

RAYMOND



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28 May 2021

SIVUYILE MAZANTSI

VIA EMAIL: sivuyile01@gmail.com

SUBMISSIONS TO PARLIAMENT / THE CONCERNED FEDERALISTS / ENVIRONMENTAL COMMISSIONER

Please note that we did not prepare a written speech and did our presentation on drafted notes only. We hereby give a short breakdown of our presentation:

1. Our client's aims are to promote Federalism in the Republic of South Africa.

More powers and functions should be delegated, divulged or given to provinces and municipalities.

The client promotes the principle of federalism and would submit that your parliament should be enlarged to reflect the true population figures in the Western Cape (the 1994 figures of population in the Western Cape increased drastically).

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Due to the erosion of the rule of law in our country and in support of the principles of federalism, a group of businessmen and academics established a non-governmental organisation during 2020 with the sole purpose of promoting the constitutional model of federalism in all the provinces of South Africa, including the Western Cape, and to take various transgressions of the rule of law and National Constitution to the courts as part of our watchdog function as a civil society organisation.

The Concerned Federalists are of the conviction that the federalist principles contained in the National Constitution does offer the opportunity to the Western Cape, as well as other provinces in the country, to increase their various levels of autonomy and in so-doing also improve their levels of service delivery in all of the 9 (nine) provinces.

As you are obviously well aware there is a constant centralisation of power by the national government and as such it has become a real threat to the institutions of democracy and the rule of law.

We are also of the firm belief that the devolution of powers to a lowest possible structure is the only way to build and preserve democracy and the rule of law in our country.

We are further of the opinion that there is an urgent need to devolve and to also delegate more powers to provinces and municipalities in order to ensure that decision-making can be taken at the lowest possible sphere or level/s of government.

We are however very concerned that only one province, the Western Cape, has formally adopted a constitution in respect of the provincial parliament and the executive powers relating to it.

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We have noted for instance that you have recently appointed a Children's Commissioner in terms of the Provincial Constitution.

Hence our submission regarding the proposed amendment to the Provincial Constitution, a proposal which we vehemently oppose and intend taking to the highest courts should the process be taken forward.

We also have to point out to you that our organisation is not in favour of setting up separate or independent states as proposed by some political parties and separatist movements in the Western Cape. South Africa is and can only be governed in terms of the RSA Constitution.

The RSA Constitution however provides a wide scope to provinces to establish federalist principles and we want to use all such mechanisms to utilise these various rights in terms of the RSA Constitution and the international law.

2. Kindly amend the Constitution in order to increase the parliamentarian numbers. It is submitted that 42 parliamentarians cannot effectively monitor and consult with the population of the Western Cape.
3. Argument by the officials to remove the Environmental Commissioner are as follows:

A) There is a duplication of legislation;

B) The National Environmental Management Act (NEMA) absorbed the post of the Environmental Commissioner.

C) Shortage of funds.

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In response to the officials argument, we stated as follows:

A) There is no legal absorption of the Environmental Commission. This is a fatally flawed argument:

- i) The Commissioner is an independent (not an official) and is appointed by Parliament;
- ii) The Commissioner reports to Parliament;
- iii) Nobody can interfere with it's work;
- iv) The Commissioner can request steps to be taken to rectify matters;
- v) The Commissioner can subpoena any person to obtain evidence or information.

B) Legislation:

- i) At the time of the certification process of to the Western Cape Constitution, the framers of this constitution knew that the National Environment National Act was in the drafting process due to the fact that the green paper was published in 1995 and the white paper was published in 1997. It is therefore clear that the framers of the Constitution wanted an independent commissioner to be appointed.
- ii) The Environmental Conservation Act of 1989 had much more powers of protection of the environment than NEMA;
- iii) The established Police Ombudsman for the Western Cape is a case in point. A Police Ombudsman was appointed even though the National Independent Complaints directorate exists in law.
- iv) The Commissioner does have the power to focus on environmental issues outside of the current provincial powers, for example gathering information regarding sea fisheries, marine resources, nuclear energy (Koeberg / Greenpeace example) defence and others.

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C) Money:

A retired judge or academic with environmental knowledge could be appointed for a lesser salary. The staff complement could be minimal.

We annex the relevant material of the Environmental Conservation Act for your attention as well as the quote from Dr Hay.

Yours faithfully
RAYMOND McCREATH INC.

Per
FNL RAYMOND

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ENVIRONMENT CONSERVATION ACT 73 OF 1989

[ASSENTED TO 1 JUNE 1989]

[DATE OF COMMENCEMENT: 9 JUNE 1989]

(English text signed by the State President)

as amended by

Environment Conservation Amendment Act 98 of 1991
Environment Conservation Amendment Act 79 of 1992
Environment Conservation Second Amendment Act 115 of 1992
Environment Conservation Amendment Act 94 of 1993
Environment Conservation Second Amendment Act 189 of 1993
Environment Conservation Amendment Act 52 of 1994
Proclamation R29 of 1995
Proclamation R43 of 1996
National Environmental Management Act 107 of 1998
National Heritage Resources Act 25 of 1999
Environment Conservation Amendment Act 50 of 2003¹
National Environmental Management: Protected Areas Act 57 of 2003²

NB: See Proclamation R29 in *Government Gazette* 16346 of 7 April 1995 and Proclamation R43 in *Government Gazette* 17354 of 8 August 1996 concerning the extent of the assignment of the administration of this Act to the provinces.³

NB: See Environment Conservation Act Extension Act 100 of 1996 for extension of application of this Act to areas of the Republic which constituted national territories of certain former states and self-governing entities.

NB: By the Western Cape Nature Conservation Laws Amendment Act 3 of 2000, Act 73 of 1989, as applied in the Western Cape, was amended by the amendment of sections 1, 16, 17, 28A, 32, 35 and 41A of Act 73 of 1989. These amendments relate to the introduction into Act 73 of 1989, as applied in the Western Cape, of reference to the Western Cape Nature Conservation Board. Since these amendments apply only in the Western Cape, Act 73 of 1989 as set forth below, does not reflect these amendments. For the Western Cape, subscribers should refer to Act 3 of 2000.

NB: In terms of section 50(2) of the National Environmental Management Act 107 of 1998, sections 21, 22 and 26 of Act 73 of 1989 and the notices and regulations issued under the said sections 21 and 22 were repealed with effect from a date to be published, which date may not be earlier than the date on which regulations or notices made under section 24 of Act 107 of 1998 are promulgated and the Minister is satisfied that such regulations or notices under sections 21 and 22 have become redundant. In this regard see relevant notes under tables of regulations under this Act and Act 107 of 1998.

NB: Act 57 of 2003 repealed, subject to section 90(2) thereof, sections 16, 17 and 18 of the Environment Conservation Act 73 of 1989.⁴ In terms of section 90(2) of Act 57 of 2003, sections 16 and 17 are only repealed in a province with effect from the date of publication by the MEC of regulations under section 87 of Act 57 of 2003 prescribing matters covered by the said sections 16 and 17.

¹ Act 50 of 2003, with the exception of section 1, came into operation on 18 February 2004. Section 1 came into operation on 3 January 2006, by Proc. R68 in GG 28346 of 20 December 2005.

² The Act came into operation on 1 November 2005, by Proc. 52 in GG 26960 of 2 November 2004.

³ See text below, and table of relevant assignments under the Constitution in this chapter.

⁴ By section 90 and Schedule 1.

tion, body, company or close corporation recognized by the Minister by notice in the *Gazette*;

[Definition of 'government institution' substituted by s. 1(c) of Act 79 of 1992.]

'limited development area' means an area declared as a limited development area in terms of section 23(1);

'litter' means any object or matter discarded or left behind by the person in whose possession or control it was;

[Definition of 'litter' substituted by s. 1(d) of Act 79 of 1992.]

