

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 489

Cape Town,
Kaapstad,

9

March
Maart 2006

No. 28602

THE PRESIDENCY

No. 220

9 March 2006

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

No. 35 of 2005: Forestry Laws Amendment Act, 2005.

DIE PRESIDENSIE

No. 220

9 Maart 2006

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 35 van 2005: Wysigingswet op Bosbouwette, 2005.

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.

(English text signed by the President.)
(Assented to 4 March 2006.)

ACT

To amend the National Forests Act, 1998, so as to delete certain words, phrases or expressions for clarity; to allow for an exemption for the use and handling of protected trees and their products; to authorise the Minister to establish a trust in respect of State forests under certain circumstances; to enable the Minister to pay lease money in respect of such State forests into a trust account; to provide for such money to be paid to certain beneficiaries; to extend the Minister's regulatory powers; and to provide for further criminal sanctions in respect of certain activities in forests; to amend the National Veld and Forest Fire Act, 1998, so as to provide for a fire danger rating which is more dangerous than "high"; and to extend the Minister's regulatory powers; to repeal the Wattle Bark Industry Act, 1960, so as to effect 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 (Act No. 84 of 1998), is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph: 5

“(a) cut, disturb, damage or destroy any indigenous[**, living**] tree in a natural forest; or”.

Amendment of section 8 of Act 84 of 1998

2. Section 8 of the National Forests Act, 1998, is hereby amended by the substitution 10 for subsection (1) of the following subsection:

“(1) The Minister may—

- (a) declare a State forest or a part of it;
- (b) purchase or expropriate land under section 49 and declare it; or
- (c) at the request or with the consent of the registered owner of land outside a 15 State forest, declare it,

as a [**specially**] protected area in one of the following categories:

- (i) A forest nature reserve;
- (ii) a forest wilderness area; or

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit
bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder dui invoegings in bestaande
verordenings aan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 4 Maart 2006.)*

WET

Tot wysiging van die Nasionale Wet op Bosse, 1998, ten einde sekere woorde, frases of uitdrukkings duidelikheidshalwe te skrap; voorsiening te maak vir 'n vrystelling vir die gebruik en hantering van beskermde bome en hulle produkte; die Minister te magtig om in bepaalde omstandighede 'n trust ten opsigte van Staatsbosse op te rig; die Minister in staat te stel om huurgeld ten opsigte van sodanige Staatsbosse in 'n trustrekening te stort; voorsiening te maak dat sodanige geld betaal word aan sekere begunstigdes; die Minister se bevoegdhede om regulasies te maak, uit te brei; en voorsiening te maak vir verdere strafregtelike sanksies ten opsigte van sekere bedrywighede in bosse; tot wysiging van die Nasionale Wet op Veld en Bosbrande, 1998, ten einde voorsiening te maak vir 'n brandgevaaraanslag wat gevaarliker as "hoog" is; en die Minister se bevoegdhede om regulasies te maak, uit te brei; om die Wet op die Wattelbasnywerheid, 1960, te herroep ten einde deregulasie van die wattelbasnywerheid te bewerkstellig; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 7 van Wet 84 van 1998

1. Artikel 7 van die Nasionale Wet op Bosse, 1998 (Wet No. 84 van 1998), word hierby gewysig deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te 5
vervang:

“(a) enige inheemse[, **lewende**] boom in 'n natuurlike bos afkap, versteur, beskadig of vernietig nie; of”.

Wysiging van artikel 8 van Wet 84 van 1998

2. Artikel 8 van die Nasionale Wet op Bosse, 1998, word hierby gewysig deur 10
subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Minister kan—

- (a) 'n Staatsbos of 'n deel daarvan verklaar; of
- (b) grond kragtens artikel 49 koop of onteien en dit verklaar; of
- (c) op versoek of met die instemming van die geregistreerde eienaar van 15
grond buite 'n Staatsbos, dit verklaar,

tot 'n [**spesiaal**] beskermde gebied in een van die volgende kategorieë:

- (i) 'n Bosnatuurreservaat;
- (ii) 'n boswildernisgebied; of

- (iii) any other type of protected area which is recognised in international law or practice.”.

