

(2 June 2014 – to date)

[This is the **current** version and applies as from **2 June 2014**, i.e. the date of commencement of the National Environmental Management: Protected Areas Amendment Act 21 of 2014 – **to date**]

NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003

(Gazette No. 26025, Notice No. 181. Commencement date: 1 November 2004 [Proc. No. 52, Gazette No. 26960])

As amended by:

National Environmental Management: Protected Areas Amendment Act 31 of 2004 – Gazette No. 27274, No. 131. Commencement date: 1 November 2005 [Proc. No. R. 58, Gazette No. 28123]

National Environment Laws Amendment Act 14 of 2009 – Gazette No. 32267, No. 617. Commencement date: 18 September 2009 [Proc. 65, Gazette No. 32580]

National Environmental Management: Protected Areas Amendment Act 15 of 2009 – Gazette No. 32660, No. 748. Commencement date: 23 October 2009 – except for sections 1 and 8 [Proc. No. 69, Gazette No. 32660]

Schedule 2 amended by Government Notice R236 in Government Gazette 36295 dated 27 March 2013. Commencement date: 1 April 2013 of sections 1 and 8 (relating to Schedule 2) of the National Environmental Management Protected Areas Amendment Act, 15 of 2009 [Proc. No. 7, Gazette No. 36296]

National Environmental Management: Protected Areas Amendment Act 21 of 2014 - Government Notice 445 in Government Gazette 37710 dated 2 June 2014. Commencement date: 2 June 2014.

GENERAL EXPLANATORY NOTE:

***** Areas marked with five asterisks indicate omitted provisions which will be inserted by way of an Amendment Bill. That Bill will be dealt with in terms of the procedure prescribed by section 75 of the Constitution — as explained in paragraph 1 of the Memorandum on the Objects of the Bill.

(English text signed by the President)

[Assented To: 11 February 2004]

ACT

To provide for the protection and conservation of ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes; for the establishment of a national register of all national, provincial and local protected areas; for the management of those

Prepared by:

In partnership with:

areas in accordance with national norms and standards; for intergovernmental co-operation and public consultation in matters concerning protected areas; for the continued existence, governance and functions of South African National Parks; and for matters in connection therewith.

(Long title substituted by section 29 of Act 31 of 2004)

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

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTERPRETATION, OBJECTIVES AND APPLICATION OF ACT

1. Definitions
2. Objectives of Act
3. State trustee of protected areas
4. Application of Act
5. Application of National Environmental Management Act
6. Application of Biodiversity Act in protected areas
7. Conflicts with other legislation
8. Status of provincial legislation on provincial and local protected areas

CHAPTER 2

SYSTEM OF PROTECTED AREAS IN SOUTH AFRICA

9. Kinds of protected areas
10. Register of Protected Areas
11. Norms and standards
12. Provincial protected areas
13. World heritage sites
14. Continued existence of marine protected areas
15. Specially protected forest areas, forest nature reserves and forest wilderness areas
16. Mountain catchment areas

CHAPTER 3

DECLARATION OF PROTECTED AREAS

17. Purpose of protected areas

Part 1

Special nature reserves

- 18. Declaration of special nature reserves
- 19. Withdrawal of declaration or exclusion of part of special nature reserve

Part 2
National Parks

- 20. Declaration of national parks
- 21. Withdrawal of declaration or exclusion of part of national park
- 22. Designation of national park as wilderness area

Part 2A
Marine protected areas

- 22A. Declaration of marine protected areas
- 22B. Withdrawal of declaration of, addition to, or exclusion from, marine protected areas

Part 3
Nature reserves

- 23. Declaration of nature reserve
- 24. Withdrawal of declaration or exclusion of part of nature reserve
- 25. Designation of nature reserve as specific type
- 26. Designation of nature reserve as wilderness area
- 27. Notice to be given to Minister of provincial declarations

Part 4
Protected environments

- 28. Declaration of protected environment
- 29. Withdrawal of declaration or exclusion of part of protected environment
- 30. Notice to be given to Minister of provincial declarations

Part 5
Consultation process

- 31. Consultation by Minister
- 32. Consultation by MEC
- 33. Public participation
- 34. Affected organs of state, communities and beneficiaries

Part 6
General

- 35. Initiation of declaration
- 36. Endorsement by Registrar of Deeds

CHAPTER 4

MANAGEMENT OF PROTECTED AREAS

- 37. Application of Chapter

Part 1

Management authorities

- 38. Management authorities
- 39. Preparation of management plan
- 40. Management criteria
- 41. Management plan
- 42. Co-management of protected area

Part 2

Management and supervision

- 43. Performance indicators
- 44. Termination of mandate to manage protected area

Part 3

Access to protected areas

- 45. Access to special nature reserves
- 46. Access to national park, nature reserve and world heritage site
- 47. Use of aircraft in special nature reserve, national park or world heritage site

Part 4

Restrictions

- 48. Prospecting and mining activities in protected area
- 48A. Restriction of activities in marine protected areas
- 49. Regulation or restriction of activities in protected areas
- 50. Commercial and community activities in national park, nature reserves and world heritage site
- 51. Regulation or restriction of development and other activities in protected environment
- 52. Internal rules
- 53. Certain rights and entitlements to be respected

CHAPTER 5

SOUTH AFRICAN NATIONAL PARKS

Part 1

Continued existence and functions of South African National Parks

- 54. Continued existence
- 55. Functions
- 56. General powers

Part 2

Governing board, composition and membership

- 57. Composition
- 58. Qualifications
- 59. Appointment procedure
- 60. Chairperson
- 61. Term of office
- 62. Conditions of appointment
- 63. Conduct of members
- 64. Termination of membership
- 65. Removal from office
- 66. Filling of vacancies

Part 3

Operating procedures of Board

- 67. Meetings
- 68. Procedures
- 69. Quorum and decisions
- 70. Committees
- 71. Delegation of powers and assignment of duties

Part 4

Administration of South African National Parks

- 72. Appointment of Chief Executive Officer
- 73. Employment of staff

Part 5

Financial matters

- 74. Financial accountability
- 75. Funding
- 76. Investments
- 77. National Parks Land Acquisition Fund

Part 6
General

- 78. Minister's supervisory powers
- 79. Absence of functional Board;

CHAPTER 6
ACQUISITION OF RIGHTS IN OR TO LAND

- 80. Acquisition of private land by State
- 81. Acquisition of private land by South African National Parks;
- 82. Cancellation of servitude on, or privately held right in or to, state land
- 83. Cancellation of servitude on, or privately held right in or to, land owned by South African National Park
- 84. Mineral right
- 85. Financing

CHAPTER 7
ADMINISTRATION OF ACT

- 86. Regulations by Minister
- 87. Regulations by MEC
- 88. General

CHAPTER 8
OFFENCES AND PENALTIES

- 89. Offences and penalties

CHAPTER 9
MISCELLANEOUS

- 90. Repeal of laws
- 91. Savings and transitional provisions
- 92. Protected areas existing before commencement of section
- 93. Short title and commencement

SCHEDULE 1

SCHEDULE 2

Prepared by:

In partnership with:

(Arrangement of sections amended by section 30 of Act 31 of 2004)

(Arrangement of sections amended by section 17 of Act 21 of 2014)

CHAPTER 1 INTERPRETATION, OBJECTIVES AND APPLICATION OF ACT

1. Definitions

(1) In this Act, unless the context indicates otherwise –

“aircraft” means an airborne craft of any type whatsoever, whether self-propelled or not, and includes a hovercraft;

“Biodiversity Act” means the National Environmental Management: Biodiversity Act, 2003;

“biological diversity” or **“biodiversity”** has the meaning ascribed to it in section 1 of Biodiversity Act;

“biological resource” means any resource consisting of –

- (a) a living or dead animal, plant or other organism of an indigenous species;
- (b) a derivative of such an animal, plant or other organism, as defined in section 1 of the Biodiversity Act; or
- (c) any genetic material of such animal, plant or other organism, as defined in section 1 of the Biodiversity Act;

“Board” means the Board of South African National Parks referred to in section 57;

(Definition of “Board” inserted by section 1(a) of Act 31 of 2004)

“Chief Executive Officer” means the Chief Executive Officer of South African National Parks appointed in terms of section 72;