'local authority', in so far as a provision of this Act is applied in or with reference to a particular province, means a local government body or a transitional council, as the case may be, contemplated in section 1(1) of the Local Government Transition Act, 1993 (Act 209 of 1993);

[Definition of 'local authority' substituted by s. 1 of Act 98 of 1991 and by Proc. R29 of 7 April 1995.]

'management advisory committee' means a committee established under section 17(1);

'Minister' means the Minister of Environmental Affairs and Tourism;

[Definition of 'Minister' substituted by s. 1(c) of Act 52 of 1994.]

'Minister of State Expenditure'

(a) in so far as the administration of a provision of this Act has under section 235(8) of the Constitution of the Republic of South Africa, 1993, been assigned to a competent authority within the jurisdiction of the government of a province and the provision is applied in or with reference to the province concerned, means the member of the Executive Council of that province responsible for the budget in the province; or

(b) in so far as the administration of a provision of this Act has not been so assigned, means the Minister of Finance;

[Definition of 'Minister of State Expenditure' inserted by Proc. R29 of 7 April 1995.]

'Official Gazette' means the *Provincial Gazette* of a province;

[Definition of *Official Gazette* inserted by Proc. R29 of 7 April 1995.]

'prescribe' means prescribe by regulation or notice in the *Gazette*;

[Definition of 'prescribe' substituted by s. 1(e) of Act 79 of 1992.]

'protected natural environment' means an area declared as a protected natural environment under section 16(1);

'province' means a province established in terms of section 124 of the Constitution of the Republic of South Africa, 1993;

[Definition of 'province' inserted by Proc. R29 of 7 April 1995.]

'provincial administration' means the provincial administration established for a province by the Public Service Act, 1994 (Proclamation 103 of 1994);

[Definition of 'provincial administration' inserted by Proc. R29 of 7 April 1995.]

'regulation' means a regulation made under this Act;

[Definition of 'regulation' inserted by s. 1(f) of Act 79 of 1992.]

'special nature reserve' means an area declared as a special nature reserve under section 18;

'this Act' includes the regulations and any notice issued under the Act;

[Definition of 'this Act' substituted by s. 1(g) of Act 79 of 1992.]

'waste' means any matter, whether gaseous, liquid or solid or any combination thereof, which is from time to time designated by the Minister by notice in the *Gazette* as an undesirable or superfluous by-product, emission, residue or remainder of any process or activity.

[Definition of 'waste' substituted by s. 1(h) of Act 79 of 1992.]

PART I POLICY FOR ENVIRONMENTAL CONSERVATION (ss. 2-3)

2 and 3 ...

[Ss. 2 and 3 repealed by s. 50(1) of Act 107 of 1998.]

PART II COUNCIL FOR THE ENVIRONMENT, COMMITTEE FOR ENVIRONMENTAL CO-ORDINATION AND BOARD OF INVESTIGATION (ss. 4-15)

[Heading substituted by s. 2 of Act 94 of 1993.]

tion, body, company or close corporation recognized by the Minister by notice in the *Gazette*;

[Definition of 'government institution' substituted by s. 1(c) of Act 79 of 1992.]

'limited development area' means an area declared as a limited development area in terms of section 23(1);

'litter' means any object or matter discarded or left behind by the person in whose possession or control it was;

[Definition of 'litter' substituted by s. 1(d) of Act 79 of 1992.]

'local authority', in so far as a provision of this Act is applied in or with reference to a particular province, means a local government body or a transitional council, as the case may be, contemplated in section 1(1) of the Local Government Transition Act, 1993 (Act 209 of 1993);

[Definition of 'local authority' substituted by s. 1 of Act 98 of 1991 and by Proc. R29 of 7 April 1995.]

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(a) in so far as the administration of a provision of this Act has under section 235(8) of the Constitution of the Republic of South Africa, 1993, been assigned to a competent authority within the jurisdiction of the government of a province and the provision is applied in or with reference to the province concerned, means the member of the Executive Council of that province responsible for the budget in the province; or

(b) in so far as the administration of a provision of this Act has not been so assigned, means the Minister of Finance;

[Definition of 'Minister of State Expenditure' inserted by Proc. R29 of 7 April 1995.]

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[Definition of 'waste' substituted by s. 1(h) of Act 79 of 1992.]

PART I POLICY FOR ENVIRONMENTAL CONSERVATION (ss. 2-3)

2 and 3 ...

[Ss. 2 and 3 repealed by s. 50(1) of Act 107 of 1998.]

PART II COUNCIL FOR THE ENVIRONMENT, COMMITTEE FOR ENVIRONMENTAL CO-ORDINATION AND BOARD OF INVESTIGATION (ss. 4-15)

[Heading substituted by s. 2 of Act 94 of 1993.]

4 to 7 inclusive ...

[Ss. 4 to 7 inclusive repealed by s. 50(1) of Act 107 of 1998.]

8 ...

[S. 8 amended by s. 8 of Act 94 of 1993 and repealed by s. 50(1) of Act 107 of 1998.]

9 ...

[S. 9 repealed by s. 50(1) of Act 107 of 1998.]

10 ...

[S. 10 amended by s. 8 of Act 94 of 1993 and by Proc. R29 of 7 April 1995 and repealed by s. 50(1) of Act 107 of 1998.]

11 ...

[S. 11 repealed by s. 50(1) of Act 107 of 1998.]

12 ...

[S. 12 substituted by s. 3 of Act 94 of 1993 and repealed by s. 50(1) of Act 107 of 1998.]

13 ...

[S. 13 amended by s. 5 of Act 79 of 1992, substituted by s. 4 of Act 94 of 1993 and repealed by s. 50(1) of Act 107 of 1998.]

14 ...

[S. 14 amended by s. 6 of Act 79 of 1992, and repealed by s. 50(1) of Act 107 of 1998.]

14A ...

[S. 14A inserted by s. 6 of Act 94 of 1993 and repealed by s. 50(1) of Act 107 of 1998.]

14B ...

[S. 14B inserted by s. 6 of Act 94 of 1993 and repealed by s. 50(1) of Act 107 of 1998.]

14C ...

[S. 14C inserted by s. 6 of Act 94 of 1993 and repealed by s. 50(1) of Act 107 of 1998.]

15 ...

[S. 15 repealed by s. 50(1) of Act 107 of 1998.]

**PART III
PROTECTION OF NATURAL
ENVIRONMENT (ss. 16-18)**

16 Protected natural environment

(1) A competent authority may by notice in the *Official Gazette* concerned declare any area defined by him, to be a protected natural environment and may allocate a name to such area: Provided that such protected natural environment may only be declared—

- (a) if in the opinion of the competent authority there are adequate grounds to presume that the declaration will substantially promote the preservation of specific ecological processes, natural systems, natural beauty or species of indigenous wildlife or the preservation of biotic diversity in general; and
- (b) after consultation with the owners of, and the holders of real rights in, land situated within the defined area: Provided that where such owners and holders cannot readily be located the competent authority shall give notice in the *Official Gazette* and in one Afrikaans and one English newspaper circulating within the district where the land is

[continued on page 1-39]

rence of the Minister of State Expenditure, determine in general or in any particular case. [Sub-s. (8) amended by s. 8 of Act 94 of 1993, Proc. R29 of 7 April 1995 and by Proc. R43 of 8 August 1996.]

[S. 17 repealed, by s. 90 of Act 57 of 2003, in a province with effect from the date of publication by the MEC of regulations under section 87 prescribing matters covered by s. 17.]

18 Special nature reserves

[S. 18 repealed by s. 90 of Act 57 of 2003.]

PART IV

CONTROL OF ENVIRONMENTAL POLLUTION (ss. 19–20)

19 Prohibition of littering

(1) No person shall discard, dump or leave any litter on any land or water surface, street, road or site in or on any place to which the public has access, except in a container or at a place which has been specially indicated, provided or set apart for such purpose.

