

PRESIDENT'S OFFICE

No. 1525.
4 October 1995

NO. 63 OF 1995: FOREST AMENDMENT ACT, 1995

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

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Forest Act, 1984, so as to delete or substitute certain definitions and obsolete provisions; to provide for the establishment of the National Forestry Advisory Council; to provide for the objects, constitution and powers of the council; and to provide for the abolition of the Forestry Council; and to provide for matters connected therewith.

(Afrikaans text signed by the President.)
(Assented to 28 September 1995.)

BE IT ENACTED by 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, section 1 of Act 53 of 1991, section 59 of Act 129 of 1993 and section 5 of Act 51 of 1994

1. Section 1 of the Forest Act, 1984 (hereinafter referred to as the principal Act), is hereby amended-

(a) by the substitution for the definition of "council" of the following definition:

" 'council' in Part **VIII** *VIIA* means the *National Forestry Advisory Council mentioned in established under section 47 46A;*" and

(b) by the deletion of the definition of "fund" relating to Part VIII.

Amendment of section 9A of Act 122 of 1984, as inserted by section 2 of Act 52 of 1987

2. Section 9A of the principal Act is hereby amended-

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

"(1) The Minister may **on the recommendation of the committee referred to in subsection (2)** from moneys appropriated for that purpose by Parliament, and subject to the provisions of regulations contemplated in section 73(1)(gA), grant a loan to **an owner of land** *any person* for the planting or replanting of trees to produce timber for **commercial or industrial purposes** *any purpose.*" and

(b) by the deletion of paragraph (b) of subsection (2).

Amendment of section 11 of Act 122 of 1984, as amended by section 3 of Act 52 of 1987 and section 78 of Act 85 of 1991

3. Section 11 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

" (b) The provisions of this section shall not be construed as prohibiting the granting under any law of a right in connection with the prospecting for, and mining of, **precious metals, base minerals, precious stones, natural oil any mineral** and source material as defined in the **Precious Stones Act, 1964 (Act No. 73 of 1964), the Mining Rights Act, 1967 (Act No. 20 of 1967), and the Nuclear Energy Act, 1982 (Act No. 92 of 1982) Minerals Act, 1991 (Act No. 50 of 1991), and the Nuclear Energy Act, 1993 (Act No. 131 of 1993)**, respectively, in a State forest, and the disposal of such **metals, minerals, stones, oil mineral** and source material, but no forest produce shall be cut, damaged, taken or removed by the holder of such a right, except on the authority of a licence or permit of the director-general."

Amendment of section 16 of Act 122 of 1984

4. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

" (1) The Minister may **after consultation with the Forestry Council** by notice in the Gazette prohibit the removal from one place to another, or the purchase, sale or disposal, of any timber, except on such conditions as he or she may determine and which are set out in the notice."

Amendment of section 38 of Act 122 of 1984

5. Section 38 of the principal Act is hereby amended by the substitution for the proviso to subsection (1) of the following proviso:

" : Provided that if it is proposed to construct a hiking trail or walk in a State forest in respect of which a surface right permit **in terms of** issued under the Mining Rights Act, 1967 (Act No. 20 of 1967), **is held remains in force under section 48 of the Minerals Act, 1991 (Act No. 50 of 1991)**, the permission of the Minister of Mineral and Energy Affairs shall first be obtained."

Amendment of section 42 of Act 122 of 1984

6. Section 42 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The accounts contemplated in subsection (2) shall be audited by an auditor registered in terms of the Public Accountants' and Auditors' Act, **1951 (Act No. 51 of 1951) 1991 (Act No. 80 of 1991)**, and a copy of the audited accounts together with a report dealing with the activities of the body in question during that financial year shall as soon as practicable thereafter be submitted by that body to the board."

Insertion of Part VIIA in Act 122 of 1984

7. The following Part is hereby inserted in the principal Act after section 46:

"PART VIIA

NATIONAL FORESTRY ADVISORY COUNCIL

Establishment of National Forestry Advisory Council

46A. The Minister may establish a body to be known as the National Forestry Advisory Council.

Object of council

46B. The object of the council is to advise the Minister on any aspect of commercial and non-commercial forestry referred to the council by the Minister, and on any other forestry-related matter.

Constitution of council

46C. (1) The council shall consist of such number of members as the Minister may from time to time determine.

(2)(a) Whenever a member of the council has to be appointed, the Minister shall-

- (i) by notice in at least two national newspapers and so many local newspapers as the Minister may determine, invite all interested persons to submit to him or her, within the period mentioned in the notice, the names of persons who in the opinion of such interested persons are fit to be so appointed;
- (ii) establish a committee consisting of the number of persons which the Minister may determine, designate a chairperson for the committee and submit to the committee all the nominations received.

