



## **REPORT OF THE PORTFOLIO COMMITTEE ON PUBLIC WORKS, ROADS AND TRANSPORT, COMMUNITY SAFETY, SECURITY AND LIAISON. MARINE POLLUTION (PREVENTION OF POLLUTION) AMENDMENT BILL [B5-2022]**

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### **1. INTRODUCTION**

The Speaker of the Mpumalanga Provincial Legislature (“the Legislature”) referred the Marine Pollution (Prevention of Pollution) Amendment Bill [B5-2022] (“the Bill”) to the Portfolio Committee on Public Works Roads and Transport, Community Safety, Security and Liaison (“the Committee”) for consideration and report back to the House, in accordance with legal prescripts and the Rules and Orders of the Legislature.

The Constitution of the Republic of South Africa (“the Constitution”) vests provincial legislatures with powers to consider, pass, amend or reject Bills (law-making) and to facilitate public involvement in the legislative and other processes of the Legislature. These law-making and public participation powers are specifically derived from s114(1) and 118(1) of the Constitution. Furthermore, the Constitutional Court has held on to numerous cases that a provincial legislature has a constitutional obligation to facilitate public involvement when considering Bills before it.

Therefore, the Committee conducted public hearings to solicit public inputs and views from Stakeholders and Members of the public on the above-mentioned Bill.

### **2. OBJECTIVES OF THE BILL**

- The Bill intends to incorporate MARPOL Annex IV and Annex VI into the Marine Pollution (Prevention of Pollution from Ships) Act, 1986.
- MARPOL Annex IV regulates the activities for treatment and safe disposal of sewage from ships.
- MARPOL Annex VI is the main global instrument that addresses ship energy efficiency management and GHG emissions.

### 3. THE BENEFITS OF THE INCORPORATION OF MARPOL ANNEX IV AND ANNEX VI

- Restricting the discharge of sewage will reduce the nutrient loads (nitrogen and phosphorus) caused by sewage discharge from passenger ships into the sea.
- Prevention, reduction, and control of marine pollution from the air, or indirectly through the air; and to preserve the maritime environment, through the complete elimination of pollution by oil and other harmful substances, as well as minimising the accidental discharge of such substances.
- Ships will be required to use fuel with no more than 0.50% Sulphur content or use approved fuel treatment systems called scrubbers.

### 4. CLAUSE BY CLAUSE ANALYSIS

- **Clause 1**

Clause 1 of the Bill proposes an amendment to the definition of the word “Convention” in order to make provision for the inclusion of annexes, regulations, and protocols.

- **Clause 2**

Clause 2 of the Bill proposes an amendment to section 2 of the principal Act by the insertion of a new section 2A, which provides for the incorporation of the Convention into South African law so as to enable it to have the force of law in the Republic of South Africa. Clause 2 also proposes the insertion of a new section 2B which provides for technical standards for maritime transport.

- **Clause 3**

Clause 3 of the Bill proposes an amendment to section 3 of the principal Act by broadening the powers of the Minister to make regulations relating to, amongst others, the prevention of air pollution from ships, the prevention of pollution by sewage from ships and any other incidental administrative or procedural matters that are necessary for the proper implementation of the principal Act.

- **Clause 4**

Clause 4 of the Bill proposes an amendment to section 3A of the principal Act by increasing a fine in the event of non-compliance, from 71 R500 000 to R10 million and proposes a period of imprisonment from five to 10 years.

- **Clause 5**

Clause 5 of the Bill proposes an amendment to section 3 of the principal Act by the insertion of a new section 3B, which provides for the powers of the Minister in relation to the proper administration of the principal Act.

- **Clause 6**

Clause 6 of the Bill proposes amendments to the principal Act by adding annexes IV and VI in the Schedule to the principal Act.

- **Clause 7**

Clause 7 of the Bill provides for the short title and commencement of the Act.