Amendment of section 15 of Act 84 of 1998

3. Section 15 of the National Forests Act, 1998, is hereby amended by the substitution for subsection (1) of the following subsection: 5

- “(1) No person may—
- (a) cut, disturb, damage or destroy any protected tree; or
- (b) possess, collect, remove, transport, export, purchase, sell, donate or in any other manner acquire or dispose of any protected tree, or any forest product derived from a protected tree, 10
- 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 17 of Act 84 of 1998 15

4. Section 17 of the National Forests Act, 1998, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) If the Minister is of the opinion that urgent steps are required to—
- (a) prevent the deforestation or further deforestation of; or
- (b) rehabilitate, 20
- a natural forest or a woodland [**protected under section 12(1)**] which is threatened with deforestation, or is being or has been deforested, he or she may declare it a controlled forest area.”.

Insertion of section 27A in Act 84 of 1998

5. The following section is hereby inserted after section 27 of the National Forests Act, 1998: 25

“Trusts

- 27A.** (1) Notwithstanding the provisions of any other law, the Minister may, by notice in the *Gazette*, establish a trust in respect of a State forest or part of a State forest including a State forest or part of a State forest on land held in trust in terms of the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act No. 3 KZ of 1994), where— 30
- (a) (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; 35
- (ii) the owner of the land has been notified of the claim in terms of section 11(6)(a) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);
- (iii) the right to restitution has not been finally determined; and
- (iv) that land is leased to a third party by the Minister; 40
- (b) (i) a State forest or part of a State forest is occupied by a community claiming rights in that land;
- (ii) the Minister is contemplating the granting of rights in that land to that community; and
- (iii) that land is leased to a third party by the Minister; or 45
- (c) (i) a State forest or part of a State forest is leased to a third party by the Minister; and
- (ii) it is necessary for the Minister to receive money in terms of the lease on behalf of successful claimants of various rights in respect of the land or forest. 50
- (2) The Minister may direct that any money due in terms of a lease contemplated in subsection (1) be paid to the trust established in terms of that subsection.
- (3) The objects of the trust are—
- (a) to receive payment of the money contemplated in subsection (2); 55

- (iii) enige ander tipe beskermde gebied wat in die volkereg of in die internasionale praktyk erken word.”.

Wysiging van artikel 15 van Wet 84 van 1998

3. Artikel 15 van die Nasionale Wet op Bosse, 1998, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 5

“(1) Niemand mag—

- (a) enige beskermde boom afkap, versteur, beskadig of vernietig nie; of
(b) enige beskermde boom of enige bosprodukt afkomstig van ’n beskermde boom, besit, versamel, verwyder, vervoer, uitvoer, koop, verkoop, skenk of op enige ander wyse verkry of daarvoor beskik nie, 10

behalwe—

- (i) kragtens ’n lisensie deur die Minister uitgereik; of
(ii) ingevolge ’n vrystelling van die bepalings van hierdie subartikel op aanbeveling van die Raad deur die Minister in die Staatskoerant gepubliseer.” 15

Wysiging van artikel 17 van Wet 84 van 1998

4. Artikel 17 van die Nasionale Wet op Bosse, 1998, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Indien die Minister van mening is dat dringende stappe nodig is vir—

- (a) die voorkoming van die ontbossing of verdere ontbossing; of 20
(b) die rehabilitasie,
van ’n natuurlike bos of ’n boomveld wat [**kragtens subartikel 12(1) beskerm word en**] deur ontbossing bedreig word of ontbos word of ontbos is, kan hy of sy dit ’n beheerde bosgebied verklaar.”.

Invoeging van artikel 27A in Wet 84 van 1998 25

5. Die volgende artikel word hierby na artikel 27 van die Nasionale Wet op Bosse, 1998, ingevoeg:

“Trusts

27A. (1) Ondanks die bepalings van enige ander wet kan die Minister by kennisgewing in die *Staatskoerant* ’n trust oprig ten opsigte van ’n Staatsbos of deel van ’n Staatsbos insluitende ’n Staatsbos of deel van ’n Staatsbos op grond wat in trust gehou word ingevolge die KwaZulu-Natal Ingonyama Trust Wet, 1994 (Wet No. 3 KZN van 1994), waar— 30