(2) Every person or authority in control of or responsible for the maintenance of any place to which the public has access shall at all times ensure that containers or places are provided which will normally be adequate and suitable for the discarding of litter by the public.

19A Removal of litter

Notwithstanding the provisions of section 19(2) every person or authority in control of or responsible for the maintenance of any place to which the public has access, shall within a reasonable time after any litter has been discarded, dumped or left behind at such place (with the inclusion of any pavement adjacent to, or land situated between, such a place and a street, road or site used by the public to get access to such place) remove such litter or cause it to be removed.

[S. 19A inserted by s. 8 of Act 79 of 1992.]

20 Waste management

(1) No person may establish, provide or operate a disposal site without a permit issued by the Minister in terms of subsections (1) to (9).

(2) A person who wishes to provide or operate a disposal site must apply for a per-

mit referred to in subsection (1) in the prescribed form, supplying such information as may be prescribed.

(3) The Minister may —

- (a) issue a permit subject to such conditions as he or she considers fit;
- (b) alter or cancel any permit or condition in a permit;
- (c) refuse to issue a permit.

(4) The Minister may exempt any person or category of persons from having to obtain a permit, subject to such conditions as he or she considers fit.

(5) The Minister may require further information from the applicant for the purpose of enabling him or her to make a decision on an application.

(6) The issuing of a waste disposal site permit is subject to —

- (a) the concurrence of the Minister of Water Affairs and Forestry; and
- (b) the inclusion therein of the conditions contained in a Record of Decision issued by the Minister of Water Affairs and Forestry regarding any measures that the Minister of Water Affairs and Forestry considers necessary to protect a water resource as defined in the National Water Act, 1998 (Act 36 of 1998);
- (c) In the event of concurrence or conditions not being obtained as contemplated in paragraphs (a) and (b) within a reasonable time the matter shall be referred to the Fair Decision Making and Conflict Management provisions contained in Chapter 4, sections 17 to 22, of the National Environmental Management Act, 1998 (Act 107 of 1998), by the Minister.

(7) The Minister must maintain a register in which details of every disposal site for which a permit has been issued shall be recorded.

(8) The Minister may, by notice in the *Gazette*, issue directions with regard to —

- (a) the control and management of disposal sites in general;
- (b) the control and management of certain disposal sites or disposal sites handling particular types of waste; and
- (c) the procedure to be followed before any disposal site may be withdrawn from use or utilized for another purpose.

(9) Subject to the provisions of any other law, no person shall discard waste or dispose of it in any other manner, except —

- (a) at a disposal site for which a permit has been issued in terms of this section; or
- (b) in a manner or by means of a facility or method and subject to such conditions as the Minister may prescribe.

(10) Anything done in terms of this section by the Minister of Water Affairs and Forestry prior to the commencement of the Environment Conservation Amendment Act, 2003, shall be deemed to have been done by the Minister.

[S. 20 amended by s. 9 of Act 79 of 1992 and substituted by s. 1 of Act 50 of 2003, with effect from 3 January 2006.]

PART V

CONTROL OF ACTIVITIES WHICH MAY HAVE DETRIMENTAL EFFECT ON THE ENVIRONMENT (ss. 21–23)

21 Identification of activities which will probably have detrimental effect on environment

(1) The Minister may by notice in the *Gazette* identify those activities which in his opinion may have a substantial detrimental effect on the environment, whether in general or in respect of certain areas.

(2) Activities which are identified in terms of subsection (1) may include any activity in any of the following categories, but are not limited thereto:

- (a) Land use and transformation;
- (b) water use and disposal;
- (c) resource removal, including natural living resources;
- (d) resource renewal;
- (e) agricultural processes;
- (f) industrial processes;
- (g) transportation;
- (h) energy generation and distribution;
- (i) waste and sewage disposal;
- (j) chemical treatment;
- (k) recreation.

(3) The Minister identifies an activity in terms of subsection (1) after consultation with —

- (a) the Minister of each department of State responsible for the execution, approval or control of such activity;
- (b) the Minister of State Expenditure; and

[Para. (b) amended by s. 8 of Act 94 of 1993.]

- (c) the competent authority of the province concerned.

[Para. (c) amended by Proc. R43 of 8 August 1996.]

[Sub-s. (3) substituted by s. 10 of Act 79 of 1992.]

[S. 21 repealed by s. 50(2) of Act 107 of 1998, with effect from a date to be proclaimed.]

22 Prohibition on undertaking of identified activities

(1) No person shall undertake an activity identified in terms of section 21(1) or cause such an activity to be undertaken except by virtue of a written authorization issued by the Minister or by a competent authority or a local authority or an officer, which competent authority, authority or officer shall be designated by the Minister by notice in the *Gazette*.

[Sub-s. (1) amended by Proc. R43 of 8 August 1996.]

(2) The authorization referred to in subsection (1) shall only be issued after consideration of reports concerning the impact of the proposed activity and of alternative proposed activities on the environment, which shall be compiled and submitted by such persons and in such manner as may be prescribed.

(3) The Minister or the competent authority, or a local authority or officer referred to in subsection (1), may at his or its discretion refuse or grant the authorization for the proposed activity or an alternative proposed activity on such conditions, if any, as he or it may deem necessary.

[Sub-s. (3) amended by Proc. R43 of 8 August 1996.]

(4) If a condition imposed in terms of subsection (3) is not being complied with, the Minister, any competent authority or any local authority or officer may withdraw the authorization in respect of which such condition was imposed, after at least 30 days' written notice was given to the person concerned.

[Sub-s. (4) amended by Proc. R43 of 8 August 1996.]

[S. 22 substituted by s. 11 of Act 79 of 1992, and repealed by s. 50(2) of Act 107 of 1998, with effect from a date to be proclaimed.]

23 Limited development areas

(1) A competent authority may by notice in the *Official Gazette* declare any area defined by him or her, as a limited development area.

(2) No person shall undertake in a limited development area any development or activity prohibited by the competent authority by notice in the *Official Gazette* or cause such development or activity to be undertaken unless he or

she has on application been authorized thereto by the competent authority, or by a local authority designated by the competent authority by notice in the *Official Gazette*, on the conditions contained in such authorization.

(3) In considering an application for an authorization referred to in subsection (2) the competent authority or the designated local authority may request the person to submit a report as prescribed, concerning the influence of the proposed activity on the environment in the limited development area.

(4) A limited development area shall not be declared unless the competent authority —

- (a) has given notice in the *Official Gazette* and in not fewer than one English and one Afrikaans newspaper circulating in the area in question of his or her intention to declare such area as a limited development area;
- (b) has permitted not fewer than 60 days for the submission to the Director-General of the provincial administration concerned, of comment on the proposed declaration;
- (c) has considered all representations received in terms of such notice; and
- (d) has consulted each Minister charged with the administration of any law which in the opinion of the competent authority relates to a matter affecting the environment in that area.

[S. 23 amended by s. 12 of Act 79 of 1992, substituted by Proc. R29 of 7 April 1995 and amended by Proc. R43 of 8 August 1996.]

PART VI

REGULATIONS (ss. 24–28A)

24 Regulations regarding waste management

The Minister may make regulations with regard to waste management, concerning —

- (a) the manner in which an application for a permit in terms of section 20(1) shall be submitted;
- (b) the submission, subject to the provisions of section 3(3) of the Statistics Act, 1976 (Act 66 of 1976), of statistics on the quantity and types of waste produced;
- (c) the classification of different types of waste and the handling, storage, transport and disposal of such waste;

[Para. (b) substituted by s. 13 of Act 79 of 1992.]

