



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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N\$6.00

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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 386

2019

#### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 5 of 2019:    Prevention and Combating of Pollution of the Sea by Oil Amendment Amendment Act, 2019.

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Act No. 5, 2019

**PREVENTION AND COMBATING OF POLLUTION OF THE  
SEA BY OIL AMENDMENT ACT, 2019**

**EXPLANATORY NOTE:**

- \_\_\_\_\_ Words underlined with a solid line indicate insertions in existing provisions.
- [            ] Words in bold type in square brackets indicate omissions from existing provisions.

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## ACT

**To amend the Prevention and Combating of Pollution of the Sea by Oil Act, 1981, so as to insert a definition; to substitute the definition of “prohibited area”; to require permission of the Minister for the transfer of oil and other harmful substances between ships and tankers in harbours and prohibited areas; to increase the penalties for certain offences; and to provide for incidental matters.**

*(Signed by the President on 26 November 2019)*

**BE IT ENACTED** as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

**Amendment of section 1 of Act No. 6 of 1981 as amended by section 1 of Act No. 24 of 1991**

1. Section 1 of the Prevention and Combating of Pollution of the Sea by Oil Act, 1981 (*in this Act referred to as the “Principal Act”*) is amended -

- (a) by the insertion after the definition of “discharge” of the following definition:

““harmful substance” means any oil based substance which, if introduced into the sea, is likely to create a hazard to human health, harm any living substance, resources or marine life, damage amenities or interfere with other legitimate uses of the sea and includes mixtures of oil with water or any other substance;”; and

- (b) by the substitution for the definition of “prohibited area” of the following definition:

““prohibited area” means the [territorial sea of Namibia and that portion of the] exclusive economic zone of Namibia, as defined in section 4 of the Territorial Sea and Exclusive Economic Zone of Namibia Act, 1990 (Act No. 3 of 1990)[, situated within a distance of fifty nautical miles from the low-water mark, and includes the sea between the high-water and low-water marks] and internal waters as defined in section 1 of the Marine Traffic Act, 1981;”.

**Amendment of section 21 of Act No. 6 of 1981 as amended by section 8 of Act No. 24 of 1991 and section 31 of Act No. 2 of 1994**

2. Section 21 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

## Act No. 5, 2019

**PREVENTION AND COMBATING OF POLLUTION OF THE  
SEA BY OIL AMENDMENT ACT, 2019**

- “(1) No person shall -
- (a) outside a harbour, being a port as defined in section 1 of the Namibian Ports Authority Act, 1994 (Act No. 2 of 1994), or a fishing harbour as defined in section 1 of the Sea Fisheries Act, 1992 (Act No. 29 of 1992), and within the prohibited area, render any ship or tanker, having any oil or harmful substance on board (whether as cargo or otherwise), [**or any tanker**] incapable of sailing or manoeuvring under its own power; or
  - (b) within the prohibited area transfer any oil or harmful substance from any ship or tanker to any other ship or tanker or to an offshore installation or from such offshore installation to any ship or tanker,

except with the permission of the Minister and in accordance with the provisions of this Act.”.

**Amendment of section 30 of Act No. 6 of 1981 as amended by section 2 of Act No. 63 of 1987 and section 11 of Act No. 24 of 1991**

3. Section 30 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

- “(2) Any person convicted of an offence referred to in -
- (a) section 3(4), 8(2), 13(7), 24(5) or subsection (1)(a)(i), shall be liable to a fine not exceeding [**R10 000**] N\$40 000 or to imprisonment for a period not exceeding [**six months**] one year or to both such fine and such imprisonment;
  - (b) subsection (1)(b)(iii), (b)(iv), (c)(i), (c)(ii), (c)(iii) or (c)(iv), shall be liable to a fine not exceeding [**R20 000**] N\$80 000 or to imprisonment for a period not exceeding [**one year**] two years or to both such fine and such imprisonment;
  - (c) subsection (1)(a)(ii), shall be liable to a fine not exceeding [**R40 000**] N\$800 000 or to imprisonment for a period not exceeding [**two**] 20 years or to both such fine and such imprisonment;
  - (d) section 2(1) or 13(6) or subsection (1)(b)(i) or (b)(ii), shall be liable to a fine not exceeding [**R200 000**] N\$1 000 000 or to imprisonment for a period not exceeding [**five**] 25 years or to both such fine and such imprisonment.”.

**Short title**

4. This Act is called the Prevention and Combating of Pollution of the Sea by Oil Amendment Act, 2019.

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