

NOTICE 1878 OF 2003**DEPARTMENT OF WATER AFFAIRS AND FORESTRY****PUBLICATION OF DRAFT FORESTRY AMENDMENT BILL, 2003 FOR PUBLIC COMMENT**

The draft Forestry Amendment Bill, 2003 is published in terms of section 154(2) of the Constitution of the Republic of South Africa. Organised local government, municipalities and other interested persons may make written representations with regard to the draft. The representations must be sent by mail, E-mail or facsimile to:

Ms Jenny Kock
Directorate: Forestry Regulation
Department of Water Affairs and Forestry
Private Bag X313
Pretoria
0001

E-mail: lag@dwaf.gov.za

Fax: (012) 336-6674

The representations should reach Ms Kock within 30 days of the date of publication of this notice.

Please note:

- 1 Underlined words are insertions
- 2 Words in bold and in square brackets are deletions.

FORESTS 25/04/03

REPUBLIC OF SOUTH AFRICA

FORESTRY AMENDMENT BILL

(MINISTER OF WATER AFFAIRS AND FORESTRY)

[B 01]

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP BOSBOU

(MINISTER VAN WATERWESE EN BOSBOU)

[B 01]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the National Forests Act, 1998 so as to delete or insert certain words, phrases or expressions; to allow for an exemption for the beneficial use of forest produce or forest products derived from protected trees; to enable the Minister to withdraw, amend or replace any tariff; to authorise the Minister to establish a trust in respect of State forests where certain rights in that land are pending; to enable the Minister to pay lease money in respect of such State forests into a trust account for the benefit of those whose rights in that land are pending; to allow for such money to be paid to them when those rights materialise; to provide for further criminal sanctions in respect of certain activities in forests; to authorise the Minister to release State forests to persons or entities wishing to continue with forestry; to provide for better management of State forests; to extend the Minister's regulation-making powers; and to provide for matters connected therewith.

To amend the National Veld and Forest Fire Act, 1998 so as to insert a certain phrase to allow for a fire danger rating which is more dangerous than "high"; to reduce the number of television channels, radio stations and newspapers on or in which the Minister must broadcast or publish the fire danger; and to provide for matters connected therewith.

To amend the Wattle Bark Industry Act, 1960 so as to repeal some of its provisions and thereby allow for the deregulation of the wattle bark industry; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:

Amendment of section 7 of Act 84 of 1998

1. Section 7 of the National Forests Act, 1998 (hereinafter referred to as the principal Act) is hereby amended by the deletion of the word "living" in subsection (1).

Amendment of section 8 of Act 84 of 1998

2. Section 8 of the principal Act is hereby amended by the deletion of the word "specially" in subsection (1).

Amendment of section 15 of Act 84 of 1998

3. Section 15 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) No person may—

- (a) cut, disturb, damage, destroy or remove any protected tree; or
- (b) collect, remove, transport, export, purchase, sell, donate or in other manner acquire or dispose of any protected tree, except—
 - (i) under a licence granted by the Minister; or
 - (ii) in terms of an exemption from the provisions of this subsection published by the Minister in the *Gazette* on the advice of the Council.

Amendment of section 27 of Act 84 of 1998

4. Section 27 of the principal Act is hereby amended by the insertion after section 27(3) of the following subsections:

(4) Notwithstanding the provisions of any other law, the Minister may establish a trust in respect of State forests including State forests on land held in trust in terms of the KwaZulu Ingonyama Trust Act, 1994 (KwaZulu Act No. 3 of 1994) under the following circumstances—

(a) where—

- (i) a claim for restitution has been published in terms of section 11(1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) in respect of a State forest or part of a State forest;
- (ii) the landowner has been officially notified of the claim;
- (iii) the right to restitution has not been finally determined; and
- (iv) that land is leased to a third party by the Minister; or

(b) where—

- (i) a State forest or part of a State forest is occupied by a community;
- (ii) the State is contemplating the possibility of granting rights in that land to that community; and
- (iii) that land is leased to a third party by the Minister.

the Minister may direct that any money received in terms of a lease contemplated in subsection (4)(a) be paid to the trust established in terms of this subsection.

(5) The beneficiaries of the trust are either the claimants as contemplated in subsection(4)(a)(i) or the communities as contemplated in subsection (4)(b)(ii).