(Definition of “Chief Executive Officer” inserted by section 1(a) of Act 31 of 2004)

“declare”, when used in relation to –

- (a) the Minister, means declare by notice in the *Government Gazette*; and
- (b) the MEC, means designate by notice in the *Provincial Gazette*;

“Department” means the national Department responsible for administering environmental affairs;

(Definition of “Department” substituted by section 1(a) of Act 21 of 2014)

“**designate**”, when used in relation to –

- (a) the Minister, means designate by notice in the *Government Gazette*;
- (b) the MEC, means designate by notice in the *Provincial Gazette*,

“**Director-General**” means the Director-General of the Department;

“**ecological integrity**” means the sum of the biological, physical and chemical components of an ecosystem, and their interactions which maintain the ecosystem and its products, functions and attributes;

“**ecosystem**” means a dynamic complex of animal, plant and micro-organism communities and their non-living environment interacting as a functional unit;

“**environmental goods and services**” includes –

- (a) benefits obtained from ecosystems such as food, fuel and fibre and genetic resources;
- (b) benefits from the regulation of ecosystem processes such as climate regulation, disease and flood control and detoxification; and
- (c) cultural non-material benefits obtained from ecosystems and such as benefits of a spiritual, recreational, aesthetic, inspirational, educational, community and symbolic nature;

“**fish**”, when used as a verb, has the meaning, with the changes required by the context, ascribed to 'fishing' in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

(Definition of “fish” inserted by section 1(b) of Act 21 of 2014)

“**Gazette**”, when used in relation to –

- (a) the Minister, means the *Government Gazette*; and
- (b) the MEC, means the *Provincial Gazette* of that province;

“**habitat**”, in relation to a specific species, means a place or type of site where such species naturally occurs;

“indigenous species”, in relation to a specific protected area, means a species that occurs, or has historically occurred, naturally in a free state in nature within that specific protected area, but excludes a species introduced in that protected area as a result of human activity;

“lawful occupier” includes an occupier protected under the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), the Interim Protection of Informal Land Rights Act, 1996 (Act No. 31 of 1996), or the extension of Security of Tenure Act, 1997 (Act No. 26 of 1997), if the land regarding which the occupier enjoys such protection falls within a protected area or is proposed to be declared as or included in a protected area;

“local community” means any community of people living or having rights or interests in a distinct geographical area;

“local protected area” means a nature reserve or protected environment managed by a municipality;

“management”, in relation to a protected area, includes control, protection, conservation, maintenance and rehabilitation of the protected area with due regard to the use and extraction of biological resources, community-based practices and benefit-sharing activities in the area in a manner consistent with the Biodiversity Act;

“management authority”, in relation to a protected area, means the organ of state or other institution or person in which the authority to manage the protected area is vested;

“marine protected area” means an area declared as a marine protected area in terms of section 22A;

(Definition of “marine protected area” inserted by section 1(b) Act 31 of 2004)

(Definition of “marine protected area” substituted by section 1(c) of Act 21 of 2014)

“marine waters” means waters that form part of the internal waters, territorial waters and the exclusive economic zone of the Republic, respectively referred to in sections 3, 4 and 7 of the Maritime Zones Act, 1994 (Act No. 15 of 1994), and includes an estuary defined in section 1 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

(Definition of “marine waters” inserted by section 1(d) of Act 21 of 2014)

“MEC” means the member of the Executive Council of a province in whose portfolio provincial protected areas in the province fall;

“Minister” means the Cabinet member responsible for national environmental management;

“municipality” means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“National Environmental Management Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“national environmental management principles” means the principles contained in section 2 of the National Environmental Management Act;

“national park” means—

(a) an area which was a park in terms of the National Parks Act, 1976 (Act No. 57 of 1976), immediately before the repeal of that Act by section 90(1) of this Act, and includes a park established in terms of an agreement between a local community and the Minister which has been ratified by Parliament; or

(b) an area declared or regarded as having been declared in terms of section 20 as a national park,

and includes an area declared in terms of section 20 as part of an area referred to in paragraph (a) or (b) above;

(Definition of “national park” inserted by section 1(c) of Act 31 of 2004)

“National Parks Land Acquisition Fund” means the fund established by section 12A of the National Parks Act, 1976 (Act No. 57 of 1976);

(Definition of “National Parks Land Acquisition Fund” inserted by section 1(c) of Act 31 of 2004)

“national protected area” means –

(a) a special nature reserve;

(b) a national park;

(bA) a marine protected area; or

(c) a nature reserve or protected environment-

(i) managed by a national organ of state; or

(ii) which falls under the jurisdiction of the Minister for any other reason;

(Definition of “national protected area” amended by section 1(d) of Act 31 of 2004)

(Definition of “national protected area” substituted by section 1(e) of Act 21 of 2014)

“nature reserve” means –

- (a) an area declared, or regarded as having been declared, in terms of section 23 as a nature reserve; or
- (b) an area which before or after the commencement of this Act was or is declared or designated in terms of provincial legislation for a purpose for which that area could in terms of section 23(2) be declared as a nature reserve,

and includes an area declared in terms of section 23(1) as part of an area referred to in paragraph (a) or (b) above;

“organ of state” has the meaning assigned to it in section 239 of the Constitution;

“prescribe” means prescribe by the Minister by regulation in terms of section 86;

“protected area” means any of the protected areas referred to in section 9;

“protected environment” means –

- (a) an area declared, or regarded as having been declared, in terms of section 28 as a protected environment;
- (b) an area which before or after the commencement of this Act was or is declared or designated in terms of provincial legislation for a purpose for which that area could in terms of section 28(2) be declared as a protected environment; or
- (c) an area which was a lake area in terms of the Lake Areas Development Act, 1975 (Act No. 39 of 1975), immediately before the repeal of that Act by section 90(1) of this Act,

and includes an area declared in terms of section 28(1) as part of an area referred to in paragraph (a) [or], (b) or (c) above;

(Definition of “protected environment” substituted by section 1(e) of Act 31 of 2004)

“provincial protected area” means a nature reserve or protected environment –

- (a) managed by a provincial organ of state; or
- (b) with falls under the jurisdiction of a province for any other reason;

“Public Finance Management Act” means that Public Finance Management Act, 1999 (Act No. 1 of 1999);

“special nature reserve” means –

- (a) an area which was a special nature reserve in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), immediately before the repeal of section 18 of that Act by section 90 of this Act; or
- (b) an area declared, or regarded as having been declared, in terms of section 18 as a special nature reserve,

and includes an area declared in terms of section 18 as part of an area referred to in paragraph (a) or (b) above;

“species” means a kind of animal, plant or other organism, including any subspecies, cultivar, variety, geographic race, strain, hybrid or geographically separate population;

“subordinate legislation” means any regulation made or notice issued under or in terms of this Act;

“the Fund” means the National Parks Land Acquisition Fund;

(Definition of “the Fund” inserted by section 1(f) of Act 31 of 2004)

“this Act” includes any subordinate legislation;

“wilderness area” means an area designated in terms of section 22 or 26 for the purpose of retaining an intrinsically wild appearance and character or capable of being restored to such and which is undeveloped and roadless, without permanent improvements or human habitation;

“world heritage site” means a world heritage site in terms of the World Heritage Convention Act, 1999 (Act No. 49 of 1999).

- (2) In this Act words or expressions derived from words or expression defined in subsection (1) have corresponding meanings unless the context indicates otherwise.

2. Objectives of Act

The objectives of this Act are –

- (a) to provide, within the framework of national legislation, including the National Environmental Management Act, for the declaration and management of protected areas;
- (b) to provide for co-operative governance in the declaration and management of protected areas;

- (c) to effect a national system of protected areas in South Africa as part of a strategy to manage and conserve its biodiversity;
- (d) to provide for a diverse and representative network of protected areas on state land, private land, communal land and marine waters;

(Section 2(d) substituted by section 2 of Act 21 of 2014)

- (e) to promote sustainable utilisation of protected areas for the benefit of people, in a manner that would preserve the ecological character of such areas;

(Section 2(e) amended by section 2(a) of Act 31 of 2004)

- (f) to promote participation of local communities in the management of protected areas, where appropriate: and

- (g) to provide for the continued existence of South African National Parks

(Section 2(g) inserted by section 2(b) of Act 31 of 2004)

3. State trustee of protected areas

In fulfilling the rights contained in section 24 of the Constitution, the State through the organs of state implementing legislation applicable to protected areas must –

- (a) act as the trustee of protected areas in the Republic; and
- (b) implement this Act in partnership with the people to achieve the progressive realisation of those rights.