## 5. METHOD OF WORK

The Committee was briefed on the Bill by the National Council of Provinces (NCOP) permanent delegate, Hon H Boshoff on Thursday, 19 October 2023. Public Education sessions were conducted regarding the Bill prior all Public Hearings. The Committee conducted Public Hearings after publishing an invitation and made a call for Public Comments through online, other media platforms, including the Legislature Facebook page to solicit inputs / comments from members of the public in January and February 2024.

Interested parties and stakeholders were also invited to submit written comments on the Bill to assist the Committee during deliberations that will give effect to the negotiating mandate and ultimately the final mandate. Invitations to public hearings and the submission of written comments on the Bill were placed in the Mpumalanga News, Bushbuckridge News, Thaba Chweu News, Khanyisa News, Highvelder, Witbank News and Middleburg Observer which are the major newspapers circulating in the province.

### Public Hearings were conducted as follows:

DATE	VENUES	TIME
Tuesday, 30 January 2024	Ehlanzeni District – Thaba Chweu Local Municipality, Matibidi Cultural Centre.	10:00 – 13:00
Wednesday, 07 February 2024	Gert Sibande District - Mkhondo Local Municipality, Mkhondo Town Hall.	10:00 – 13:00
Tuesday, 13 February 2024	Nkangala District – Steve Tshwete Local Municipality, Eric Jiyane Community Hall.	10:00 – 13:00

The Committee thereafter met on Tuesday, 12 March 2024 to consider the draft report and the Negotiating Mandate on the Bill.

## **6. INTERACTIONS BY THE COMMITTEE WITH THE PERMANENT DELEGATE AND THE NATIONAL DEPARTMENT OF PUBLIC WORKS**

Honourable H Boshoff, indicated to the Committee that, as the Member of the National Council of Provinces representing the Mpumalanga Province, she is mandated to present the Bill to the Committee. Hon Boshoff who was accompanied by the National Department of Transport, indicated that the Bill that is under consideration adheres to legal prescripts and is in order.

She further mentioned that the State Law Advisers are of the opinion that it is not necessary to refer the Bill to the National House of Traditional Leaders as the Bill contains no provisions which directly affects customary law or the customs of traditional or Khoi-San communities as envisaged in section 39(1)(a)(i) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019). She assured the Committee that she will take all the inputs from the Honorable Members to the National Council of Provinces (NCOP).

## **7. INSTITUTIONS CONSULTED ON THE BILL FOR COMMENTS:-**

The Department of Cooperative Governance and Traditional Affairs (COGTA); Department of Public Works, Roads and Transport; Department of Agriculture, Rural Development, Land and Environmental Affairs; Department of Economic Development and Tourism; Transnet; Cross-Border Road Transport Agency (CBRTA); The Cross-Border Road Transport Agency; South African Local Government Association (SALGA); Nkangala, Ehlanzeni, and Gert Sibande District Municipalities; Mpumalanga Economic Growth Agency.

## **8. INTERACTION BY THE COMMITTEE WITH STAKEHOLDERS ON THE BILL**

During the public hearings, Members of the Committee explained the purpose of the public hearing thoroughly. The legislative processes and timeframes for processing the Bill through the relevant channels of the National Council of Provinces (NCOP) were also explained. Members of the public and the stakeholders were made to understand their constitutional rights in relation to them making inputs in the processing of Bills by the Legislature.

The Bill was also presented in the local languages of all the relevant communities. The Committee, the Department of Public Works, Roads and Transport the Department of Agriculture, Rural Development, Land and Environmental Affairs and the Legal Services

Section of the Legislature also responded to questions of clarity raised after the Bill was presented.

### **8.1 Inputs by the Department of Public Works, Roads, and Transport**

- The Department is responsible for monitoring small vessels (boats) in the Province as guided by the Inland Water Strategy, which is made up of dams, lagoons, lakes, rivers, and wetlands.
- The department accepts the Marine Pollution (Prevention of Pollution) Amendment Bill [B5-2022], however, pollution from the boat users is a great concern and the focus should not be on the Coastal Provinces, but the inland waters should account and be responsible.
- The Department of Public Works, Roads, and Transport voted in favour of the Bill.

