



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

SELECT COMMITTEE ON LAND AND ENVIRONMENTAL AFFAIRS

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

1. PURPOSE

The purpose of this document is to provide the Select Committee with an overview of the areas of amendment under the South African Weather Service Amendment Bill [B 23B—2013] (SAWS Bill).

2. BACKGROUND

- 2.1. The SAWS Bill seeks to amend certain sections of the South African Weather Service Act, 2001 (Act No. 8 of 2001) (SAWS Act). The SAWS Act was promulgated on 2 June 2001 and came into operation on 15 July 2001. The purpose of the SAWS Act is to establish the South African Weather Service (the Weather Service) as a juristic person, and to determine its objectives, functions and method of work. The SAWS Act further prescribes the manner in which the Weather Service is to be managed and governed, including staff and financial matters. The overall function of the Weather Service is to provide meteorological services over South Africa.
- 2.2. Over the years and through the implementation of the SAWS Act, the Department of Environmental Affairs (the Department) together with the Weather Service identified key areas of the SAWS Act that require improvements to ensure that the purpose and objectives of the SAWS Act are met in a more sustainable, effective and efficient manner. Briefly, these areas are the objectives and functions of the Weather Service; corporate governance matters; and offences and penalties.
- 2.3. 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), (NEMAQA), the Department established 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, and identified the Weather Service as the

suitable custodian of the SAAQIS. The partnership between DEA and Weather Service is managed in accordance with a Memorandum of Understanding.

- 2.4. 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.
- 2.5. In this regard, the SAWS Bill seeks to amend the SAWS Act so as to substitute and insert certain definitions; to provide the Minister with policy determination and supervisory powers; to extend the powers, objectives and functions 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 Service; 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.

3. DISCUSSION

- 3.1. Clause 1 inserts and substitutes certain definitions. 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. As a result, this clause inserts new definitions on "advisory alert", "Air Quality Act", "ambient air quality forecast", "ambient air quality information", "ambient air quality warning", "NAAQMN", "SAAQIS", "severe weather", "severe weather warning", "warning alert" and "watch alert", and revises the definitions of "advisory services" and "Chief Executive Officer".
- 3.2. Clause 2 inserts new sections 2A and 2B in the SAWS Act, to provide the Minister with the legal power to determine 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. The clause also provides the Minister with supervisory powers over the Weather Service. The amendment will allow the Minister to monitor the exercising of powers and performance of functions by the Weather Service against the policy determined by the Minister, and to intervene in operational by way of directive, only in the case of non-

compliance. Any existing policies of the Weather Service must be tabled in Parliament within six months from the date of commencement of the SAWS Bill.

- 3.3. Clauses 3 and 4 amend sections 3 and 4 of the SAWS Act and extend the powers, objectives and functions 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 Service. Clause 4 will also allow the Weather Service to issue ambient air quality warnings after consultation with the Minister.
- 3.4. Clause 5 amends section 5 of the SAWS Act, 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.
- 3.5. Clause 6 amends section 6 of the SAWS Act, to ensure that the execution by the Board of its functions is within the policy determined by the Minister in terms of section 2A of the SAWS Act.
- 3.6. Clause 7 amends section 13 of the SAWS Act, in order to ensure that the recruitment, selection, and appointment of the Chief Executive Officer of the Weather Service follow a transparent and competitive process. The amendment also provides for the tenure, the terms and conditions of employment, remuneration and allowances, and performance agreement, and the powers and duties of the Chief Executive Officer.
- 3.7. Clause 8 inserts a new section 13A in the SAWS Act, setting out the grounds of removal and the removal process applicable to the Chief Executive Officer of the Weather Service.
- 3.8. Clause 9 amends section 14 of the SAWS Act, to allow the Chief Executive Officer to appoint such number of employees to the Weather Service, in order to enable the Weather Service to perform its functions, subject to such terms and conditions that the Board may determine acting within the policy parameters set by the Minister.
- 3.9. Clause 10 amends section 17 of the SAWS Act, 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.

- 3.10. Clause 11 seeks to repeal section 18 of the SAWS Act because section 18 is no longer relevant. Section 18 is a transitional provision providing for the transfer of staff from the former Chief Directorate Weather Bureau of the Department.
- 3.11. Clause 12 inserts subsections 4 and 5 in section 26 of the SAWS Act, to provide that the ambient air quality data not collected by the Weather Service remains the property of the collector.
- 3.12. Clause 13 inserts subsection 2 in section 27 of the SAWS Act, to provide for the limitation of liability of the Weather Service against any damage caused in good faith.
- 3.13. Clause 14 inserts paragraphs (aA) and (aB) in section 28 of the SAWS Act, to provide the Minister with legal power to develop regulations on the recruitment and selection process, and the removal and disciplinary procedures for the Chief Executive Officer.
- 3.14. Clause 15 inserts a new section 30A in the SAWS Act, to create offences and penalties. The SAWS 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 SAWS Act states that only the Weather Service may issue severe weather warnings over the Republic of South Africa in order to ensure that there is a single authoritative voice. However, the SAWS Act does not provide for offences and penalties in cases of contravention of section 4(3) of the SAWS 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 reaction which may lead to undue mobilisation of resources, public alarm or evacuations, or economic loss arising from such reaction;
 - 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; and

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

The penalties for any person found guilty of an offence is a fine not exceeding five million rand or imprisonment for a period not exceeding five years for first time offenders, and for second or subsequent offenders a fine not exceeding ten million rand or imprisonment for a period not exceeding ten years.

- 3.15. Clauses 16 and 17 effect a certain grammatical correctional and amend Schedules 1 and 2 to the SAWS Act respectively by providing for additional public good services and commercial services which relate to ambient air quality information.
- 3.16. Clause 18 amends the table of contents in the SAWS Act.
- 3.17. Clause 19 provides for the commencement date. The SAWS Bill will enter into force two months from the date of publication in the Gazette or such earlier date as the President may determine by proclamation in the Gazette.