4. Application of Act

- (1) This act also applies –

- (a) in the Price Edward Islands referred to in section 1 of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948); and
- (b) to marine waters, including the continental shelf of the Republic referred to in section 8 of the Maritime Zones Act, 1994 (Act No. 15 of 1994).

(Section 4(1)(b) substituted by section 3 of Act 21 of 2014)

- (2) This Act binds all organs of state.

5. Application of National Environmental Management Act

- (1) This Act must –
 - (a) be interpreted and applied in accordance with the national environmental management principles; and
 - (b) be read with the applicable provisions of the national Environmental Management Act.
- (2) Chapter 4 of the National Environmental Management Act applies to the resolution of conflicts arising from the implementation of this Act.

6. Application of Biodiversity Act in protected areas

This Act must, in relation to any protected area, be read, interpreted and applied in conjunction with the Biodiversity Act.

7. Conflicts with other legislation

- (1) In the event of any conflict between a section of this Act and –
 - (a) other national legislation, the section of this Act prevails if the conflict specifically concerns the management or development of protected areas;
 - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
 - (c) a municipal by-law, the section of this Act prevails.
- (2) In the event of any conflict between subordinate legislation issued in terms of this Act and –
 - (a) an Act of Parliament, the Act of Parliament prevails;
 - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
 - (c) a municipal by-law, the subordinate legislation issued in terms of this Act prevails.
- (3) For the proper application of subsection (2)(b) the Minister must, in terms of section 146(6) of the Constitution, submit all subordinate legislation issued in terms of this Act and which affects provinces to the National Council of Provinces for approval.

8. Status of provincial legislation on provincial and local protected areas

This act does not affect the implementation of provincial legislation regulating matters with regard to provincial or local protected areas to extent that such legislation –

- (a) regulates matters not covered by this Act;
- (b) is consistent with this Act; or
- (c) prevails over this Act in terms of section 146 of the Constitution.

CHAPTER 2

SYSTEM OF PROTECTED AREAS IN SOUTH AFRICA

9. Kinds of protected areas

The system of protected areas in South Africa consists of the following kinds of protected areas:

- (a) special nature reserves, national parks, nature reserves (including wilderness areas) and protected environments;

(Section 9(a) amended by section 3(a) of Act 31 of 2004)

- (b) world heritage sites;

- (c) marine protected areas;

(Section 9(c) inserted by section 3(b) of Act 31 of 2004)

- (d) specially protected forest areas, forest nature reserves and forest wilderness areas declared in terms of the National Forests Act, 1998 (Act No. 84 of 1998); and

- (e) mountain catchment areas declared in terms of the Mountain Catchment Areas Act, 1970 (Act No. 63 of 1970)

10. Register of Protected Areas

- (1) The Minister must maintain a register called the Register of Protected Areas.

- (2) The Register must –

- (a) contain a list of all protected areas;
- (b) indicate the kind of protected area in each case; and
- (c) contain any other information determined by the Minister.

- (3) For the purposes of subsection (2)(b) a protected area declared in terms of provincial legislation must be included in the Register as a nature reserve or protected environment depending on the purpose for which it was declared.
- (4) The Cabinet member responsible for the administration of the National Forests Act, 1998 (Act No. 84 of 1998), and the MEC must notify the Minister of all areas declared as protected areas in terms of that Act or provincial legislation, as the case may be.

11. Norms of standards

- (1) The Minister may prescribe –
 - (a) norms and standards for the achievement of any of the objectives of this Act, including for the management and development of protected areas referred to in section 9(a), (b) and (c);
 - (b) indicators to measure compliance with those norms and standards; and
 - (c) the requirement for the management authorities of those protected areas to report on these indicators to the Minister.
- (2) Before issuing norms and standards and setting indicators for provincial or local protected areas, the Minister must consult –
 - (a) the MEC of each province in which those norms and standards will apply; and
 - (b) the relevant local government.
- (3) Norms and standards must apply –
 - (a) nationwide;
 - (b) in a specific protected areas only;
 - (c) to a specific management authority or category of management authorities only.
- (4) Different norms and standards may be issued for –
 - (a) different areas; or
 - (b) different management authorities or categories of management authorities.

12. Provincial protected areas

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A protected area which immediately before this section took effect was reserved or protected in terms of provincial legislation for any purpose for which an area could in terms of this Act be declared as a nature reserve or protected environment, must be regarded to be a nature reserve or protected environment for the purpose of this Act.

13. World heritage sites

- (1) Chapter 1 and this Chapter apply to world heritage sites, declared as such in terms of the World Heritage Convention Act, 1999 (Act No. 49 of 1999).
- (2) The other provisions of this Act do not apply to world heritage sites except where expressly or by necessary implication provided otherwise.

14. Continued existence of marine protected areas

Any marine protected area which had been declared as such in terms of section 43 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), and which exists when the National Environmental Management: Protected Areas Amendment Act, 2014, takes effect, must be regarded as a marine protected area declared as such in terms of section 22A.

(Section 14 inserted by section 4 of Act 31 of 2004)

(Section 14 substituted by section 4 of Act 21 of 2014)

15. Specially protected forest areas, forest nature reserves and forest wilderness areas

- (1) Chapter 1, this Chapter and section 48 apply to specially protected forest areas, forest nature reserves or forest wilderness areas, declared as such in terms of section 8 of the National Forests Act, 1998 (Act No. 84 of 1998).
- (2) The other provisions of this Act do not apply to specially protected forest areas, forest nature reserves or forest wilderness areas, but if any such area has been declared as or included in a special nature reserve, national park or nature reserve, such area must be managed as a, or as part of the, special nature reserve, national park or nature reserve in terms of this Act in accordance with an agreement concluded between the Minister and the Cabinet member responsible for forestry.

(Section 15(2) amended by section 5 of Act 31 of 2004)

16. Mountain catchment areas

Chapter 1 and this Chapter apply to mountain catchment areas, declared as such in terms of the Mountain Catchment Areas Act, 1970 (Act No. 63 of 1970).

CHAPTER 3

DECLARATION OF PROTECTED AREAS

17. Purpose of protected areas

The purpose of the declaration of areas as protected areas are –

- (a) to protect ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes in a system of protected areas;
- (b) to preserve the ecological integrity of those areas;
- (c) to conserve biodiversity in those areas;
- (d) to protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa;
- (e) to protect South Africa's threatened or rare species;
- (f) to protect an area which is vulnerable or ecologically sensitive;
- (g) to assist in ensuring the sustained supply of environmental goods and services;
- (h) to provide for the sustainable use of natural and biological resources;
- (i) to create or augment destinations for nature-based tourism;
- (j) to manage the interrelationship between natural environmental biodiversity, human settlement and economic development;
- (k) generally, to contribute to human, social, cultural, spiritual and economic development; or
- (l) to rehabilitate and restore degraded ecosystems and promote the recovery of endangered and vulnerable species.

Part 1

Special nature reserves

18. Declaration of special nature reserves

- (1) The Minister may be notice in the *Gazette* –
 - (a) declare an area specified in the notice –

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- (i) as a special nature reserve; or
 - (ii) as part of an existing special nature reserve; and
 - (b) assign a name to such special nature reserve.
- (2) A declaration under subsection (1)(a) may only be issued –
- (a) to protect highly sensitive, outstanding ecosystems, species or geological or physical features in the area; and
 - (b) to make the area primarily available for scientific research or environmental monitoring.
- (3) A notice under subsection (1)(a) may be issued in respect of private land if the owner has consented to the declaration by way of a written agreement with the Minister.
- (4) An area which was a special nature reserve immediately before this section took effect must for purposes of this section be regarded as having been declared as such in terms of this section.

19. Withdrawal of declaration or exclusion of part of special nature reserve

The declaration of an area as a special nature reserve, or as part of the existing special nature reserve, may not be withdrawn and no part of a special nature reserve may be excluded from the reserve except by resolution of the National Assembly.