### **8.2 Inputs by the Department of Agriculture Rural Development, Rural Development, Land and Environmental Affairs**

- The role of the Department of Agriculture is informed by the Environmental Rights in terms of Section 24 of the Constitution. The Department is tasked with the mandate of environmental sustainability which includes the Environmental Impact Assessment wherein, any activity which has a potential to pollute the environment is required to be authorised by the department and when it is authorised conditions are included in that authorisation with the intention to protect the environment from pollution.
- These conditions are subject to Compliance Monitoring by the Environmental Management Inspectors, when non-compliance is verified, compliance is thus enforced to ensure that the company responsible complies with the conditions to protect the environment. The Department and Public Works thus share a concurrent mandate of environmental protection and jointly monitor compliance with those pieces of legislations they are mandated to enforce. Joint Task Teams monitor compliance through Strategic Inspections working towards a common goal.
- The Amendment Bill seeks to strengthen environmental protection and the right to an environment that is not harmful to health and wellbeing, marine biodiversity, fauna, and flora. The Department fully supports the Marine Pollution (Prevention of Pollution) Amendment Bill [B5-2022].
- The Department of Agriculture Rural Development, Rural Development, Land and Environmental Affairs favour of the Bill.

### **8.3 Inputs by Ehlanzeni District – Thaba Chweu Local Municipality**

- There must be preventative measures in place to avoid spillage of oil that can lead to pollution and a clear clause should be inserted, on how fines will be determined, based on the damages caused.
- Thaba Chweu Local Municipality voted in favour of the Bill.

### **8.4 Inputs by Gert Sibande District – Mkhondo Local Municipality**

- The Bill will prevent, reduce and control of marine pollution from many aspects, the air, or indirectly through the air and to preserve the maritime environment, through the complete elimination of pollution by oil and other harmful substances, as well as minimising the accidental discharge of those substances.
- Mkhondo Local Municipality voted in favour of the Bill.

### **8.5 Inputs by Nkangala District– Steve Tshwete Local Municipality**

- Provinces should provide awareness to ship owners on matters relating to marine pollution, this will prevent plenty of unknown illnesses after the intake of seafood.
- Steve Tshwete Local Municipality voted in favor of the Bill.

## **9. OBSERVATIONS AND FINDINGS BY THE COMMITTEE**

- Public education sessions were conducted regarding the Bills prior to the Public Hearings.
- Oral submissions that were made by stakeholders and members of the public were considered accordingly.
- Other submissions that did not address or relate to the content of the Bill will be referred to the relevant Committees within the Legislature, Provincial Departments, Local Municipalities, and other relevant structures for further processing.
- The Committee further noted that some inputs made by Members of the Public and Stakeholders will be addressed through Regulations once the Bill has been passed.
- Stakeholders and members of the public who were present in all three Districts during the public hearings generally supported the Bill.

## 10. RECOMMENDATION AND VOTE OF THE LEGISLATURE

The Portfolio Committee on Public Works, Roads and Transport, Community Safety, Security and Liaison after considering the Bill confers on the permanent delegate representing the Province of Mpumalanga in the NCOP, the mandate to vote in favor of the **Marine Pollution (Prevention of Pollution) Amendment Bill [B5-2022]** without any proposed amendments.

## 11. CONCLUSION

The Chairperson would like to take this opportunity to thank the Members of the Portfolio Committee for their active participation and constructive contributions during public hearings. The Chairperson further extended a word of gratitude to the NCOP Permanent Delegate, and Hon H Boshoff for the efforts in ensuring that the Committee meets its obligation and the support staff who contributed to the success of the entire procedure.



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HON N MAHLANGU

CHAIRPERSON: PORTFOLIO COMMITTEE ON PUBLIC WORKS, ROADS AND  
TRANSPORT, COMMUNITY, SECURITY AND LIAISON

12 March 2024

DATE