(6) The objects of the trust are the following—

- (a) to enable the trustees to receive payment of the money or part of the money paid in terms of any lease as set out in subsection (4);
- (b) to invest such money on behalf of the beneficiaries as part of the trust property;
- (c) to pay such money or part of that money together with any yield to the beneficiaries when they receive rights from the State in the State forest or part of the State forest involved; and
- (d) to pay such money or part of that money together with any yield to the State, or the Ingonyama Trust where applicable, when it is clear that the beneficiaries will not acquire rights in the State forest or part of the State forest.

(7) The Minister may—

- (a) appoint and dismiss the trustees;
- (b) create such powers, rights, obligations and exemptions for the trustees as may be necessary to achieve the objects of the trust;
and
- (c) decide on the contents, variation and termination of the trust.

Amendment of section 50 of Act 84 of 1998

5. Section 50 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Minister may release a State forest or part of a State forest which is no longer required by the Department for forestry.”.

Amendment of section 53 of Act 84 of 1998

6. Section 53 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (f) of subsection (2) of the following paragraph:

“(f) the management of State forests in general or a particular State forest or part of it[;]. including—

(a) mensuration of forest produce or forest products for the purpose of sale or otherwise; and

(a) access to State forests for recreation.”.

- (b) by the substitution for paragraph (j) of subsection (2) of the following paragraph:

“(j) any matter which is considered necessary or expedient to be so prescribed in order to achieve the objects of the Act.”.

- (c) by the substitution for subsection (5) of the following subsection:

“(5) the generality of the powers conferred by subsection (2)(j) is not limited by the provisions of the preceding paragraphs.”

Amendment of section 55 of Act 84 of 1998

7. Section 55 of the principal Act is hereby amended by the addition of the following paragraph:

“(c) withdraw, amend or replace any tariff issued under this section.”

Amendment of section 62 of Act 84 of 1998

8. Section 62 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (2) of the following paragraph:

“(c) the prohibition on—

- (i) the cutting, disturbance, damage or destruction of temporarily protected trees or groups of trees referred to in section 14(2) or protected trees referred to in section 15(1)(a); or
- (ii) the possession, collection, removal, transport, export, purchase or sale of temporarily protected trees or groups of trees referred to in section 14(2) or protected trees referred to in section 15(1)(b), or any forest product derived from a temporarily protected tree, group of trees or protected tree, is guilty of a first category offence.”

Amendment of section 63 of Act 84 of 1998

9. Section 63 of the principal Act is hereby amended by the insertion of the following after paragraph (a) in subsection (2) of the following paragraph:

“(Aa) cuts, disturbs, damages, destroys, removes or receives forest produce other than seven-week ferns from any forest is guilty of a third category offence.”

Amendment of section 9 of Act 101 of 1998

10. Section 9 of the National Veld and Forest Fire Act, 1998 (hereinafter referred to as the principal Act) is hereby amended by the substitution for subparagraph (ii) of paragraph (d) of subsection (4) of the following subparagraph:

“(ii) when the fire danger is rated as high or extreme.”

Amendment of section 10 of Act 101 of 1998

11. Section 10 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (b) in subsection (1) of the following paragraph:

“(b) when the fire danger is rated as high or extreme in any region, publish a warning at the earliest possible opportunity in all the main languages used in that region—

- (i) on [three] at least one television channel[s] and [three] at least one radio station[s] broadcasting to that region; and
(ii) in [two] at least one newspaper[s] circulating in that region;”;

- (b) by the substitution for subsection (2) of the following subsection:

“(2) when the Minister has published a warning in terms of subsection (1)(b), no person may light, use or maintain a fire in the open air in the region where the fire danger is high or extreme.”.

- (c) by the substitution for paragraph (a) in subsection (3) of the following paragraph:

“(a) say that the fire danger is high or extreme.”.

Amendment of section 20 of Act 101 of 1998

12. Section 20 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

“(f) any matter which is considered necessary or expedient to be so prescribed in order to achieve the objects of the Act.”.

- (b) by the substitution for subsection (3) of the following subsection:

“(3) the generality of the powers conferred by subsection (1)(f) is not limited by the provisions of the preceding paragraphs.”.

Amendment of Act 23 of 1960

13. Section 2 of the Wattle Bark Industry Act, 1960 (Act No. 23 of 1960) is hereby repealed.

Short title

14. This Act is the Forestry Amendment Act, 2003.