- (d) the reduction of waste by
 - (i) modifications in the design and marketing of products;
 - (ii) modifications to manufacturing processes; and
 - (iii) the use of alternative products;
- (e) the utilization of waste by way of recovery, re-use or processing of waste;
- (f) the location, planning and design of disposal sites and sites used for waste disposal;
- (g) control over the management of sites, installations and equipment used for waste disposal;
- (h) the administrative arrangements for the effective disposal of waste;
- (i) the dissemination of information to the public on effective waste disposal;
- (j) control over the import and export of waste;
- (k) any other matter which he may deem necessary or expedient in connection with the effective disposal of waste for the protection of the environment; and
- (l) the imposition of compulsory charging, deposits or related financial measures on waste types or specified items in waste types with the concurrence of the Minister of Finance.

[Para. (l) inserted by s. 2 of Act 50 of 2003].

24A Regulations regarding littering

The competent authority may make regulations with regard to the control of the dumping of litter, concerning —

- (a) the nature, design, number, provision and placing of containers for the dumping of litter;
- (b) the nature, design, number, provision and placing of notices in respect of the dumping of litter;
- (c) the cleaning, clearing away and removal of litter and the emptying and maintenance of containers for the dumping of litter;
- (d) any other facilities or methods to prevent the dumping of litter, as well as programmes for the clearing away of litter;
- (e) the powers of the provincial administration, local authorities or government institutions to control and prevent the dumping of litter; and
- (f) any other matter which he deems necessary.

[Para. (e) amended by Proc. R29 of 7 April 1995.]

sary or desirable to control and prevent the dumping of litter.

[S. 24A inserted by s. 14 of Act 79 of 1992 and amended by Proc. R29 of 7 April 1995 and Proc. R43 of 8 August 1996.]

24B Regulations regarding products

The Minister may make regulations with regard to the prohibition, control, sale, distribution, import or export of products that may have a substantial detrimental effect on the environment or on human health.

[S. 24B inserted by s. 3 of Act 50 of 2003.]

24C Procedure for making regulations

(1) Before making a regulation under section 24(1) or 24B, the Minister must —

- (a) publish a notice in the *Gazette* setting out the draft regulations;
- (b) notify the Presiding Officer of both Houses of Parliament of such publication; and
- (c) invite written comments on the draft regulations to be submitted to the Minister within a period of 30 days of publication of such notice.

(2) Prior to publishing final regulations the Minister must consider the comments referred to in subsection (1).

(3) Any regulation made under section 24 (1) or 24B is not subject to the publication for comment requirements contained in section 32.

[S. 24C inserted by s. 3 of Act 50 of 2003.]

25 Regulations regarding noise, vibration and shock

The Minister may make regulations with regard to the control of noise, vibration and shock, concerning —

- (a) the definition of noise, vibration and shock;
- (b) the prevention, reduction or elimination of noise, vibration and shock;
- (c) the levels of noise, vibration and shock which shall not be exceeded, either in general or by specified apparatus or machinery or in specified instances or places;
- (d) the type of measuring instrument which can be used for the determination of the levels of noise, vibration and shock, and the utilization and calibration thereof;
- (e) the powers of provincial administrations and local authorities to control noise, vibration and shock; and
- (f) any other matter which he may deem necessary or expedient in connection with the effective control and combating of noise, vibration and shock.

26 Regulations regarding environmental impact reports

The Minister or a competent authority, as the case may be, may make regulations with regard to any activity identified in terms of section 21(1) or prohibited in terms of section 23(2), concerning —

- (a) the scope and content of environmental impact reports, which may include, but are not limited to —
 - (i) a description of the activity in question and of alternative activities;
 - (ii) the identification of the physical environment which may be affected by the activity in question and by the alternative activities;

- (iii) an estimation of the nature and extent of the effect of the activity in question and of the alternative activities on the land, air, water, biota and other elements or features of the natural and man-made environments;
- (iv) the identification of the economic and social interests which may be affected by the activity in question and by the alternative activities;
- (v) an estimation of the nature and extent of the effect of the activity in question and the alternative activities on the social and economic interests;
- (vi) a description of the design or management principles proposed for the reduction of adverse environmental effects; and
- (vii) a concise summary of the finding of the environmental impact report;
- (a) the drafting and evaluation of environmental impact reports and of the effect of the activity in question and of the alternative activities on the environment; and
- (b) the procedure to be followed in the course of and after the performance of the activity in question or the alternative activities in order to substantiate the estimations of the environmental impact report and to provide for preventative or additional actions if deemed necessary or desirable.

[S. 26 amended by s. 15 of Act 79 of 1992, Proc. R29 of 7 April 1995 and by Proc. R43 of 8 August 1996, and repealed by s. 50(2) of Act 107 of 1998, with effect from a date to be proclaimed.]

27 Regulations regarding limited development areas

The competent authority may make regulations with regard to limited development areas, concerning —

- (a) the imposition of restrictions on the nature and extent of development or activities in connection with development in such area;
- (b) the procedure to be followed for obtaining permission for development in such area; and
- (c) the repair of damage to the environment in such area by unauthorized development or activities.

[S. 27 amended by Proc. R29 of 7 April 1995 and Proc. R43 of 8 August 1996.]

27A ...

[S. 27A inserted by s. 4 of Act 52 of 1994 and repealed by s. 50(1) of Act 107 of 1998.]

28 General regulatory powers

Any regulation made under this Part—

- (a) may assign functions to any provincial administration or any local authority;
- (b) may relate to the qualifications, powers and duties of officers enforcing the provisions of this Act, including the power to seize any book, document, vehicle or other thing which such officer deems necessary in the execution of his functions;
- (c) ...

[Para. (c) deleted by s. 5 of Act 52 of 1994.]

- (d) may provide that an officer, local authority or government institution may by notice call upon a person contravening a provision of this Act to take certain steps or to cease certain activities within a specified period;
- (e) may provide that any person who contravenes, or who fails to comply with, any provision thereof, shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed, and, in the event of a continuing contravention, to a fine not exceeding R250 or to imprisonment for a period not exceeding 20 days or to both such fine and such imprisonment in respect of every day on which such contravention continues;
- (f) may be made in respect of different regions or different matters which the Minister or a competent authority, as the case may be, may deem necessary or expedient;
- (g) may relate to any matter which in terms of this Act shall or may be prescribed by regulation;
- (h) may in general relate to any matter which aims at furthering the objects of this Act;

[Para. (f) substituted by Proc. R29 of 7 April 1995 and amended by Proc. R43 of 8 August 1996.]

- (i) (i) which will entail the expenditure of State funds shall be made only with the concurrence of the Minister of State Expenditure;

[Sub-para. (i) amended by s. 8 of Act 94 of 1993.]

(ii) ...

[Sub-para. (ii) deleted by s. 16 of Act 79 of 1992.]

(iii) ...

[Sub-para. (iii) substituted by s. 2 of Act 98 of 1991 and deleted by s. 16 of Act 79 of 1992.]

28A Exemption to persons, local authorities and government institutions from application of certain provisions

(1) Any person, local authority or government institution may in writing apply to the Minister or a competent authority, as the case may be, with the furnishing of reasons, for exemption from the application of any provision of any regulation, notice or direction which has been promulgated or issued in terms of this Act.

(2) In order to enable him to make a decision on an application in terms of subsection (1), the Minister or a competent authority, as the case may be, may call for further information from the applicant.

(3) The Minister or a competent authority, as the case may be, may after considering an application—

- (a) refuse to grant exemption;
- (b) in writing grant exemption from compliance with any of or all the provisions of any regulation, notice or direction, subject to such conditions as he may deem fit.

(4) If any condition referred to in subsection (3)(b) is not being complied with, the Minister or a competent authority, as the case may be, may in writing withdraw the exemption concerned or at his discretion determine new conditions.

(5) The Minister or a competent authority, as the case may be, may from time to time review any exemption granted or condition determined, and if he deems it necessary,

withdraw such exemption or delete or amend such condition.