(b) The chairperson of the appropriate committee of the National Assembly and the chairperson of the corresponding committee of the Senate, or their delegates, shall be members of the committee referred to in paragraph (a)(ii).

(c) The committee referred to in paragraph (a)(ii) shall from the nominations submitted to it by the Minister, compile a short list of eligible candidates who have knowledge of any matter referred to in section 46B or who can make a contribution to the achievement of the objects of the council, and submit it to the Parliamentary committees referred to in paragraph (b).

(d) The Parliamentary committees referred to in paragraph (b) shall, within one month after receipt of the nominations from the Minister, and in consultation with each other, make a recommendation to the Minister as to which candidate should be appointed to the council.

(e) A member of the council shall be appointed by the Minister after due consideration of the recommendation made to him or her in terms of paragraph (d).

Term of office of members of council

46D. (1) A member of the council shall hold office for such period, but not exceeding three years, as the Minister may determine at the time of his or her appointment as a member.

(2) The Minister may, after consultation with the Parliamentary committees referred to in section 46C(2) (b), at any time terminate the term of office of a member of the council if there is sufficient reason for doing so.

Meetings of council, records to be kept and submission of advice to Minister

46E. (1) The Minister shall determine-

(a) the manner of the calling of, the quorum for, and the procedure at, meetings of the council; and

(b) what records shall be kept by the council and the manner in which the advice of the council shall be submitted to the Minister.

(2) The Minister shall designate one member of the council as the chairperson and not more than three members as the vice-chairpersons.

(3) (a) If the chairperson of the council is absent from any meeting of the council, the members present shall elect one of the vice-chairpersons to preside at the meeting.

(b) If the chairperson as well as all the vice-chairpersons are absent from any meeting, the members present shall elect one from among their number to preside at the meeting.

(4) (a) The Minister shall regularly report on the activities of the council to the Parliamentary committees referred to in section 46C(2) (b) requesting such a report.

(b) The Minister shall on receipt submit the advice of the council to the Parliamentary committees referred to in section 46C(2)(b) for their consideration and comment within one month, prior to acting on that advice.

Committees of council

46F. (1)(a) The council may, with the approval of the Minister, from among its number, elect an executive committee consisting of such number of members as the Minister may from time to time determine.

(b) The chairperson of the council shall be the chairperson of the executive committee.

(c) The executive committee shall perform such functions as the council, with the approval of the Minister, may from time to time determine.

(2) (a) The council may, with the approval of the Minister, establish other subcommittees, consisting of such persons as may be determined by the council, in order to assist the council in the performance of its functions and with the co-ordination of the provinces.

(b) The council shall designate a member of a subcommittee as the chairperson of that subcommittee.

Allowances of members of council and committees

46G. A member of the council, and a member of a committee of the council, who is not in the full-time employment of the State, shall be paid from moneys appropriated by Parliament for this purpose, such allowances as the Minister, with the concurrence of the Minister of Finance, may determine either in general or in any particular case.

Staff of council

46H. The director-general shall designate, subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as many officers and employees of the department as may be necessary to assist the

council and any committee thereof in the performance of the administrative work of the council or of such committee."

Repeal of Part VIII of Act 122 of 1984, and transitional provisions

8. (1) Subject to the provisions of this section, Part VIII of the principal Act is hereby repealed.

(2) (a) The Minister of Water Affairs and Forestry shall appoint a committee consisting of three persons, one of whom shall be designated by the Minister as the chairperson of the committee, to furnish the Minister with a report on the dissolution and winding-up of the Forestry Council.

(b) After consideration of the report of the committee referred to in paragraph (a), the Minister of Water Affairs and Forestry may make such order with regard to the assets and liabilities of the Forestry Council as the Minister, with the concurrence of the Minister of Finance, deems fit.

Amendment of section 73 of Act 122 of 1984, as amended by section 5 of Act 52 of 1987 and section 10 of Act 53 of 1991

9. Section 73 of the principal Act is hereby amended-

(a) by the substitution in subsection (1) for the words preceding subparagraph (i) of paragraph (gA) of the following words:

"with regard to loans **and the committee** referred to in section 9A- " ;

(b) by the deletion of subparagraph (iii) of paragraph (gA) of subsection (1); and

(c) by the substitution for subsection (3) of the following subsection:

"(3) Before any regulation is made under this section, it shall be referred to the Parliamentary committees referred to in section 46C(2)(b) for their approval."

Short title and commencement

10. (1) This Act shall be called the Forest Amendment Act, 1995.

(2) Section 8(1) shall come into operation on a date fixed by the President by proclamation in the Gazette.