- (a) (i) ’n eis om herstel gepubliseer is ingevolge artikel 11(1) van die Wet op Herstel van Grondregte, 1994 (Wet No. 22 van 1994), ten opsigte van ’n Staatsbos of deel van ’n Staatsbos; 35
(ii) die eienaar van die grond ingelig is oor die eis ingevolge artikel 11(6)(a) van die Wet op die Herstel van Grondregte, 1994 (Wet No. 22 van 1994);
(iii) die reg tot herstel nie finaal bepaal is nie; en 40
(iv) daardie grond deur die Minister aan ’n derde party verhuur word;
- (b) (i) ’n Staatsbos of deel van ’n Staatsbos geokkupeer word deur ’n gemeenskap wat regte op daardie grond eis; 45
(ii) die Minister die verlening van regte op daardie grond aan daardie gemeenskap oorweeg; en
(iii) daardie grond deur die Minister aan ’n derde party verhuur word; of
- (c) (i) ’n Staatsbos of deel van ’n Staatsbos aan ’n derde party verhuur word deur die Minister; en 50
(ii) dit vir die Minister nodig is om geld te ontvang ingevolge die verhuring namens suksesvolle eisers van verskeie regte ten opsigte van die grond of die bos.

(2) Die Minister kan opdrag gee dat enige geld wat verskuldig is ingevolge ’n huurooreenkoms in subartikel (1) beoog, betaal moet word aan die trust wat ingevolge daardie subartikel opgerig is. 55

- (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 in the State forest or part of the State forest involved; 5
- (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; and
- (e) to pay such money or part of that money periodically to successful claimants contemplated in subsection (1)(c)(ii). 10
- (4) The beneficiaries of the trust are any claimants contemplated in subsection (1)(a) whose claims succeed, any community contemplated in subsection (1)(b) if it is granted rights by the Minister and any successful claimants contemplated in subsection (1)(c)(ii). 15
- (5) The Minister may—
- (a) effect or terminate the appointment of any or all of the trustees on just cause shown;
- (b) create such powers, rights, obligations and exemptions for the trustees as may be necessary to achieve the objects of the trust; 20
- (c) decide on the contents, variation and termination of the trust;
- (d) temporarily perform any of the functions of the trustees where the appointment of all the trustees has been terminated; and
- (e) prevent payment to the Ingonyama Trust contemplated in section 27A if he or she is not satisfied that the Ingonyama Trust maintains and implements effective, efficient and transparent financial management and internal control systems.”. 25

Amendment of section 53 of Act 84 of 1998

6. Section 53 of the National Forests Act, 1998, is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (f) of the following paragraph: 30
- “(f) the management of State forests in general or a particular State forest or part of it, including—
- (i) mensuration of forest produce or forest products for the purpose of sale or otherwise; and 35
- (ii) access to State forests for recreation;”;
- (b) by the substitution in subsection (2) for paragraph (j) of the following paragraph:
- “(j) generally, any other ancillary or incidental administrative or procedural matter which it is necessary or expedient to prescribe for the proper implementation or administration of this Act.”; and 40
- (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 62 of Act 84 of 1998

7. Section 62 of the National Forests Act, 1998, is hereby amended by the substitution in subsection (2) for paragraph (c) 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 50
- (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, [referred to in section 15(1)(b)].” 55