Part 2 National parks

20. Declaration of national parks

- (1) The Minister may by notice in the Gazette—
- (a) declare an area specified in the notice—
 - (i) as a national park; or
 - (ii) as part of an existing national park; and
 - (b) assign a name to the national park.
- (2) A declaration under subsection (1) (a) may only be issued to—

- (a) protect—
 - (i) the area if the area is of national or international biodiversity importance or is or contains a viable, representative sample of South Africa's natural systems, scenic areas or cultural heritage sites; or
 - (ii) the ecological integrity of one or more ecosystems in the area;
 - (b) prevent exploitation or occupation inconsistent with the protection of the ecological integrity of the area;
 - (c) provide spiritual, scientific, educational, recreational and tourism opportunities which are environmentally compatible; and
 - (d) contribute to economic development, where feasible.
- (3) A notice under subsection (1)(a) may be issued in respect of land if the owner has consented to the declaration by way of a written agreement with the Minister or South African National Parks.
- (4) The Minister must notify the relevant MEC of any declaration of an area in terms of subsection (1).
- (5) An area which was a national park when this section took effect must for purposes of this section be regarded as having been declared as such in terms of this section.
- (6) (a) Each area defined in Schedule 2 shall be a national park under the name assigned to it in that Schedule.
- (b) The Minister may by notice in the *Gazette* amend Schedule 2.

(Section 20(6) inserted by section 1 of Act 15 of 2009. Commencement date: 1 April 2013 [Proc. No. 7, Gazette No. 36296])

(Section 20 inserted by section 6 of Act 31 of 2004)

21. Withdrawal of declaration or exclusion of part of national park

- (1) A declaration under section 20 may only be withdrawn—
- (a) by resolution of the National Assembly; or
 - (b) in terms of subsection (2).

- (2) If the Minister or South African National Parks, as the case may be, or the other party to an agreement referred to in section 20(3), withdraws from the agreement, the Minister must withdraw the declaration in terms of which the land in question was declared a national park or part of an existing national park.

(Section 21 inserted by section 6 of Act 31 of 2004)

22. Designation of national park as wilderness area

- (1) The Minister may by notice in the Gazette designate any national park, or part thereof, as a wilderness area.
- (2) A designation under subsection (1) may only be issued—
- (a) to protect and maintain the natural character of the environment, biodiversity, associated natural and cultural resources and the provision of environmental goods and services;
 - (b) to provide outstanding opportunities for solitude;
 - (c) to control access which, if allowed, may only be by non-mechanised means.
- (3) Before designating a national park as a wilderness area, the Minister must consult the management authority of the park.

(Section 22 inserted by section 6 of Act 31 of 2004)

Part 2A

Marine protected areas

22A. Declaration of marine protected areas

- (1) The Minister may, by notice in the Gazette-
- (a) declare an area specified in the notice-
 - (i) as a marine protected area; or
 - (ii) as part of an existing marine protected area; and
 - (b) assign a name to the marine protected area.
- (2) A declaration under subsection (1)(a) may only be issued-

- (a) to conserve and protect marine and coastal ecosystems;
 - (b) to conserve and protect marine and coastal biodiversity;
 - (c) to conserve and protect a particular marine or coastal species, or specific population and its habitat;
 - (d) if the area contains scenic areas or to protect cultural heritage;
 - (e) to facilitate marine and coastal species management by protecting migratory routes and breeding, nursery or feeding areas, thus allowing species recovery and to enhance species abundance in adjacent areas;
 - (f) to protect and provide an appropriate environment for research and monitoring in order to achieve the objectives of this Act; or
 - (g) to restrict or prohibit activities which is likely to have an adverse effect on the environment.
- (3) A notice under subsection (1)(a) may only be issued after consultation with the Cabinet member responsible for fisheries.

(Section 22A inserted by section 5 of Act 21 of 2014)

22B. Withdrawal of declaration of, addition to, or exclusion from, marine protected areas

The Minister may, by notice in the Gazette-

- (a) withdraw a declaration made under section 22A(1);
- (b) add to or exclude any area from a marine protected area; and
- (c) assign a different name to a marine protected area.

(Section 22B inserted by section 5 of Act 21 of 2014)

(Part 2A inserted by section 5 of Act 21 of 2014)

Part 3

Nature Reserves

23. Declaration of nature reserves

- (1) The Minister or the MEC may be notice in the *Gazette* –
 - (a) declare an area specified in the notice –
 - (i) as a nature reserve; or
 - (ii) as part of an existing nature reserve; and
 - (b) assign a name to the nature reserve.
- (2) A declaration under subsection (1)(a) may only be issued –
 - (a) to supplement the system of national parks in South Africa;
(Section 23(2)(a) inserted by section 7(a) of Act 31 of 2004)
 - (b) to protect the area if the area –
 - (i) has significant natural features or biodiversity;
 - (ii) is of scientific, cultural, historical or archaeological interest; or
 - (iii) is in need of long-term protection for the maintenance of its biodiversity or for the provision of environmental goods and services;
 - (c) to provide for a sustainable flow of natural products and services to meet the needs of the local community;
 - (d) to enable the continuation of such traditional consumptive uses as are sustainable; or
 - (e) to provide for nature-based recreation and tourism opportunities.
- (3) A notice under subsection (1)(a) may be issued in respect of private land if the owner has consented to the declaration by way of written agreement with the Minister or the MEC.
- (4) No area which is or forms part of a special nature reserve or national park may be declared as a nature reserve or as part of an existing nature reserve.
(Section 23(4) substituted by section 7(b) of Act 31 of 2004)
- (5) An area which was a nature reserve immediately before this section took effect must for purposes of this section be regarded as having been declared as such in terms of this section.

24. Withdrawal of declaration or exclusion of part of nature reserve

Prepared by:

In partnership with:

- (1) A declaration under section 23(1) may only be withdrawn –
 - (a) in the case of a declaration by the Minister, by resolution of the National Assembly;
 - (b) in the case of a declaration by the MEC, by resolution of the legislature of the relevant province;
or
 - (c) in terms of subsection (2).
- (2) If the Minister or MEC, or the other party to an agreement, withdraws from an agreement referred to in section 23(3), the Minister or MEC must withdraw the notice in terms of which the land in question was declared a nature reserve or part of an existing nature reserve.

25. Designation of nature reserve as specific type

The Minister or the MEC may by notice in the *Gazette* designate a nature reserve as a specific type of nature reserve in accordance with such uniform system of types as may be prescribed.

26. Designation of nature reserve as wilderness area

- (1) the Minister or MEC may by notice in the *Gazette* designate a nature reserve or part thereof as a wilderness area.
- (2) A notice under subsection (1) may only be issued –
 - (a) to protect and maintain the natural character of the environment, biodiversity, associated natural and cultural resources and the provision of environmental goods and services;
 - (b) to provide outstanding opportunities for solitude;
 - (c) to control access which, if allowed, may only be by non-mechanised means.
- (3) Before designating a nature reserve or part of a nature reserve as a wilderness area, the Minister or MEC must consult the management authority of the nature reserve.

27. Notice to be given to Minister of provincial declarations

The MEC must promptly forward to the Minister a copy of each notice issued under section 23, 24, 25 or 26.

Part 4

Protected environments

28. Declaration of protected environments

- (1) The Minister or the MEC may by notice in the *Gazette* –
- (a) declare any area specified in the notice –
 - (i) as a protected environment; or
 - (ii) as part of an existing protected environment; and
 - (b) assign a name to the protected environment.
- (2) A declaration under subsection (1)(a) may only be issued –
- (a) to regulate the area as a buffer zone for the conservation and protection of a special nature reserve, national park, marine protected area, world heritage site or nature reserve;
(Section 28(2)(a) substituted by section 8(a) of Act 31 of 2004)
(Section 28(2)(a) substituted by section 6 of Act 21 of 2014)
 - (b) to enable owners of the land to take collective action to conserve biodiversity on their land and to seek legal recognition therefor;
 - (c) to protect the area if the area is sensitive to development due to its –
 - (i) biological diversity;
 - (ii) natural characteristics;
 - (iii) scientific, cultural, historical, archaeological or geological value;
 - (iv) scenic and landscape value; or
 - (v) provision of environmental goods and services;
 - (d) to protect a specific ecosystem outside of a special nature reserve, national park, world heritage site or nature reserve;
(Section 28(2)(d) substituted by section 8(b) of Act 31 of 2004)
 - (e) to ensure that the use of natural resourced in the area is sustainable; or

- (f) to control change in land use in the area if the area is earmarked for declaration as, or inclusion in, a national park or nature reserve.

