

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 1140

22 May 1991

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 53 of 1991: Forest Amendment Act, 1991.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

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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.

ACT

To amend the Forest Act, 1984, so as to make further provision regarding the clearing and maintenance of fire belts; to change the name of the Board for National Botanic Gardens to the National Botanical Institute; and to extend and further define the objects and functions of the said institute; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 14 May 1991.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 122 of 1984, as amended by section 1 of Act 52 of 1987

1. Section 1 of the Forest Act, 1984 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the deletion of the definition of “board” where it is defined for the purposes of Part IX of the principal Act;
 - (b) by the insertion before the definition of “connecting route” of the following definition:

“‘chief executive officer’ means the person appointed by the Minister as Chief Executive Officer of the National Botanical Institute under section 69 (1) (c);”;
 - (c) by the deletion of the definition of “director”;
 - (d) by the substitution for the definition of “fund”, where it is defined for the purposes of Part IX of the principal Act, of the following definition:

“‘fund’ in Part IX means the National **Botanic Gardens** Botanical Institute Fund established by section 64 (1);” and
 - (e) by the insertion after the definition of “hiking trail” of the following definition:

“‘institute’ means the National Botanical Institute referred to in section 57;”.

Amendment of section 22 of Act 122 of 1984

2. Section 22 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) Within **six** 12 months after an area has been declared to be a fire control area, every owner of land in that area shall enter into an agreement with—

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- (i) every owner of land **[adjoining his land]** in that area whose land adjoins his land; and
- (ii) every owner of land outside that area whose land adjoins his land and coincides with the boundary of the area,
- in which the owners concerned agree to clear, jointly or individually, a fire belt on both sides of the boundary between their properties, or as close to the boundary as is practically possible, or on the one or the other side of that boundary, and to maintain that fire belt.”; and
- (b) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
- “(c) Without prejudice to the provisions of paragraph (a), an owner of land in a fire control area **[of which a]** part of the boundary of which land coincides with the border of the Republic **[or the boundary of the fire control area in question]**, shall clear and maintain a fire belt on his land as close to that boundary as possible.”.

Insertion of section 24A in Act 122 of 1984

3. The following section is hereby inserted in the principal Act after section 24:

“Fire belts on border of Republic outside fire control areas

- 24A.** (1) (a) Without prejudice to the provisions of sections 22 and 24, an owner of land outside a fire control area part of the boundary of which land coincides with the border of the Republic, shall clear and maintain a fire belt on his land as close to that boundary as possible.
- (b) A fire belt must be of such a nature and extent that it will, regard being had to local circumstances, be reasonably sufficient to prevent a fire on land on one side thereof from spreading to land on the other side thereof.
- (2) For the purposes of this section “owner”, in relation to State land or other land under the control of the State, means the officer in charge of the department of State or provincial administration exercising control over that State land or other land, or a person authorized by him.
- (3) Notwithstanding the provisions of subsection (1), the Minister may at any time by notice in the *Gazette* and on such conditions as he may determine, exempt any owner or all owners of land contemplated in that subsection or any category of such owners from the provisions of that subsection.”.

Substitution of heading to Part IX of Act 122 of 1984

4. The following heading is hereby substituted for the heading to Part IX of the principal Act:

“**NATIONAL [BOTANIC GARDENS] BOTANICAL INSTITUTE**”

Substitution of section 57 of Act 122 of 1984

5. The following section is hereby substituted for section 57 of the principal Act:

“National Botanical Institute

- 57.** (1) As from the commencement of the Forest Amendment Act, 1991, the juristic person established by this section, as it read before the substitution thereof by section 5 of the said Act, shall be known as the National Botanical Institute.
- (2) A reference to the Board for National Botanic Gardens in or on any law, deed or other document shall, unless clearly inappropriate, be construed as a reference to the National Botanical Institute.”.

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Substitution of section 58 of Act 122 of 1984

6. The following section is hereby substituted for section 58 of the principal Act:

“Objects of institute

58. The objects of the **[board]** institute are to promote the utilization and conservation of, and **[research]** knowledge and services in connection with, Southern African flora, and to that end the **[board]** institute may—

- (a) by itself or in co-operation with any person assess the botanical research and conservation needs of the Republic and develop programmes to meet these needs; 10
- [(a)](b)** **[collect and cultivate]** establish, develop and maintain collections of plants **[indigenous to the subcontinent]** in national botanic gardens and in herbaria; 10
- [(b)](c)** undertake and promote research in connection with indigenous plants and related matters **[and make indigenous plant material available for research]**; 15
- [(c)](d)** study and cultivate specimens of endangered plant species;
- [(d)](e)** investigate and utilize, and promote the utilization of, the economic potential of indigenous plants;
- [(e)](f)** promote an understanding and appreciation of **[indigenous plants]** the role of plants among the public. 20
- [(f)]** **establish non-indigenous plants for comparative studies and educational purposes]**”.