[S. 28A inserted by s. 17 of Act 79 of 1992 and amended by Proc. R29 of 7 April 1995 and Proc. R43 of 8 August 1996.]

PART VII

OFFENCES, PENALTIES AND FORFEITURE (ss. 29–30)

29 Offences and penalties

(1) Any person—

- (a) who, having been duly summoned to appear at proceedings under section 15, fails without lawful excuse so to appear; or
 - (b) who, having appeared as a witness at proceedings under section 15, refuses without lawful excuse to be sworn or to make affirmation or to produce any book, document or thing or to answer any question which he may be lawfully required to produce or answer,
- shall be guilty of an offence.

(2) Any person—

- (a) referred to in section 16(3) who contravenes any provision of a direction issued under section 16(2) or fails to comply therewith; or
- (b) who contravenes a provision of section 18(6) or a condition of an exemption in terms of section 18(7),

shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) Any person who contravenes a provision of section 19 or 19A or fails to comply therewith, or fails to comply with a direction in terms of section 31A (1) or (2), or prevents any person authorized in terms of section 41A to enter upon such land or hinders him in the execution of his powers, shall be guilty of an offence and liable on conviction to a fine, or

to imprisonment for a period not exceeding three months.

[Sub-s. (3) substituted by s. 18 of Act 79 of 1992.]

(4) Any person who contravenes a provision of section 20(1), 20(6), 22(1) or 23(2) or a direction issued under section 20(5) or fails to comply with a condition of a permit, permission, authorization or direction issued or granted under the said provisions shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any thing in respect of which the offence was committed.

(5) Any person convicted of an offence in terms of this Act for which no penalty is expressly provided, shall be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(6) Any person convicted of an offence in terms of this Act, and who after such conviction persists in the act or omission which constituted such offence, shall be guilty of a continuing offence and liable on conviction to a fine not exceeding R250 or to imprisonment for a period not exceeding 20 days or to both such fine and such imprisonment in respect of every day on which he so persists with such act or omission.

(7) In the event of a conviction in terms of this Act the court may order that any damage to the environment resulting from the offence be repaired by the person so convicted, to the satisfaction of the Minister, the competent authority concerned, or the local authority concerned.

[Sub-s. (7) amended by Proc. R29 of 7 April 1995.]

(8) If within a period of 30 days after a conviction or such longer period as the court may determine at the time of the conviction, an order in terms of subsection (7) is not being complied with, the Minister, the competent authority concerned, or local authority concerned may itself take the necessary steps to repair the damage and recover the cost thereof from the person so convicted.

[Sub-s. (8) amended by Proc. R29 of 7 April 1995 and Proc. R43 of 8 August 1996.]

(9) Notwithstanding anything to the contrary in any law contained, a magistrate's

court shall be competent to impose any penalty provided for in this Act.

30 Forfeiture

(1) Notwithstanding anything to the contrary in any law contained, a court convicting any person of an offence under this Act may declare any vehicle or other thing by means whereof the offence concerned was committed or which was used in the commission of such offence, or the rights of the convicted person to such vehicle or other thing, to be forfeited to the State.

(2) A declaration of forfeiture under subsection (1) shall not affect the rights which any person other than the convicted person may have to the vehicle or other thing concerned, if it is proved that he did not know that the vehicle or other thing was used or would be used for the purpose of or in connection with the commission of the offence concerned or that he could not prevent such use.

(3) The provisions of section 35(3) and (4) of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall *mutatis mutandis* apply to any declaration of forfeiture under this section.

PART VIII

GENERAL PROVISIONS (ss. 31-46)

31 Powers of Minister and competent authority in case of default by local authority

(1) If in the opinion of the competent authority of the province in question, any local authority fails to perform any function assigned to it by or under this Act, that competent authority may, after affording that local authority an opportunity of making representations to him, in writing direct such local authority to perform such function within a period specified in the direction, and if that local authority fails to comply with such direction, the competent authority may perform such function as if he were that local authority and may authorize any person to take all steps required for that purpose.

(2) Any expenditure incurred by the competent authority in the performance of any function by virtue of the provisions of sub

section (1), may be recovered from the local authority concerned.

(3) Whenever in the opinion of the Minister a local authority has failed to perform a function in terms of subsection (1), the Minister may request the competent authority in question to act in terms of subsection (1), and if the competent authority fails within 90 days after the date of such request to act accordingly, the Minister may do anything which the competent authority could have done, and the provisions of subsections (1) and (2) shall apply *mutatis mutandis* with reference to the Minister and anything done by him or under his authority.

[S. 31 amended by Proc. R43 of 8 August 1996.]

31A Powers of Minister, competent authority, local authority or government institution where environment is damaged, endangered or detrimentally affected

(1) If, in the opinion of the Minister or the competent authority, local authority or government institution concerned, any person performs any activity or fails to perform any activity as a result of which the environment is or may be seriously damaged, endangered or detrimentally affected, the Minister, competent authority, local authority or government institution, as the case may be, may in writing direct such person—

- (a) to cease such activity; or
- (b) to take such steps as the Minister, competent authority, local authority or government institution, as the case may be, may deem fit,

within a period specified in the direction, with a view to eliminating, reducing or preventing the damage, danger or detrimental effect.

(2) The Minister or the competent authority, local authority or government institution concerned may direct the person referred to in subsection (1) to perform any activity or function at the expense of such person with a view to rehabilitating any damage caused to the environment as a result of the activity or failure referred to in subsection (1), to the satisfaction of the Minister, competent authority, local authority or government institution, as the case may be.

(3) If the person referred to in subsection (2) fails to perform the activity or function, the Minister, competent authority, local authority or government institution, depending on who or which issued the direction, may perform such activity or function as if he or it were that person and may authorize any person to take all steps required for that purpose.

(4) Any expenditure incurred by the Minister, a competent authority, a local authority or a government institution in the performance of any function by virtue of the provisions of subsection (3), may be recovered from the person concerned.

[S. 31A inserted by s. 19 of Act 79 of 1992 and amended by Proc. R43 of 8 August 1996.]

32 Publication for comment

(1) If the Minister, the Minister of Water Affairs, a competent authority or any local authority, as the case may be, intends to—

- (a) issue a regulation or a direction in terms of the provisions of this Act;
- (b) make a declaration or identification in terms of section 16(1), 18(1), 21(1) or 23(1); or
- (c) determine a policy in terms of section 2, a draft notice shall first be published in the *Gazette* or the *Official Gazette* in question, as the case may be.

[Sub-s. (1) amended by Proc. R43 of 8 August 1996.]

(2) The draft notice referred to in subsection (1) shall include—

- (a) the text of the proposed regulation, direction, declaration, identification or determination of policy;
- (b) a request that interested parties shall submit comments in connection with the proposed regulation, direction, declaration, identification or determination of policy within the period stated in the notice, which period shall not be fewer than 30 days after the date of publication of the notice;
- (c) the address to which such comments shall be submitted.

(3) If the Minister, competent authority or local authority concerned thereafter determines on any alteration of the draft notice published as aforesaid, it shall not be neces-

sary to publish such alteration before finally issuing the notice.

[Sub-s. (3) amended by Proc. R43 of 8 August 1996.]

33 Delegation

(1) The Minister, the Minister of Water Affairs, a competent authority, a local authority or a government institution may on such conditions as he or it may deem fit delegate or assign any power or duty conferred upon or assigned to him or it by or under this Act, excluding any power referred to in sections 2, 16(2), 18(1), 18(4), 24, 25, 26, 27 and 28, to, respectively, any officer or employee of the Department, the Department of Water Affairs or the provincial administration or local authority or government institution concerned.

[Sub-s. (1) amended by Proc. R43 of 8 August 1996.]

(2) The Director-General may, on such conditions as he may deem fit, delegate or assign any power or duty conferred upon or assigned to him by or under this Act, to any officer or employee of the Department.