(Section 28(2)(f) substituted by section 8(c) of Act 31 of 2004)

- (3) A notice under subsection (1)(a) may be issued in respect of private land if the owner has requested or consented to a declaration contemplated in subsection (1)(a) and the Minister or the MEC has given the owner notice in writing in terms of section 33.

- (4) No area which is or forms part of a special nature reserve, national park or nature reserve may be declared as a protected environment or as part of an existing protected environment.

(Section 28(4) substituted by section 8(d) of Act 31 of 2004)

- (5) The declaration of an area as a protected environment for the purposes of subsection (2)(f) lapses at the expiry of the period stated in the notice contemplated in subsection (1), but the Minister or the MEC, as the case may be, may, by agreement reached with the owners of the land in question and by notice in the *Gazette*, extend that period.

(Section 28(5) substituted by section 2 of Act 15 of 2009)

- (6) An area ceases to be a protected environment if that area is declared as, or included into, a national park or nature reserve or part thereof.

(Section 28(6) substituted by section 8(e) of Act 31 of 2004)

- (7) An area which was a protected environment immediately before this section took effect must for purposes of this section be regarded as having been declared as such in terms of this section.

29. Withdrawal of declaration of exclusion of part of protected environment

The Minister or the MEC may by notice in the *Gazette* –

- (a) withdraw the declaration, issued under section 28, of an area as a protected environment or as part of an existing protected environment; or
- (b) exclude any part of a protected environment from the area.

30. Notice to be given to the Minister of provincial declarations

The MEC must promptly forward to the Minister a copy of each notice issued under section 28 or 29.

Part 5

Consultation process

31. Consultation by Minister

Prepared by:

In partnership with:

Subject to subsection 34, before issuing a notice under section 18(1), 19, 20(1), 21, 22(1), 22A(1), 22B, 23(1), 24(1), 26(1), 28(1) or 29, the Minister may follow such consultative process as may be appropriate in the circumstances, but must—

(Words preceding paragraph (a) of section 31 substituted by section 9 of Act 31 of 2004)

(Words preceding paragraph (a) of section 31 substituted by section 7 of Act 21 of 2014)

- (a) consult all national organs of state affected by the proposed notice;
- (b) in accordance with the principles of co-operative government as set out in Chapter 3 of the Constitution, consult –
 - (i) the MEC of the province concerned; and
 - (ii) the municipality in which the area concerned is situated;
- (c) in the prescribed manner, consult any lawful occupier with a right in land in any part of the area affected; and
- (d) follow a process of public participation in accordance with section 33.

32. Consultation by MEC

Subject to section 34, before issuing a notice under section 23(1), 26(1), 28(1) or 29, the MEC may follow such consultative process as may be appropriate in the circumstances, but must –

- (a) consult in accordance with the principles of co-operative government as set out in Chapter 3 of the Constitution –
 - (i) the Minister and other national organs of state affected by the proposed notice; and
 - (ii) the municipality in which the area concerned is situated;
- (b) consult all provincial organs of state affected by any proposed notice;
- (c) in the prescribed manner, consult any lawful occupier with a right in land in any part of the area affected; and
- (d) follow a process of public participation in accordance with section 33.

33. Public participation

- (1) The Minister or the MEC must –
 - (a) publish the intention to issue a notice contemplated in section 31 or 32, in the *Gazette* and in at least two national newspapers distributed in the area in which the affected area is situated; and
 - (b) if it is proposed to declare any private land as a protected environment, send a copy of the proposed notice by registered post to the last known postal address of each owner of land within the area to be declared, and inform in an appropriate manner any other person whose rights in such land may materially and adversely be affected by such declaration.
- (2) The publication contemplated in subsection (1) must –
 - (a) invite members of the public and the person referred to in subsection (1)(b), if applicable, to submit to the Minister or MEC written representations on or objections to the proposed notice within 60 days from the date of publication in the *Gazette*; and
 - (b) contain sufficient information to enable members of the public to submit meaningful representations or objections, and must include a clear indication of the area that will be affected by the declaration.
- (3) The Minister or MEC may in appropriate circumstances allow any interested person to present oral representations or objections to the Minister or the MEC, or to a person designated by the Minister or MEC, but such representations or objections must be allowed where the proposed notice will affect the rights or interests of a local community.
- (4) The Minister or MEC must give due consideration to all representations or objections received or presented before publishing the relevant notice.

34. Affected organs of state, communities and beneficiaries

- (1) If it is proposed to declare an area under section 18(1), 20(1) or 22A(1) as a special nature reserve, a national park or a marine protected area, or as part thereof, and that area consists of or includes—

(Words preceding paragraph (a) of section 34(1) substituted by section 10 of Act 31 of 2004)
(Words preceding paragraph (a) of section 34(1) substituted by section 8 of Act 21 of 2014)

 - (a) land owned by the State, the Minister may make that declaration only –
 - (i) with the concurrence of the Cabinet member responsible for the administration of that land, if that land is administered by the national executive; or
 - (ii) after consultation with the provincial executive, if that land is administered by that provincial executive;

- (b) land which is held in trust by the State or an organ of state for a community or other beneficiary, the Minister may declare that area only with the concurrence of the trustee and the community involved.
- (2) If it is proposed to declare an area under section 23(1) of 28(1) as a nature reserve or a protected environment, or a part thereof, and that area consists of or includes –
 - (a) land owned by the State, the Minister or the MEC may make that declaration only with the concurrence of the Cabinet member or MEC responsible for the administration of that land; or
 - (b) land which is held in trust by the State or organ of state for a community or other beneficiary, the Minister or the MEC may declare that area only with the concurrence of the trustee and the community involved.

Part 6

General

35. Initiation of declaration

- (1) The declaration of private land as a special nature reserve, national park, nature reserve or protected environment, or as part thereof, may be initiated either by the Minister or the MEC or the owners of that land acting individually or collectively.

(Section 35(1) amended by section 11(a) of Act 31 of 2004)

- (2) Any request received by the Minister or an MEC from the owners of private land for their land to be declared must be considered by the Minister or MEC.

- (3)
 - (a) The terms of any written agreement entered into between the Minister, South African National Parks or an MEC and the owner of private land in terms of section 18(3), 20(3) or 23(3) are binding on the successors in title of such owner.

(Section 35(3)(a) amended by section 11(b) of Act 31 of 2004)

- (b) The terms of agreement must be recorded in a notarial deed and registered against the title deeds of the property.

36. Endorsement by Registrar of Deeds

- (1) The Minister or the MEC, as the case may be, must in writing notify the Registrar of Deeds whenever an area is declared as a special nature reserve, national park, nature reserve or protected environment, or as part thereof, or whenever a declaration in respect thereof is withdrawn or altered.

(Section 36(1) amended by section 12 of Act 31 of 2004)

- (2) The notification must include a description of the land involved and the terms and conditions of any notarial deed.
- (3) On receipt of the notification, the Registrar of Deeds must record any such declaration, withdrawal or alteration in relevant registers and documents in terms of section 3(1)(w) of the Deeds Registries Act, 1937 (Act No. 47 of 1937)

CHAPTER 4

MANAGEMENT OF PROTECTED AREAS

37. Application of Chapter

Except where expressly stated otherwise in this Chapter, this Chapter only applies to a protected area which is a special nature reserve, national park, marine protected area, nature reserve or protected environment, and the expressions "**protected area**", "**national protected area**", "**provincial protected area**", "**local protected area**" and "**protected environment**" must be construed accordingly in this Chapter.