Substitution of section 61 of Act 122 of 1984

7. The following section is hereby substituted for section 61 of the principal Act: 25

“Functions of institute

61. (1) In order to achieve its objects the **[board]** institute may—
- (a) establish, develop, manage and maintain national botanic gardens, herbaria, research laboratories, educational facilities and a botanical information service; 30
- (b) subject to the provisions of section 69, engage such employees as it may deem necessary to enable it to perform its functions;
- (c) take such steps as it may consider necessary to protect or conserve **[a national botanic garden and]** any plant, animal or **[object in it]** property under its control; 35
- (d) supply printed matter, plants, meals or refreshments or render any other service to visitors to a national botanic garden or other places under the control of the institute at a tariff of fees determined by the **[board]** institute, and for that purpose construct, establish, furnish and maintain and, with the approval of the Minister, let any structure, depot or site; 40
- (e) with the concurrence of the Minister, enter into an agreement with any person to undertake any activity mentioned in paragraph (d) in a national botanic garden or other place under the control of the institute on such conditions and upon payment of such sum as the **[board]** institute may determine; 45
- (f) regulate, control or prohibit access by the public to a national botanic garden or other place under the control of the institute or any part thereof, and charge moneys determined by **[by-law]** the institute for such access; 50
- (g) render services relevant to its objects on a scale of fees determined by the institute;
- (h) with the concurrence of the Minister, establish a company which has as its object the production and supply of products or the rendering of services on behalf of the institute; 55

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- [(g)](i) with the concurrence of the Minister and the Minister of Finance, borrow moneys for the performance of its functions;
- [(h)](j) accept unconditional donations of money or movable property;
- [(i)](k) sell, exchange or donate specimens or parts of plants from a national botanic garden or other place under the control of the institute, or by purchase, exchange or in any other manner acquire any plant or part of a plant to establish it in a national botanic garden or other place under the control of the institute; 5
- [(j)](l) investigate the desirability of declaring land to be a national botanic garden; 10
- [(k)](m) by itself or in co-operation with any person undertake, cause to be undertaken or promote research in connection with indigenous plants and foreign invasive plants which could endanger indigenous plants, and related matters;
- (n) develop and maintain liaison with persons and organizations with similar objects within and outside the Republic; 15
- [(l)](o) collate, process and through publications, lectures, courses and other educational means disseminate information relating to indigenous plants and their value to man;
- [(m)](p) establish committees of the [board] institute consisting of members of the [board] institute and working groups consisting of persons appointed by the [board] institute, to assist the [board] institute with the performance of its functions or to advise the [board] institute on any matter; 20
- [(n)](q) perform such other acts as the [board] institute may consider necessary for the achievement of its objects. 25
- (2) The [board] institute may, with the concurrence of the Minister, accept money or movable property donated on some condition, and such money or assets must be used or employed in accordance with the condition in question.”. 30

Substitution of section 64 of Act 122 of 1984

8. The following section is hereby substituted for section 64 of the principal Act:

“National Botanical Institute Fund

64. (1) There is hereby established a fund called the National [Botanic Gardens] Botanical Institute Fund, into which must be paid— 35
- (a) loans to the [board] institute from moneys appropriated by Parliament for that purpose, on such conditions as the Minister, with the concurrence of the Minister of Finance, may determine;
- (b) annual grants-in-aid from moneys appropriated by Parliament for that purpose, which the Minister may pay to the [board] institute in such amounts, for such purposes and on such conditions as he may determine; 40
- (c) moneys derived from the letting of structures or sites by the [board] institute;
- (d) interest on investments; 45
- (e) moneys received by way of donation;
- (f) moneys received by way of entrance fees to national botanic gardens or other places under the control of the institute or for sales of printed matter or plants or for services rendered [to visitors];
- (g) moneys which immediately before the commencement of this Act were available to the Council which in terms of section 6 of the Cultural Institutions Act, 1969 (Act No. 29 of 1969), controlled and managed the institutions named in Government Notices R. 1022 of 26 June 1970 and 773 of 15 April 1983; 50
- (h) moneys received from any other source. 55
- (2) The fund shall be administered by the [board] institute in accordance with such instructions as the Minister, on the recommendation of the [board] institute, may approve, and moneys in the fund shall, subject to the provisions of subsection (5), be utilized to defray expenses incurred by the [board] institute in the performance of its functions. 60

