULATORY CONTROL

20. Regulating Committee
21. Functions of Regulating Committee
22. Removal
23. Vacancies
24. Remuneration
25. Meetings of Regulating Committee

CHAPTER 9

GENERAL AND MISCELLANEOUS PROVISIONS

26. Intellectual property rights
27. Limitation of liability
28. Regulations
29. Rules of Board
30. Delegation of powers and assignment of duties
30A. Offences and penalties
31. Repeal of Meteorology Act, 1988 (Bophuthatswana)
32. Short title and commencement

Schedule 1

Public good services

Schedule 2

Commercial services

LONG TITLE

1. On page 2, to omit the long title and to substitute the following:

To amend the South African Weather Service Act, 2001, so as to substitute and insert certain definitions; to provide the Minister with policy determination and supervisory powers; to extend the powers, functions and objectives of the Weather Service so as to provide the Weather Service with a legal mandate to provide ambient air quality services and to act as custodian of the South African Air Quality Information System; to provide for the appointment and removal of the Chief Executive Officer; to align the Act with the Public Finance Management Act, 1999, by providing for the Board to be the accounting authority for the Weather Service; to delete certain obsolete provisions; to provide for the limitation of liability of the Weather Service; to provide for offences and penalties; to amend the Schedules to the Act; and to provide for matters connected therewith.

MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN WEATHER SERVICE AMENDMENT BILL, 2013

1. On page 7, to omit the Memorandum on the Objects of the South African Weather Service Amendment Bill and substitute the following:

MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN WEATHER SERVICE AMENDMENT BILL, 2013

1. PURPOSE OF THE BILL

The purpose of the South African Weather Service Amendment Bill, (''the Bill''), is to amend the South African Weather Services Act, 2001 (Act No. 8 of 2001), (''the Act''), so as to substitute and insert certain definitions; to provide the Minister with policy determination and supervisory powers; to extend the powers, functions and objectives of the South African Weather Service (''Weather Service'') so as to provide the Weather Service with a legal mandate to provide ambient air quality services and to act as custodian of the South African Air Quality Information System; to provide for the appointment and removal of the Chief Executive Officer; to align the Act with the Public Finance Management Act, 1999 (Act No. 1 of 1999), (''PFMA''), by providing for the Board to be the accounting authority for the Weather Service; to delete certain obsolete provisions; to provide for the limitation of liability of the Weather Service; to provide for offences and penalties; and to amend the Schedules to the Act; and to provide for matters connected therewith.

2. BACKGROUND

2.1 The purpose of the Act was to establish the Weather Service; to determine its objects, functions and method of work; to prescribe the manner in which it is to be managed and governed; and to regulate its staff and financial matters.

2.2 In order to meet the information requirements for good air quality governance and to ensure compliance with the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), (''NEM: AQA''), the Department of Environmental Affairs (''DEA''), together with the Weather Service developed the South African Air Quality Information System (''SAAQIS''), and the National Ambient Air Quality Monitoring Network (''NAAQMN''), since the promulgation of the NEM: AQA in 2005. The partnership between DEA and Weather Service is managed in accordance with a Memorandum of Understanding.

2.3 SAAQIS is an electronic web-based information system that has the stated objective of providing all stakeholders with easy access to all relevant information about ambient air quality in South Africa and further provides different stakeholders with different useful on-line applications to support the effective and efficient management of ambient air quality. The Weather Service requires a clear mandate and empowering clause to be the custodian of the SAAQIS.

2.4 The NAAQMN collects and feeds information into the SAAQIS and consists of a network of government-owned ambient air quality monitoring stations located around the country.

2.5 To ensure the sustainability of these systems, and also to ensure that the Weather Service is provided with the necessary mandate and powers to implement these systems efficiently and effectively, both parties have agreed that an amendment to the Act is desirable.

3. OBJECTS OF AMENDMENT BILL

3.1 Clause 1: Amendment of section 1

Clause 1 inserts and substitutes certain definitions in the Bill. The term ‘‘ambient air’’ is included in various amendments due to the extension of the objectives and functions of the Weather Service to include ambient air quality information.

3.2 Clause 2: Insertion of sections 2A and 2B

Clause 2 insert sections 2A and 2B providing the Minister with a legal power to determine the policy within which the Weather Service must exercise its powers and perform its functions. The policy will be determined and published in the *Gazette* after consultation with the Board. This amendment also provides the Minister with supervisory powers over the Weather Service. The amendment will allow the Minister to monitor the exercise of powers and performance of functions by the Weather Service against the policy determined by the Minister. In this regard, the Minister may set norms and standards for the performance by the Weather Service of its functions, or issue directives to the Weather Service on non-compliance with the policy in order to ensure the effective and efficient functioning of the Weather Service.

3.3 Clause 3: Amendment of section 3

Clause 3 seeks to amend section 3 of the Act by extending the objectives of the Weather Service to include ambient air quality information. Clause 3 further seeks to add to the objectives of the Weather Service the implementation of the SAAQIS and the NAAQMN. The Weather Service will be the custodian of the SAAQIS.

3.4 Clause 4: Amendment of section 4

Clause 4 seeks to extend the functions of the Weather Service to provide ambient air quality information services; to collect ambient air quality data over the Republic of South Africa; to act as the custodian of the SAAQIS; to manage, operate, maintain and develop NAAQMN; and to issue ambient air quality forecasts and warnings. The Weather Service will also be required to consult the Minister before issuing ambient air quality warnings.