- (3) Die doelstellings van die trust is—
- (a) om betaling te ontvang van die geld beoog in subartikel (2);
 - (b) om sodanige geld namens die begunstigdes as deel van die trusteeiendom te belê;
 - (c) om sodanige geld of deel van daardie geld tesame met enige opbrengs te betaal aan die begunstigdes wanneer hulle regte ontvang op die Staatsbos of deel van die betrokke Staatsbos; 5
 - (d) om sodanige geld of deel van daardie geld tesame met enige opbrengs te betaal aan die Staat, of die Ingonyama Trust waar van toepassing, wanneer dit duidelik is dat die begunstigdes nie regte op die Staatsbos of deel van die Staatsbos sal verkry nie; en 10
 - (e) om sodanige geld of deel van daardie geld periodiek aan suksesvolle begunstigdes beoog in subartikel (1)(c)(ii) te betaal.
- (4) Die begunstigdes van die trust is enige eisers beoog in subartikel (1)(a) wie se eise suksesvol is, enige gemeenskap beoog in subartikel (1)(b) indien regte aan hulle verleen word deur die Minister en enige suksesvolle eisers beoog in subartikel (1)(c)(ii). 15
- (5) Die Minister kan—
- (a) die aanstelling van enige van of al die trustees doen of beëindig by die toon van gegronde rede; 20
 - (b) die bevoegdhede, regte, verpligtinge en vrystellings vir die trustees skep wat nodig is om die doelstellings van die trust te bereik;
 - (c) besluit oor die inhoud, wysiging en beëindiging van die trust;
 - (d) enige van die funksies van die trustees tydelik verrig waar die aanstelling van al die trustees beëindig is; en 25
 - (e) betaling aan die Ingonyama Trust beoog in artikel 27A belet indien hy of sy nie daarvan oortuig is dat die Ingonyama Trust effektiewe, doeltreffende en deursigtige finansiële bestuur en interne beheerstelsels handhaaf en implementeer nie.”.

Wysiging van artikel 53 van Wet 84 van 1998 30

6. Artikel 53 van die Nasionale Wet op Bosse, 1998, word hierby gewysig—
- (a) deur in subartikel (2) paragraaf (f) deur die volgende paragraaf te vervang:
 - “(f) die bestuur van Staatsbosse oor die algemeen of van ’n bepaalde Staatsbos of deel daarvan, insluitende—
 - (i) die meting van bosopbrengs of bosprodukte vir die doel van verkoop of andersins; en 35
 - (ii) toegang tot Staatsbosse vir ontspanning;”;
 - (b) deur in subartikel (2) paragraaf (j) deur die volgende paragraaf te vervang:
 - “(j) oor die algemeen, enige ander verwante of toevallige administratiewe of prosessuele aangeleentheid waarvoor dit nodig of wenslik is om voor te skryf vir die behoorlike inwerkingstelling of administrasie van hierdie Wet.”; en 40
 - (c) deur subartikel (5) deur die volgende subartikel te vervang:
 - “(5) Die algemeenheid van die bevoegdhede verleen by subartikel (2)(j) word nie beperk deur die bepalinge van die voorgaande paragraawe nie.” 45

Wysiging van artikel 62 van Wet 84 van 1998

7. Artikel 62 van die Nasionale Wet op Bosse, 1998, word hierby gewysig deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang: 50
- “(c) die verbod op—
- (i) die afkap, versteuring, beskadiging of vernietiging van tydelik beskermde bome of groepe bome bedoel in artikel 14(2) of beskermde bome bedoel in artikel 15(1)(a) oortree; of
 - (ii) die besit, versameling, verwydering, vervoer, uitvoer, koop of verkoop van tydelik beskermde bome of groepe bome bedoel in artikel 14(2) of beskermde bome bedoel in artikel 15(1)(b), of enige bosprodukt afkomstig van ’n tydelik beskermde boom, groep bome of beskermde boom, [bedoel in artikel 15(1)(b)] oortree.”. 55

Amendment of section 63 of Act 84 of 1998

8. Section 63 of the National Forests Act, 1998, is hereby amended by the insertion in subsection (2) after paragraph (a) of the following paragraph:

“(aA) cuts, disturbs, damages, destroys, removes or receives forest produce other than seven-week ferns (*Rumohra adiantiforme*) from any forest is guilty of a third category offence;” 5

Amendment of section 9 of Act 101 of 1998

9. Section 9 of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998), is hereby amended by the substitution in subsection (4) for paragraph (d)(ii) of the following subparagraph: 10

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

Amendment of section 10 of Act 101 of 1998

10. Section 10 of the National Veld and Forest Fire Act, 1998, is hereby amended—

(a) by the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words: 15

“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—”;

(b) by the substitution for subsection (2) of the following subsection: 20

“(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.”; and

(c) by the substitution in subsection (3) for paragraph (a) of the following paragraph: 25

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

Amendment of section 20 of Act 101 of 1998

11. Section 20 of the National Veld and Forest Fire Act, 1998, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (f) of the following paragraph: 30