(Section 37 substituted by section 13 of Act 31 of 2004)

(Section 37 substituted by section 9 of Act 21 of 2014)

Part 1

Management authorities and management plans

38. Management authorities

- (1) The Minister, in writing –
 - (a) subject to paragraphs (aA) and (aB), may assign the management of any kind of protected area listed in section 9 to a suitable person, organisation or organ of state;

(Section 38(1)(a) amended by section 14(a) of Act 31 of 2004)
(Section 38(1)(a) substituted by section 3 of Act 15 of 2009)
(Section 38(1)(a) substituted by section 10(a) of Act 21 of 2014)
 - (aA) must assign the management of a national park to South African National Parks;

(Section 38(1)(aA) inserted by section 14(b) of Act 31 of 2004)
(Section 38(1)(aA) substituted by section 3 of Act 15 of 2009)
(Section 38(1)(aA) amended by section 10(b) of Act 21 of 2014)

- (aB) may assign the management of a marine protected area only to a suitable national organ of state, but the powers referred to in section 48A(2) may not be so assigned; or

(Section 38(1)(aB) inserted by section 10(c) of Act 21 of 2014)

- (b) may assign the management of a privately owned protected environment to a suitable person, organization or organ of state, provided that the owner and lawful occupier have requested or consented to such assignment, and the Minister has given the owner and lawful occupier notice in writing in terms of section 33.

(Section 38(1)(b) substituted by section 10(d) of Act 21 of 2014)

- (2) The MEC, in writing –

- (a) must assign the management of a nature reserve to a suitable person, organisation or organ of state; and

- (b) may assign the management of a protected environment to a suitable person, organisation or organ of state, provided that the owner and lawful occupier have requested or consented to such assignment, and the MEC has given the owner and lawful occupier notice in writing in terms of section 33.

- (3) The person, organisation or organ of state to whom the management of a protected area has been assigned in terms of subsection (1) or (2) is the management authority of the area for the purposes of this Act.
- (4) Marine and terrestrial protected areas with common boundaries must be managed as an integrated protected area by a single management authority.

39. Preparation of management plan

- (1) The Minister or the MEC may make an assignment in terms of section 38(1) or (2) only with the concurrence of the prospective management authority.
- (2) The management authority assigned in terms of section 38(1) or (2) must, within 12 months of the assignment, submit a management plan for the protected area to the Minister or the MEC for approval.
- (3) When preparing a management plan for a protected area, the management authority concerned must consult municipalities, other organs of state, local communities and other affected parties with have an interest in the area.
- (4) A management plan must take into account any applicable aspects of the integrated development plan of the municipality in which the protected area is situated.

40. Management criteria

- (1) The management authority must manage the area –
 - (a) exclusively for the purpose for which it was declared; and
 - (b) in accordance with –
 - (i) the management plan for the area;
 - (ii) this Act, the Biodiversity Act, the National Environmental Management Act and any other applicable national legislation;
 - (iii) any applicable provincial legislation, in the case of a provincial protected area; and
 - (iv) any applicable municipal by-laws, in the case of a local protected area.
- (2) The management authority may amend the management plan by agreement with the Minister or the MEC, as the case may be.

41. Management plans

- (1) The object of a management plan is to ensure the protection, conservation and management of the protected area concerned in a manner which is consistent with the objectives of this Act and for the purpose it was declared.
- (2) A management plan must contain at least –
 - (a) the terms and conditions of any applicable biodiversity management plan;
 - (b) a co-ordinated policy framework;
 - (c) such planning measures, controls and performance criteria as may be prescribed;
 - (d) a programme for the implementation of the plan and its costing;
 - (e) procedures for public participation, including participation by the owner (if applicable), any local community or other interested party;
 - (f) where appropriate, the implementation of community-based natural resource management; and

- (g) a zoning of the area indicating what activities may take place in different sections of the area, and the conservation objectives of those sections, provided that in a marine protected area, the zoning must not conflict with a zoning in terms of section 48A(2)(a).

(Section 41(2)(g) substituted by section 11 of Act 21 of 2014)

- (3) A management plan may contain –
 - (a) development of economic opportunities within and adjacent to the protected area in terms of the integrated development plan framework;
 - (b) development of local management capacity and knowledge exchange;
 - (c) financial and other support to ensure effective administration and implementation of the co-management agreement; and
 - (d) any other relevant matter.
- (4) Management plans may include subsidiary plans, and the Minister or MEC may approve the management plan or any subsidiary plan in whole or in part.

42. Co-management of protected area

- (1) (a) The management authority may enter into an agreement with another organ of state, a local community, an individual or other party for –
 - (i) the co-management to the area by the parties; or
 - (ii) the regulation of human activities that affect the environment in the area.
- (b) The co-management contemplated in paragraph (a) may not lead to fragmentation or duplication of management functions.
- (2) A co-management agreement may provide for –
 - (a) the delegation of powers by the management authority to the other party to the agreement;
 - (b) the apportionment of any income generated from the management of the protected area of any other form of benefit sharing between the parties;
 - (c) the use of biological resources in the area;
 - (d) access to the area;

- (e) occupation of the protected area or portions thereof;
 - (f) development of economic opportunities within and adjacent to the protected area;
 - (g) development of local management capacity and knowledge exchange;
 - (h) financial and other support to ensure effective administration and implementation of the co-management agreement; and
 - (i) any other relevant matter.
- (3) A co-management agreement must –
- (a) provide for the harmonisation and integration of the management of cultural heritage resources in the protected area by the management authority; and
 - (b) be consistent with the other provisions of this Act.
- (4) The Minister or the MEC, as the case may be, may cancel a co-management agreement after giving reasonable notice to the parties if the agreement is not effective or is inhibiting the attainment of any of the management objectives of the protected area.
- (5) Where the Minister or MEC in terms of subsection (4) cancels a co-management agreement forming a material term of an agreement contemplated in section 20(3), 23(3) or 28(3), the withdrawal of the declaration of the protected area or exclusion contemplated in section 21(2), 24(2) or 29, respectively, applies.

(Section 42(5) substituted by section 15 of Act 31 of 2004)

Part 2

Monitoring and supervision

43. Performance indicators

- (1) The minister may establish indicators for monitoring performance with regard to the management of national protected areas and the conservation of biodiversity in those areas.
- (2) The MEC may establish indicators for monitoring performance with regard to the management of provincial and local protected areas and the conservation of biodiversity in those areas.
- (3) The management authority of a protected area must –

- (a) monitor the area against the indicators set in terms of subsection (1) or (2); and
 - (b) annually report its findings to the Minister or MEC, as the case may be, or a person designated by the Minister or MEC.
- (4) The Minister or MEC may appoint external auditors to monitor a management authority's compliance with the overall objectives of the management plan.

44. Termination of mandate to manage protected area

- (1) If the management authority of a protected area is not performing its duties in terms of the management plan for the area, or is underperforming with regard to the management of the area or the biodiversity of the area, the Minister or MEC, as the case may be, must –
- (a) notify the management authority in writing of the failure to perform its duties or of the underperformance; and
 - (b) direct the management authority to take corrective steps set out in the notice within a specified time.
- (2) If the management authority fails to take the required steps, the Minister or MEC may –
- (a) terminate that management authority's mandate to manage the protected area; and
 - (b) assign another organ of state as the management authority of the area.
- (3) The Minister implements this section in relation to national protected areas and the MEC implements this section in relation to provincial and local protected areas.

Part 3

Access to protected areas

45. Access to special nature reserve

- (1) No person may –
- (a) enter a special nature reserve;
 - (b) reside in a special nature reserve; or
 - (c) perform any activity in a special nature reserve.

- (2) Subsection (1) does not apply to –
- (a) an official of the Department or another organ of state designated by the Minister in writing to monitor –
 - (i) the state of conservation of the reserve or of the biodiversity in the reserve; or
 - (ii) the implementation of the management plan and this Act;
 - (b) any police, customs or excise officer entering the area in the performance of official duties; or
 - (c) a person acting in terms of an exemption granted under subsection (3).
- (3) The management authority of a special nature reserve may, in writing and on condition determined by it after consulting the Minister, grant exemption from a provision of subsection (1) to –
- (a) a scientist to perform scientific work;
 - (b) a person to perform an activity related to the conservation of the reserve or of the biodiversity in the reserve;
 - (c) a person recording a news event that occurred in the reserve or an educational or scientific programme;
 - (d) an official of the management authority to perform official duties; or
 - (e) an official of an organ of state to perform official duties.