3.5 Clause 5: Amendment of section 5

Clause 5 seeks to ensure that the needs of air quality management stakeholders are taken into account by the Minister when appointing the Board of the Weather Service.

3.6 Clause 6: Amendment of section 6

Clause 6 will ensure that ensure that the Board set operational policies that are within the policy determined by the Minister in terms of section 2A of the Act. The clause will also ensure that the Weather Service’s policies for recruitment, training and transformation are developed within the Departmental human resources and transformation framework.

3.7 Clause 7: Amendment section 13

Clause 7 seeks to provide for the selection, recruitment and appointment process for the Chief Executive Officer of the Weather Service. The amendment also provides for the terms and conditions of employment, remuneration and allowances and the powers and duties of the Chief Executive Officer.

3.8 Clause 8: Insertion of section 13A

Clause 8 inserts new section 13A to provide for the removal process of the Chief Executive Officer. The clause also sets out the grounds for removal of the Chief Executive Officer.

3.9 Clause 9: Amendment of section 14

Clause 9 seeks to allow the Chief Executive Officer to appoint, as the Board may determine, such number of employees to the Weather Service, in order to enable the Weather Service to perform its functions.

3.10 Clause 10: Amendment of section 17

Section 17 of the Act provides for the Chief Executive Officer to be the accounting officer of the Weather Service. Section 49(2) of the Public Finance Management Act, 1999 provides that the Board is the accounting authority. Clause 10 seeks to align the Act with the relevant provisions of the Public Finance Management Act, 1999 by providing for the Board to be the accounting authority for the Weather Service.

3.11 Clause 11: Repeal of section 18

Section 18 of the Act is a transitional provision providing for the transfer of staff from the former Chief Directorate Weather Bureau of the Department. Clause 11 seeks to repeal section 18 of the Act because section 18 is no longer relevant.

3.12 Clause 12: Amendment of section 26

Clause 12 seeks to insert new subsections to provide that the ambient air quality data not collected by the Weather Service remains the property of the collector.

3.13 Clause 13: Amendment of section 27

Clause 13 seeks to amend section 27 to extend the limitation of liability of the Weather Service under certain circumstances.

3.14 Clause 14: Amendment of section 28

Clause 14 seeks to amend section 28 to provide the Minister with lega power to develop regulations on the recruitment and selection process, and the disciplinary procedure for the Chief Executive Officer.

3.15 Clause 15: Insertion of section 30A

The Act obliges the Weather Service to perform certain functions, including, the provision of meteorological services, implementation of Resolution 40 and any other related resolutions of the World Meteorological Organisation, and to perform any other functions assigned to it. In this regard, section 4(3) of the Act states that only the Weather Service may issue severe weather warning over the Republic of South Africa in order to ensure that there a single authoritative voice. However, the Act does not provide for offences and penalties in cases of contravention of section 4(3) of the Act.

In order to ensure compliance with the provisions of the Act, clause 15 inserts the following offences:

- It is an offence for any person to publish, disseminate or distribute any severe weather warning which he or she believes or ought to have reasonably known or suspected to be false or misleading or that may incite public alarm;

- It is an offence for any person to impersonate or falsely misrepresent himself or herself to be an employee of the Weather Service or purport to act on behalf of the Weather Service;

- It is an offence for any person to unlawfully use the official or corporate branding of the Weather Service.

The clause also seeks to provide penalties for the offences, which is in line with other environmental legislation.

In order to deter the commission of an offence in terms of the Act, and to circumvent the duplication of utilising the burdened court services by instituting separate civil and criminal proceedings in respect of the same matter, the proposed section 30A also empowers the court to award compensation where the offence causes damage to or loss of property. The aforesaid judgment will be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court. This will also provide a more efficient and effective civil law remedy in respect of the offences in terms of the Act. The Magistrates' Court will also be given jurisdiction to impose the penalty prescribed in this Bill.

3.16 Clauses 16 and 17: Amendment of Schedules to the Act

Clauses 16 and 17 seek to effect a certain grammatical correction and to amend Schedules 1 and 2 to the Act respectively by providing for additional public good services and commercial services which relate to ambient air quality information.

4. FINANCIAL IMPLICATIONS FOR THE STATE

4.1 The Department of Environmental Affairs budget for the Weather Service will increase to include additional funds for the implementation of the SAAQIS.

4.2 In this regard, a Business Case Study was undertaken to assess and analyse the financial implications to the Weather Service for the implementation of the SAAQIS.

5. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

The amendments do not create new structures within the Department. The Department, in terms of the amendments, is transferring the operation, management and maintenance of the SAAQIS function to the Weather Service. In essence, the Department will monitor and support the Weather Service in the performance of the function. Accordingly, a new Air Quality Information Unit will be established at the Weather Service to implement the SAAQIS function.

6. COMMUNICATION IMPLICATIONS

Appropriate communication measures will be implemented by the Government Communication and Information System.

7. PROVINCIAL IMPLICATIONS

None

8. CONSTITUTIONAL IMPLICATIONS

None

9. PARLIAMENTARY PROCEDURE

9.1 The State Law Advisers and the Department of Environmental Affairs are of the opinion that the provisions of the Bill relates to amendments that fall within the meaning of any matter referred to in section 44(1)*(a)*(ii) of the Constitution and must be dealt with in accordance with the procedure established by section 75 of the Constitution.

9.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)*(a)* of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or custom of traditional communities.

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