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(3) The **[director]** chief executive officer shall invest moneys in the fund not required for immediate use or as a reasonable operating balance with the Public Debt Commissioners or, with the concurrence of the Treasury, on fixed deposit at interest with a banking institution or building society in the Republic approved by the **[board]** institute, or the **[board]** institute may invest such moneys in such other manner as the Minister, with the concurrence of the Treasury, may approve. 5

(4) Once in its financial year, which is to end on 31 March, the **[board]** institute shall before a date determined by the Minister submit to him for his approval an estimate of the revenue and expenditure of the **[board]** institute for the next financial year, and the **[board]** institute may in the course of a financial year submit supplementary or revised estimates of revenue and expenditure for that year to the Minister for his approval. 10

(5) The **[board]** institute shall not incur any expenditure save in accordance with an estimate of expenditure approved by the Minister in terms of subsection (4). 15

(6) Any unexpended balance in the fund at the end of a financial year shall be carried forward as a credit in the fund to the next financial year.”.

Substitution of section 69 of Act 122 of 1984

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9. The following section is hereby substituted for section 69 of the principal Act:

“Chief Executive Officer and officers of institute

69. (1) For the performance of the functions of the **[board]** institute—

- (a) the Minister determines its establishment;
- (b) the **[board]** institute may appoint persons as officers in the posts on its establishment designated by the Minister;
- (c) the Minister must, after consultation with the **[board]** institute, appoint a person as **[Director]** Chief Executive Officer of the National **[Botanic Gardens]** Botanical Institute to be in charge of the other officers of the **[board]** institute, and responsible to the **[board]** institute for the carrying out of their duties. 25 30

(2) The conditions of service of the **[director]** chief executive officer and the other officers of the **[board]** institute shall be determined by the Minister, with the concurrence of the Minister of Finance.

(3) The **[board]** institute may at any time terminate the services of any officer if in its opinion there **[exist]** are sound reasons for doing so, but the services of the **[director]** chief executive officer may only be terminated by the Minister, after consultation with the **[board]** institute.”. 35

Amendment of section 73 of Act 122 of 1984

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10. Section 73 of the principal Act is hereby amended by the substitution for paragraph (g) of subsection (1) of the following paragraph:

“(g) with regard to **[national botanic gardens]** the institute relating to—

- (i) the manner in which voting shall take place at meetings of the **[Board for National Botanic Gardens]** institute or a committee of the **[Board]** institute, and the number of votes required for a decision of the **[Board]** institute or a committee;
- (ii) the safety, care and preservation of property of the **[Board]** institute;
- (iii) the control over, and use of, moneys received by the **[Board]** institute;
- (iv) the keeping of records, and the times when, the form in which, and the persons to whom, financial statements and reports in respect of **[national botanic gardens]** the institute are to be furnished;
- (v) any matter which the Minister may consider necessary or expedient to prescribe in order to achieve the objects of the **[Board]** institute;”.

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Amendment of section 75 of Act 122 of 1984

11. Section 75 of the principal Act is hereby amended—

(a) by the substitution for subparagraph (i) of paragraph (a) of subsection (8) of the following subparagraph:

“(i) fails to conclude an agreement required by section 22 (1) or to obtain 5
an order contemplated in section 22 (4) or (5) within **[six]** 12 months
after the establishment of a fire control area in terms of section 18
(1);”; and

(b) by the insertion after paragraph (c) of subsection (8) of the following 10
paragraph:

“(cA) An owner of land contemplated in section 24A (1) who fails to comply
with a provision of that section is guilty of an offence.”.

Substitution of certain words in Part IX of Act 122 of 1984

12. The principal Act is hereby amended by the substitution in Part IX for the words “director” and “board”, wherever they occur, of the words “chief executive 15
officer” and “institute”, respectively.

Short title

13. This Act shall be called the Forest Amendment Act, 1991.