46. Access to national park, nature reserve and world heritage site

- (1) Despite any other legislation, no person may without the written permission of the management authority of a national park, nature reserve or world heritage site enter or reside in the park, reserve or site.
- (2) Subsection (1) does not apply to—
- (a) an official of the Department or of another organ of state designated by the Minister or, in the case of a provincial or local nature reserve, a person designated by the MEC, to monitor—
 - (i) the state of conservation of the park, reserve or site or of the biodiversity in the park, reserve or site; or
 - (ii) the implementation of the management plan and this Act;

- (b) an official of the management authority performing official duties in the park, reserve or site;
 - (c) any police, customs or excise officer entering the park, reserve or site in the performance of official duties;
 - (d) the holder of a vested right to enter the park, reserve or site; or
 - (e) a person travelling through the park, reserve or site by rail, as long as that person stays on the train or within the precincts of any railway station.
- (3) If the management authority of a national park, nature reserve or world heritage site refuses permission to an official of an organ of state to enter the park, reserve or site for the performance of official duties, the Minister may—
- (a) reconsider the matter; and
 - (b) either confirm the refusal or grant the permission.

(Section 46 substituted by section 16 of Act 31 of 2004)

47. Use of aircraft in special nature reserve, national park or world heritage site

(Section 47 heading substituted by section 17(a) of Act 31 of 2004)

- (1) A special nature reserve, national park or world heritage site includes the air space above the reserve, park or site to a level of 2 500 feet above the highest point of the reserve, park or site.
- (Section 47(1) substituted by section 17(b) of Act 31 of 2004)*
- (2) No person or organ of state, may land or take off in an aircraft in a special nature reserve, national park or world heritage site, except—
- (a) on or from a landing field designated by the management authority of that nature reserve, national park or world heritage site; and
 - (b) on authority of the prior written permission of the management authority, which authority may stipulate the terms and conditions upon which this must take place.
- (Section 47(2) substituted by section 17(b) of Act 31 of 2004)*
(Section 47(2) substituted by section 4(a) of Act 15 of 2009)
- (3) No person or organ of state may fly over or cause an aircraft to fly over a special nature reserve, national park or world heritage site at a level of less than 2500 feet above its highest point, except as may be necessary for the purpose of subsections (2) or (3A).

(Section 47(3) substituted by section 17(b) of Act 31 of 2004)

(Section 47(3) substituted by section 4(a) of Act 15 of 2009)

(3A)

- (a) The management authority may provide for flight corridors over a special nature reserve, national park or world heritage site, as well as through the protected airspace identified under subsection (1) where this is necessary for a public purpose or in the public interest.
- (b) No person or organ of state may fly or cause any person to fly an aircraft over a special nature reserve, national park or world heritage site and through the protected airspace identified under subsection (1) —
 - (i) without the prior written permission of the management authority;
 - (ii) without the prescribed fee having first been paid, if applicable; and
 - (iii) unless and until the management authority has approved the flight plan for a flight and stipulated the terms and conditions upon which a flight is to take place.
- (c) The Minister in agreement with the Minister of Defence may allow for specific areas within the identified protected airspace to be used for training and testing of aircraft.
- (d) The provision of any flight corridor in paragraph (a) or area in paragraph (c) is subject to an environmental authorization in terms of section 24 of the National Environmental Management Act.

(Section 47(3A) inserted by section 4(b) of Act 15 of 2009)

(4) Subsections (2), (3) and (3A) do not apply—

(Words preceding section 47(4)(a) substituted by section 4(c) of Act 15 of 2009)

- (a) in an emergency; or
- (b) to a person acting on the instructions of the management authority.

(4A) Any person who or organ of state that is affected by a decision of a management authority in terms of subsection (2), (3) or (3A) may appeal to the Minister against such decision.

(Section 47(4A) inserted by section 4(d) of Act 15 of 2009)

(5) The Minister, acting with the concurrence of the Cabinet member responsible for civil aviation, may prescribe further reasonable restriction on flying over protected areas.

Part 4

Restrictions

48. Prospecting and mining activities in protected area

- (1) Despite other legislation, no person may conduct commercial prospecting, mining, exploration, production or related activities –

(Words preceding paragraph (a) of section 48(1) substituted by section 12 of Act 21 of 2014)

- (a) in a special nature reserve, national park or nature reserve;

(Section 48(1)(a) substituted by section 18(a) of Act 31 of 2004)

- (b) in a protected environment without the written permission of the Minister and the Cabinet member responsible for minerals and energy affairs; or

- (c) in a protected area referred to in section 9(b), (c) or (d).

(Section 48(1)(c) substituted by section 18(b) of Act 31 of 2004)

- (2) The Minister, after consultation with the Cabinet member responsible for mineral and energy affairs, must review all mining activities which were lawfully conducted in areas indicated in subsection (1)(a) or (b) or (c) immediately before this section took effect.
- (3) The Minister, after consultation with the Cabinet member responsible for mineral and energy affairs, may, in relation to the activities contemplated in subsection (2), as well as in relation to mining activities conducted in areas contemplated in that subsection which were declared as such after the commencement of this section, prescribe conditions under which those activities may continue in order to reduce or eliminate the impact of those activities on the environment or for the environmental protection of the area concerned.
- (4) When applying this section, the Minister must take into account the interests of local communities and the environmental principles referred to in section 2 of the National Environmental Management act, 1998.

48A. Restriction of activities in marine protected areas

- (1) Despite any other legislation, no person may in a marine protected area-

- (a) fish or attempt to fish;

- (b) take or destroy any fauna or flora;

- (c) undertake any dredging or extraction of sand, rock, gravel or minerals unrelated to any activities referred to in section 48(1);

- (d) discharge or deposit waste or any other polluting matter;
 - (e) in any manner which results in an adverse effect on the marine environment, disturb, alter or destroy the natural environment or disturb or alter the water quality or abstract sea water;
 - (f) carry on any activity which may have an adverse effect on the ecosystem of the area;
 - (g) construct or erect any building or other structure on or over any land or water within such a marine protected area;
 - (h) carry on marine aquaculture activities;
 - (i) engage in bio-prospecting activities;
 - (j) sink or scuttle any platform, vessel or other structure; or
 - (k) undertake mineral exploration, and production of petroleum and other fossil fuels.
- (2) Notwithstanding subsection (1) but subject to section 48(1), the Minister may, in relation to a marine protected area, prescribe-
- (a) different zones to regulate different activities within that marine protected area; and
 - (b) activities which require a permit.
- (3) Before exercising the power referred to in subsection (2), the Minister must-
- (a) consult with the Minister responsible for fisheries and the management authority that is responsible for managing the relevant marine protected area; and
 - (b) ensure that the zoning achieves the objectives referred to in section 2.
- (4) Any zone declared in terms of section 43 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), or created by regulation in terms of section 77 of that Act which exists when the National Environmental Management: Protected Areas Amendment Act, 2014, takes effect, must be regarded as a zone prescribed in terms of subsection (2).

(Section 48A inserted by section 13 of Act 21 of 2014)

49. Regulation or restriction of activities in protected areas

Activities in protected areas are regulated or restricted to the extent prescribed by –

- (a) regulations made under section 86;
- (b) regulations made under section 87, in the case of provincial and local protected areas;
- (c) by-laws made by the relevant municipality, in the case of local protected areas; and
- (d) internal rules made by the managing authority of the area under section 52.

50. Commercial and community activities in national park, nature reserve and world heritage site

(Section 50 heading substituted by section 19(a) of Act 31 of 2004)

- (1) The management authority of a national park, nature reserve and world heritage site may, despite any regulation or by-law referred to in section 49, but subject to the management plan of the park, reserve or site—

- (a) carry out or allow—
 - (i) a commercial activity in the park, reserve or site; or
 - (ii) an activity in the park, reserve or site aimed at raising revenue;
- (b) enter into a written agreement with a local community inside or adjacent to the park, reserve or site to allow members of the community to use in a sustainable manner biological resources in the park, reserve or site; and
- (c) set norms and standards for any activity allowed in terms of paragraph (a) or (b).

(Section 50(1) substituted by section 19(b) of Act 31 of 2004)

- (2) An activity allowed in terms of subsection (1) (a) or (b) may not negatively affect the survival of any species in or significantly disrupt the integrity of the ecological systems of the national park, nature reserve or world heritage site.

(Section 50(2) substituted by section 19(b) of Act 31 of 2004)

- (3) The management authority of the national park, nature reserve or world heritage site must establish systems to monitor –

- (a) the impact of activities allowed in terms of subsection (1)(a) or (b) on the park, reserve or site and its biodiversity; and
- (b) compliance with –

- (i) any agreement entered into in terms of subsection (1)(b); and
- (ii) any norms and standards set in terms of subsection (1)(c).