[S. 33 substituted by s. 20 of Act 79 of 1992 and by s. 3 of Act 189 of 1993.]

34 Compensation for loss

(1) If in terms of the provisions of this Act limitations are placed on the purposes for which land may be used or on activities which may be undertaken on the land, the owner of, and the holder of a real right in, such land shall have a right to recover compensation from the Minister or competent authority concerned in respect of actual loss suffered by him consequent upon the application of such limitations.

[Sub-s. (1) amended by Proc. R43 of 8 August 1996.]

(2) The amount so recoverable shall be determined by agreement entered into between such owner or holder of the real right and the Minister or competent authority, as the case may be, with the concurrence of the Minister of State Expenditure.

[Sub-s. (2) amended by s. 8 of Act 94 of 1993 and Proc. R43 of 8 August 1996.]

(3) In the absence of such agreement the amount so to be paid shall be determined by a court referred to in section 14 of the Expropriation Act, 1975 (Act 63 of 1975), and the provisions of that section and section

15 of that Act shall *mutatis mutandis* apply in determining such amount.

35 Appeal to Minister or competent authority

(1) Any person who feels aggrieved at a decision referred to in section 20 in respect of which a power has been delegated to an officer or employee under section 33 may appeal against such decision to the Minister of Water Affairs in the prescribed manner, within the prescribed period and upon payment of the prescribed fee.

(2) Any person who feels aggrieved at a decision of an officer or employee enforcing a provision of this Act in respect of a protected natural environment may appeal against such decision to the competent authority concerned, in the prescribed manner, within the prescribed period and upon payment of the prescribed fee.

[Sub-s. (2) amended by Proc. R43 of 8 August 1996.]

(3) Subject to the provisions of subsections (1) and (2) any person who feels aggrieved at a decision of an officer or employee exercising any power delegated to him in terms of this Act or conferred upon him by regulation, may appeal against such decision to the Minister or the competent authority concerned, as the case may be, in the prescribed manner, within the prescribed period and upon payment of the prescribed fee.

[Sub-s. (3) amended by Proc. R29 of 7 April 1995 and Proc. R43 of 8 August 1996.]

(4) The Minister, the Minister of Water Affairs or a competent authority, as the case may be, may, after considering such an appeal, confirm, set aside or vary the decision of the officer or employee or make such order as he may deem fit, including an order that the prescribed fee paid by the applicant or such part thereof as the Minister or competent authority concerned may determine be refunded to that person.

[Sub-s. (4) amended by Proc. R43 of 8 August 1996.]

36 Review by court

(1) Notwithstanding the provisions of section 35, any person whose interests are affected by a decision of an administrative body under this Act, may within 30 days after having become aware of such decision, re-

Reasons for decision

quest such body in writing to furnish reasons for the decision within 30 days after receiving the request.

(2) Within 30 days after having been furnished with reasons in terms of subsection (1), or after the expiration of the period within which reasons had to be so furnished by the administrative body, the person in question may apply to a division of the Supreme Court having jurisdiction, to review the decision.

37 Restriction of liability

No person, including the State, shall be liable in respect of anything done in good faith in the exercise of a power or the performance of a duty conferred or imposed in terms of this Act.

38 ...

[S. 38 repealed by s. 50(1) of Act 107 of 1998.]

39 ...

[S. 39 repealed by Proc. R29 of 7 April 1995.]

40 State bound

The provisions of this Act shall bind the State, including any provincial administration, except in so far as criminal liability is concerned.

41 Application of Act

(1) This Act shall also apply in respect of the Prince Edward Islands as defined in section 1 of the Prince Edward Islands Act, 1948 (Act 43 of 1948).

(2) ...

[Sub-s. (2) repealed by s. 60 of Act 25 of 1999.]

41A Right to enter upon land

(1) Any person authorized thereto in

writing by the Minister or a competent authority as the case may be, may after reasonable notice to the owner or occupier of any land, at any reasonable time enter upon that land in order to investigate whether any action is necessary in order to give effect to the objects of this Act, or to determine whether the provisions of this Act or a regulation, notice, authorization, instruction or any direction promulgated, issued, granted or made thereunder or any condition imposed thereunder or contained in any authorization, instruction or direction has been complied with.

[Sub-s. (1) amended by Proc. R29 of 7 April 1995 and Proc. R43 of 8 August 1996.]

(2) A person authorized under subsection (1) shall not exercise any power or perform any duty unless he is in possession of the authorization concerned.

(3) An authorized person shall produce his authorization at the request of any person having a material interest in the matter concerned.

[S. 41A inserted by s. 21 of Act 79 of 1992.]

42 Repeal of laws, and savings

(1) Subject to the provisions of subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent set out in the third column thereof.

(2) Anything done under any provision of a law repealed by subsection (1) and which could have been done under a provision of this Act shall be deemed to have been done under the latter provision.

43 Amendment of section 1 of Act 88 of 1967

Amends section 1 of the Physical Planning Act 88 of 1967 by deleting the definition of 'nature area'.

GENERAL POLICY IN TERMS OF THE ENVIRONMENT CONSERVATION ACT 73 OF 1989

as promulgated in

GN 51 GG 15428 of 21 January 1994

Under section 2(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989) I, Jacob Albertus van Wyk, Minister of Environment Affairs, after consultation with each Minister who is charged with any law which in my opinion relates to a matter affecting the environment, the Minister of State Expenditure, the Administrator of each province and the Council for the Environment, hereby determine the general policy as set out in the Schedule to this notice.

J. A. VAN WYK,

Minister of Environment Affairs.

SCHEDULE

GENERAL ENVIRONMENTAL POLICY

PREAMBLE

The environmental policy is based on the following premises and principles:

- Every inhabitant of the Republic of South Africa has the right to live, work and relax in a safe, productive, healthy and aesthetically and culturally acceptable environment and therefore also has a personal responsibility to respect the same right of his fellowman.
- Every generation has an obligation to act as a trustee of its natural environment and cultural heritage in the interest of succeeding generations. In this respect, sobriety, moderation and discipline are necessary to restrict the demand for fulfilment of needs to sustainable levels.
- Every inhabitant of the Republic of South Africa has the responsibility to regulate the size of his family to such an extent as to ensure that the population growth be kept within the confines of available resources so as to make possible a meaningful life for his descendants.
- The State, every person and every legal entity has a responsibility to consider all activities that may have an influence on the environment duly and to take all reasonable steps to promote the protection, maintenance and improvement of both the natural environment and the human living environment.
- The maintenance of natural systems and ecological processes and the protection of all species, diverse habitats and land forms is essential for the survival of all life on earth.
- Renewable resources are part of complex and interlinked ecosystems and must through proper planning and judicious management be maintained for sustainability. Non-renewable natural resources are limited and their utilisation must be extended through judicious use and maximum reuse of materials with the object of combating further over-exploitation of these resources.
- The concept of sustainable development is accepted as the guiding principle for environmental management. Development and educational programmes are necessary to promote economic growth, social welfare and environmental awareness, to improve standards of living and to curtail the growth in the human population. Such programmes must be formulated and applied with due regard for environmental considerations.
- A partnership must be established between the State and the community as a whole, the private sector, developers, commerce and industry, agriculture, local community organisations, non-Governmental organisations (representing other relevant players), and the international community so as to pursue environmental goals collectively.

Environmental Management System

Each Minister, Administrator, local authority and government institution upon which any power has been conferred or to which any duty which may have an influence on the environment has been assigned by or under any act shall exercise such power and perform such duty with a view to promoting the objectives stated in section 2 of the Environment Conservation Act, 1989 (Act No.73 of 1989).

Every Government department and institution will accept full accountability for the consequences that the activities within its field of responsibility may have on the environment.