“(f) generally, any other ancillary or incidental administrative or procedural matter which it is necessary or expedient to prescribe for the proper implementation or administration of this Act.”; and

(b) by the substitution for subsection (3) of the following subsection: 35

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

Repeal of Laws

12. The following laws are hereby repealed:

- (1) Wattle Bark Industry Act, 1960 (Act No. 23 of 1960);
- (2) Wattle Bark Industry Amendment Act, 1967 (Act No. 44 of 1967);
- (3) Wattle Bark Industry Amendment Act, 1974 (Act No. 59 of 1974); 40
- (4) Wattle Bark Industry Amendment Act, 1986 (Act No. 24 of 1986); and
- (5) Section 4 of the Forestry Laws Rationalisation and Amendment Act, 1994 (Act No. 51 of 1994).

Short title

13. This Act is called the Forestry Laws Amendment Act, 2005. 45

Wysiging van artikel 63 van Wet 84 van 1998

8. Artikel 63 van die Nasionale Wet op Bosse, 1998, word hierby gewysig deur in subartikel (2) na paragraaf (a) die volgende paragraaf in te voeg:

“(aA) ander bosopbrengs as seweweeksvaringe (*Rumohra adiantiforme*) afkap, versteur, beskadig, vernietig, verwyder of ontvang uit enige bos, is skuldig aan ’n kategorie 3-misdryf;” 5

Wysiging van artikel 9 van Wet 101 van 1998

9. Artikel 9 van die Nasionale Wet op Veld en Bosbrande, 1998 (Wet No. 101 van 1998), word hierby gewysig deur in subartikel (4) paragraaf (d)(ii) deur die volgende subparagraaf te vervang: 10

“(ii) wanneer die brandgevaar as hoog of uiters hoog aangeslaan word.”

Wysiging van artikel 10 van Wet 101 van 1998

10. Artikel 10 van die Nasionale Wet op Veld en Bosbrande, 1998, word hierby gewysig—

(a) deur in subartikel (1)(b) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang: 15

“wanneer ’n brandgevaar in enige streek as hoog of uitermate hoog aangeslaan word, by die vroegste moontlike geleentheid in al die hoof-tale wat in daardie streek gebruik word, ’n waarskuwing publiseer—;”

(b) deur subartikel (2) deur die volgende subartikel te vervang: 20

“(2) Wanneer die Minister ’n waarskuwing ingevolge subartikel (1)(b) gepubliseer het, mag niemand ’n vuur in die ope lug in die streek waar die brandgevaar hoog of uiters hoog is, aansteek, gebruik of aan die gang hou nie.”; en

(c) deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang: 25

“(a) meld dat die brandgevaar hoog of uiters hoog is;”.

Wysiging van artikel 20 van Wet 101 van 1998

11. Artikel 20 van die Nasionale Wet op Veld en Bosbrande, 1998, word hierby gewysig—

(a) deur in subartikel (1) paragraaf (f) deur die volgende paragraaf te vervang: 30

“(f) oor die algemeen, enige ander verwante of toevallige administratiewe of prosessuele aangeleentheid waarvoor dit nodig of wenslik is om voor te skryf vir die behoorlike inwerkingstelling of administrasie van hierdie Wet;” en

(b) deur subartikel (3) deur die volgende subartikel te vervang: 35

“(3) Die algemeenheid van die bevoegdhede verleen by subartikel (1)(f) word nie beperk deur die bepalings van die voorgaande paragrawe nie.”

Herroeping van Wette

12. Die volgende wette word hierby herroep: 40

- (1) Wet op die Wattelbasnywerheid, 1960 (Wet No. 23 van 1960);
- (2) Wysigingswet op die Wattelbasnywerheid, 1967 (Wet No. 44 van 1967);
- (3) Wysigingswet op die Wattelbasnywerheid, 1974 (Wet No. 59 van 1974);
- (4) Wysigingswet op die Wattelbasnywerheid, 1986 (Wet No. 24 van 1986); en
- (5) artikel 4 van die Rasionaliserings- en Wysigingswet op Bosbouwette, 1994 45 (Wet No. 51 van 1994).

Kort titel

13. Hierdie Wet heet die Wysigingswet op Bosbouwette, 2005.