The Department of Environment Affairs must conduct a continuous process of consultation, co-ordination, policy formulation, planning, legislation, monitoring and evaluation that is designed to direct and influence the activities of all Government institutions, non-Governmental organisations, private entrepreneurs and other participants in such a way that policy objectives are pursued.

Although environmental matters are primarily the responsibility of the Central Government, executive responsibilities should, as far as possible, be devolved to regional and provincial governments and local authorities according to national norms, standards and guidelines established by the Central Government. Regional governments will be responsible for all regional environmental matters. Regional governments must, however have the financial means and proven expertise to perform such functions.

Organisations, companies and other players whose activities may have an impact on the environment must be encouraged to establish and implement formal environmental management systems based on acceptable standards and guidelines so as to enable them to exercise self-control over any of their activities that may influence the environment.

POLICY

Environmental education

Since environmental awareness, knowledge and understanding are prerequisites for establishing a responsible national environmental ethos, measures must be taken to promote environmental education in formal

education, and also by means of informal instruction, museums and the media. Furthermore, where possible, an awareness must be cultivated of the negative impact of excessive population growth, excessive economic development and the other-exploitation or pollution of resources.

Land use

Judicious use of land is an important foundation of environmental management. All government institutions, and also private owners and developers, must therefore plan all physical activities, for example forestry, mining, road building, water storage and supply, agriculture, industrial activities and urban development in such a way as to minimise the harmful impact on the environment and on man and, where necessary, to facilitate rehabilitation. A balance must be maintained between environmental conservation and essential development. Before embarking on any large-scale or high-impact development project, a planned analysis must be undertaken in which all interested and affected parties must be involved. In order to attain the sustainable utilisation of resources, the principles of integrated environmental management are accepted as one of the management mechanisms.

Particular efforts must be made to conserve valuable high-potential agricultural land for agricultural purposes, to protect water resources and sites and objects of significant cultural interest; to combat deforestation of indigenous forests, soil erosion, desertification; and to prevent the destruction of wetlands and other environmentally sensitive areas. Among the main attractions South Africa has to offer as a tourist destination are its aesthetic qualities and the scenic beauty of the environment, assets that must also be considered. Scientific conservation principles must be applied in all land-use planning.

Nature conservation

A national nature conservation plan, including the compilation of a complete inventory of and a classification system for protected areas will be developed by the Department of Environment Affairs to ensure the maintenance of South Africa's biodiversity. The objective is the establishment of a

representative system of protected areas with a rational coverage and distribution to include the various veld types, biomes and land forms. The interests and wishes of local populations must be considered in the establishment of each new protected area. Effective management and control should be established to make possible the sustainable use of economically viable natural resources, for example game, marine resources, veld and natural forests.

The maintenance of the ecological integrity and natural attractiveness of protected areas must be pursued as a primary objective.

All responsible government institutions must apply appropriate measures, based on sound scientific knowledge, to ensure the protection of designated ecologically sensitive and unique areas, for example wilderness areas, fynbos, grasslands, wetlands, islands, mountain catchment areas, indigenous forests, deserts, Antarctica and the coastal zone.

Cultural heritage

South Africa has a wide variety of cultural groups, each attaching certain values to their cultural heritage. Cultural assets such as rock art, archaeological sites and implements, historical equipment, transport, weapons and artwork; ancestral graves; sites of religious significance; geological sites and aesthetic and culturally significant man-made landscapes are also to be found in close relationship with the natural environment.

The conservation of these rich cultural assets, be they proclaimed historical buildings of national importance or simply elements of local significance, must be integrated into the process of environmental management. In particular, it must be ensured that the maintenance of cultural assets is taken into account in all development projects and that the needs of the local communities are honoured in this respect.

The urban environment

Urban development and management must as far as possible be guided in such a manner that all the inhabitants can live a healthy, safe and dignified life in an aesthetically and culturally acceptable environment. This would include the following:

- ▷ A holistic environmental approach will form an integral part of all facets of urban planning and development. This includes the built environment and natural environmental elements taking into account the socio-economic factors. Consultation with all interested and affected parties is a fundamental element of this policy.
- ▷ A compact and functionally more efficient city structure will be pursued with a continued emphasis on orderly spatial development to make the maximum use of available land possible. Buffer zones should be established between residential and industrial areas.
- ▷ All development will be planned and managed in such a way that all forms of pollution are, where possible, eliminated.
- ▷ Environmental expertise and the involvement of local communities will be promoted in order to ensure acceptable standards and living conditions.

Pollution control

In the first instance pollution, of whatever nature, should be prevented by formulating an effective comprehensive policy, the promulgation of appropriate legislation, the establishment and maintenance of norms and standards, the application of the best practicable environmental options based on the most suitable available technology, the fostering of positive attitudes among industrialists and the public, and participation in international co-operation.

A national strategy for integrated waste management and integrated pollution control will be developed in which the elements of responsibility, accountability, minimising, treatment and reuse will enjoy priority. No hazardous waste will be imported into South Africa for disposal unless it is in accordance with international agreements. Disposal into the atmosphere, land and water environments should be limited to acceptable levels and standards. Protection against hazardous waste, the control of environmentally detrimental agricultural, trade or industrial practices and the promotion of recycling will be included in the strategy.

The safe management of hazardous materials will be arranged in accordance with

internationally accepted standards and practices.

Conservation of natural resources

The needs of the entire development spectrum must be considered in the generation and supply of electricity. Therefore, for practical and realistic reasons methods directed, on the one hand, at the more effective and cleaner use of fossil fuels and, on the other hand, at cost-effective utilisation of independent, renewable energy-based systems must be promoted. The electrification of urban and rural areas will be promoted as far as is economically affordable. Appropriate funding for rural electrification for the benefit of the whole community should be found and applied.

The use of nuclear energy will be considered, provided that it can be justified and is used in a safe and responsible manner. The increased use of solar energy must also be pursued.

Water resources will be used judiciously and measures will be taken to ensure that South Africa's available water resources are utilised to the optimum for household, agricultural, forestry, industrial, recreational and nature conservation purposes and for the maintenance of ecosystems. Water schemes should be developed in such a way that they also meet the needs of rural and local communities.

Resources protection, reuse and the judicious utilisation of all renewable and non-renewable natural resources are critical environmental issues.

Economic measures

Where appropriate, environmental resource economic measures should be employed to:

- ▷ support economic growth and social welfare without overstraining or irreversibly

damaging the environment and natural resources in the process;

- ▷ ensure equitable access to resources for all communities without jeopardising the interests of future generations;
- ▷ internalise external environmental costs as part of exploitation and production costs, having due regard to the economic implications;
- ▷ promote the reduction of the waste stream and pollution to levels that can be naturally absorbed without deleterious effect; and
- ▷ promote the use of appropriate innovative technologies that can make a specific contribution towards sustainable development.

Research

Purposeful environmental research, including research on aspects that have an influence on the environment and that may result in external or social costs, will be initiated, encouraged and supported so that priority fields enjoy preference, manpower and financial resources are used to the optimum and unnecessary duplication is avoided. The active application of useful results will be ensured.

International co-operation

International and regional co-operation in environmental matters will be maintained and extended. The maintenance and extension of international protocols and conventions and the international treaties to which South Africa is already a party will be purposefully pursued. South Africa will enter into multi-lateral and bilateral agreements when it is to the benefit of the country and/or the international environmental cause.

(21 January 1994)

GENERAL POLICY IN TERMS OF THE ENVIRONMENT CONSERVATION ACT 73 OF 1989— CONTROL OF VEHICLES IN THE COASTAL ZONE

as promulgated in
GN 858 GG 15655 of 29 April 1994

Under section 2(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989), I, Jacob Albertus van Wyk, Minister of Environment Affairs, after consultation with each Minister who is charged with any law which in my opinion relates to a matter affecting the environment, the Minister of State Expenditure, the Administrator of each province and the Council for the Environment, hereby determine the general policy for the control of vehicles in the coastal zone as set out in the Schedule to this notice.

J. A. VAN WYK,

Minister of Environment Affairs.

SCHEDULE

1 Introduction

The use of vehicles for recreational purposes in the coastal zone is increasing. This use is often associated with increasing damage to coastal ecosystems and historical and palaeontological sites, and it diminishes the quality of the recreational experience of other beach users.

2 Determination of policy for the control of vehicles in the coastal zone

In order to protect the coastal environment, the use of vehicles in the coastal zone must be controlled on a national basis. Effective control will protect coastal ecosystems and historical and palaeontological sites, and promote the safety and well-being of other beach users.

The following steps are necessary in this regard:

- 2.1 The zoning of the coastal zone to make provision for the protection of ecologically sensitive areas, historical and palaeontological sites and for various recreational activities;
- 2.2 the exclusion in principle of vehicles from the coastal zone, subject to the introduction of a permit system to allow vehicles as an exception in specific demarcated areas; and
- 2.3 the strict enforcement of the following control measures.

3 Control measures

The following control measures apply to vehicles used for recreational purposes. These measures are not applicable to official or emergency vehicles on duty, vehicles used in approved scientific research projects, or vehicle use required for approved diamond mining activities.

3.1 Identification of areas in the coastal zone which must be closed to vehicles

The following areas must be closed to vehicles:

- 3.1.1 *Bathing areas* where facilities have been provided for the convenience of bathers;
- 3.1.2 *beach areas* adjacent to bathing areas which are used by the public for strolling;
- 3.1.3 *ecologically sensitive areas*, including dunes, estuarine salt marshes adjacent to estuaries, estuarine inter-tidal sand and mud flats, bird and turtle nesting areas, beaches with steep gradients or any other ecologically sensitive area;
- 3.1.4 *protected areas* which have been specifically established to conserve the coastal environment, such as national parks, nature reserves and wilderness areas.
- 3.1.5 any *historical or palaeontological site* which falls outside the areas described in 3.1.3 and 3.1.4 above.

GENERAL POLICY IN TERMS OF THE ENVIRONMENT CONSERVATION ACT 73 OF 1989— TERRESTRIAL AND MARINE PROTECTED AREAS

as promulgated in
GN 449 GG 15726 of 9 May 1994

Under section 2(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989), I, Jacob Albertus van Wyk, Minister of Environment Affairs, after consultation with each Minister who is charged with any law which in my opinion relates to a matter affecting the environment, the Minister of State Expenditure, the Administrator of each province and the Council for the Environment, hereby determine the general policy as set out in the Schedule to this notice.

J. A. VAN WYK,
Minister of Environment Affairs.

SCHEDULE

CLASSIFICATION OF TERRESTRIAL AND MARINE PROTECTED AREAS

1 Introduction

The development of nature conservation and specifically the establishment and management of protected areas has moved away from the traditional concept that all protected areas were to be preserved solely as sacrosanct wildlife sanctuaries. The accommodation of the lifestyles, aspirations and needs of local communities as part of the overall conservation ethic has become a globally accepted principle. The protected area system in South Africa presently consists of a variety of types of protected areas, managed for a variety of purposes. To provide for the classification of protected areas on the basis of management requirements, and in keeping with international trends, the following system shall be applied:

2 Category I: Scientific reserves and wilderness areas

2.1 Definition

A scientific reserve is an area of land and/or sea possessing some outstanding or representative ecosystems, natural features and/or species of flora and/or fauna and/or cultural resources of scientific importance, available primarily for scientific research and/or environmental monitoring.

A wilderness area is a large area of unmodified land, or land and water, retaining its natural character and influence, without permanent physical structures or significant habitation, which is protected and managed to preserve its natural conditions. The area may contain ecological, geological, cultural or other features of scientific, educational, scenic or historic value.

2.2 Objectives

2.2.1 Scientific reserves

To maintain essential ecological processes, to preserve biological diversity and to protect special cultural resources in an undisturbed state in order to have representative examples of the natural environment and/or special cultural resources available for scientific study, environmental monitoring, education, and for the maintenance of genetic resources in a dynamic and evolutionary state.

Research activities need to be planned and undertaken carefully to minimise disturbance. Public access is limited to accredited research scientists engaged in strictly supervised projects.

2.2.2 Wilderness areas

To protect a largely undisturbed natural area which serves human physical and spiritual well-being. In order to achieve that a wilderness area must be an enduring natural area of sufficient size to retain its natural character. It is an area where little or no persistent evidence of human intrusion is

of bark, bulbs and herbs are being collected for marketing in other cities, and also as "good luck" charms. While limited utilisation of the flora for medicinal purposes by discriminate picking could be allowed, excessive bark stripping to the detriment of slow-growing forest trees is unacceptable. These problems must be addressed as a matter of urgency by the Management Advisory Committee and its sub-committees.

The Table Mountain range is a priceless national asset both for the citizens of our country and for visitors from abroad, who find both physical and spiritual recreation on these slopes. This island of relatively unspoiled native flora and scenic beauty situated within a vast metropolitan complex, is unique. Visiting scientists have described these mountains as a "natural wonder", due to the rich and diverse flora growing in a majestic setting. From the earliest days, Table Mountain has been recognised by navigators as a landmark and Table Bay as one of the most scenic anchorages in the world. A notable feature of Table Mountain is the spectacular "tablecloth", named "la perruque" - the periwig, by French sailors in the 18th century. When the prevailing south-east wind from off the sea blows over the mountain, the moisture condenses to form a cloud which covers the entire table and slowly pours over the front face as a giant white waterfall to dissipate as it descends, a most impressive sight.

The importance of adequate funding to conserve this national asset cannot be over-emphasised. Unfortunately, nature conservation has always been at the bottom of the totem pole as far as the allocation of funds is concerned, and will remain so until the importance of nature and environmental conservation for the future well-being of all South Africans is fully appreciated and recognised. Conservation is not a first world luxury but is essential for the survival of mankind in the long term. The provision of funds for the management of nature reserves and nature areas should be a shared responsibility of the state, provinces, local authorities and the general public. Nature conservation can never be self-supporting and while the general public will have to make a far greater contribution to conservation in the future, this does not exempt the state and local authorities from their responsibility towards our fauna and flora, national parks and nature reserves.

Although the Department had long been interested in the possibility of incorporating the large Noordhoek estate into the Cape Peninsula nature area, a commission from the Administrator, at the instigation of Mrs Tinie Vorster, the wife of the Prime Minister, to visit England in 1978 to negotiate the purchase of the Noordhoek Estate was unexpected. Miss Edith Godman had inherited this property from her uncle, Sir Drummond Chaplin who had developed the estate when he served in the Union Parliament from 1924 to 1933.

The Noordhoek Estate, some 600 ha in extent, extended from the flats below the main road to the crest of the mountains and included a large area of mountainside with pristine fynbos and interesting forest remnants in the kloofs. Of particular interest to Mrs Vorster, however, was the elegant mansion house with its period furniture, art treasures and impressive library of Africana.

My interest in the Skaife, a personal friend. At the time, the Department was interested in the property. Negotiations were made and the property was duly held. When it came as to the use of the property, it was used as a conference venue and then sold down due to the high cost. In the subsequent years I met her two weeks each year to serve in memory of the repeated discussion.

It therefore came overseas to negotiate with Miss Godman at the time of the proposal that:- she was asked to subdivide the property for housing development and usufruct of the nature reserve for all her family. The proposal was turned to Cape Town and favourably received. The property had been a family company.

Rietvlei is of great importance as a Ramsar Convention wetland. It is fed by the Diep River which drain an area of 160 ha in the former Department of the Cape and periodic visitors, Rietvlei fowl. No fewer