(Section 50(3) substituted by section 19(b) of Act 31 of 2004)

- (4) Any activity carried out lawfully in terms of any agreement which exists when this section takes effect may continue until the date of termination of such agreement, provided that the agreement may not be extended or varied so as to expire after the original intended expiry date without the consent of the Minister.
- (5) No development, construction or farming may be permitted in a national park, nature reserve or world heritage site without the prior written approval of the management authority.

(Section 50(5) substituted by section 19(c) of Act 31 of 2004)

51. Regulation or restriction of development and other activities in protected environment

The Minister or the MEC may by notice in the Gazette restrict or regulate in a protected environment under the jurisdiction of the Minister or the MEC –

- (a) development that may be inappropriate for the area given the purpose for which the area was declared; and
- (b) the carrying out of other activities that may impeded such purpose.

52. Internal rules

- (1) The management authority of a national park, marine protected area, nature reserve or world heritage site may, in accordance with prescribed norms and standards, make rules for the proper administration of the area.

(Section 52(1) substituted by section 20 of Act 31 of 2004)

(Section 52(1) substituted by section 14(a) of Act 21 of 2014)

- (2) Rules made under subsection (1) –

- (a) must be consistent with this Act and the management plan for the area;
- (aA) must be consistent with any zoning or permitting done in terms of section 48A(2), and if there is a conflict, such zoning and permitting prevails;

(Section 52(2)(aA) inserted by section 14(b) of Act 21 of 2014)

- (b) bind all persons in the area, including visitors;

(Section 52(2)(b) amended by section 14(c) of Act 21 of 2014)

(c) may, as a condition for entry, provide for the imposition of fines for breaches of the rules; and
(Section 52(2)(c) amended by section 14(d) of Act 21 of 2014)

(d) must be published in the Gazette.

(Section 52(2)(d) added by section 14(e) of Act 21 of 2014)

(3) Rules made in terms of subsection (1) which apply to marine protected areas must be made in consultation with the Department

(Section 52(3) added by section 14(f) of Act 21 of 2014)

53. Certain rights and entitlements to be respected

(1) Section 45, 46, 49, 50, 51 or 52 may not be applied in a manner that would obstruct the resolution of issues relating to land rights dealt with in terms of –

(a) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); and

(b) the provision of essential services and the acquisition of servitudes for that purpose.

(2) A person may exercise a right that that person may have to water in a public stream in a protected area, but subject to such conditions as may be prescribed by the Minister with the concurrence of the Cabinet member responsible for water affairs.

CHAPTER 5

SOUTH AFRICAN NATIONAL PARKS

Part 1

Continued existence and functions of South African National Parks

54. Continued existence

(1) South African National Parks established by section 5 of the National Parks Act, 1976 (Act No. 57 of 1976), continues to exist as a juristic person despite the repeal of that Act by section 90 of this Act.

(2) As from the repeal of the National Parks Act, 1976, South African National Parks functions in terms of this Act.

(Section 54 inserted by section 21 of Act 31 of 2004)

(3) The South African National Parks may not be wound up or dissolved except by or in terms of an Act of Parliament and by a resolution of a majority of at least two-thirds of all its members.

(Section 54(3) inserted by section 5 of Act 15 of 2009)

- (4) Upon winding-up or dissolution of the South African National Parks, its remaining assets or the proceeds of those assets, after satisfaction of its liabilities, must be transferred to the State or to an equivalent Schedule 3A Public Entity contemplated in the Public Finance Management Act, 1999 (Act No. 1 of 1999), which has the same objectives as the South African National Parks and which itself is exempt from income tax in terms of section 10 (1)(cA) of the Income Tax Act, 1962 (Act No. 58 of 1962).

(Section 54(4) inserted by section 5 of Act 15 of 2009)

55. Functions

- (1) South African National Parks must—

- (a) manage all existing national parks and any kind of protected area listed in section 9, assigned to it by the Minister in terms of Chapter 4 and section 92, in accordance with this Act and any specific environmental management Act referred to in the National Environmental Management Act;

(Section 55(1)(a) substituted by section 6(a) of Act 15 of 2009)

- (aA) manage world heritage sites assigned to it by the Minister, in accordance with all national cultural heritage legislation as may be applicable to and required for proper management and protection of such world heritage sites, provided that the South African National Parks' authority to enforce such legislation are provided for in a written instrument of delegation issued by the Minister to this effect under and in terms of such legislation;

(Section 55(1)(aA) inserted by section 6(b) of Act 15 of 2009)

- (aB) manage any other protected areas, which are not protected areas referred to in subsection 55(1)(a), and as may be assigned to it by the Minister, in accordance with the provisions of all national environmental legislation as may be applicable to and required for the proper management and protection of such other protected areas, provided that the South African National Parks' authority to enforce such legislation are provided for in a written instrument of delegation issued by the Minister to this effect under and in terms of such legislation;

(Section 55(1)(aB) inserted by section 6(b) of Act 15 of 2009)

- (aC) participate in such further international, regional and national environmental, conservation and cultural heritage initiatives identified by the Minister from time to time, and then only on such terms and conditions as the Minister shall in writing provide.

(Section 55(1)(aC) inserted by section 6(b) of Act 15 of 2009)

- (b) protect, conserve and control those national parks and other protected areas, including their biological diversity; and

- (c) on the Minister's request, advise the Minister on any matter concerning—
 - (i) the conservation and management of biodiversity; and
 - (ii) proposed national parks and additions to or exclusions from existing national parks; and
- (d) on the Minister's request, act as the provisional managing authority of protected areas under investigation in terms of this Act.

- (2) South African National Parks may in managing national parks, or any other kind of protected area assigned to it by the Minister—

(Words preceding paragraph (a) of section 55(2) substituted by section 6(c) of Act 15 of 2009)

- (a) manage breeding and cultivation programmes, and reserve areas in a park as breeding places and nurseries;
- (b) sell, exchange or donate any animal, plant or other organism occurring in a park, or purchase, exchange or otherwise acquire any indigenous species which it may consider desirable to re-introduce into a specific park;
- (c) undertake and promote research;
- (d) control, remove or eradicate any species or specimens of species which it considers undesirable to protect and conserve in a park or that may negatively impact on the biodiversity of the park;
- (e) carry out any development and construct or erect any works necessary for the management of a park, including roads, bridges, buildings, dams, fences, breakwaters, seawalls, boathouses, landing stages, mooring places, swimming pools, oceanariums and underwater tunnels;
- (f) allow visitors to a park;
- (fA) make, set penalties for, and enforce traffic rules in such national parks, special nature reserves, protected environments, world heritage sites or other protected areas assigned to it by the Minister;

(Section 55(2)(fA) inserted by section 6(d) of Act 15 of 2009)

- (g) take reasonable steps to ensure the security and well-being of visitors and staff;
- (h) provide accommodation and facilities for visitors and staff, including the provision of food and household supplies;

- (i) carry on any business or trade or provide other services for the convenience of visitors and staff, including the sale of liquor;
 - (j) determine and collect fees for—
 - (i) entry to or stay in a park; or
 - (ii) any service provided by it;
 - (k) authorise any person, subject to such conditions and the payment of such fees as it may determine, to—
 - (i) carry on any business or trade, or provide any service, which South African National Parks may carry on or provide in terms of this section; and
 - (ii) provide the infrastructure for such business, trade or service;
 - (l) by agreement with—
 - (i) a municipality, provide any service in a park which that municipality may or must provide in terms of legislation; or
 - (ii) any other organ of state, perform a function in a park which that organ of state may or must perform in terms of legislation; or
 - (m) perform such other functions as may be prescribed.
- (3) Subsection (2) applies also to other protected areas managed by South African National Parks, and the powers contained in that subsection may be exercised by it to the extent that those powers are consistent with the purpose for which any such area was declared as a protected area.

(Section 55 inserted by section 21 of Act 31 of 2004)

56. General powers

South African National Parks may for the purpose of performing its functions—

- (a) appoint its own staff, subject to section 73;
- (b) obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment;

- (c) acquire or dispose of any right in or to movable or immovable property, or hire or let any property;
- (d) open and operate its own bank accounts;
- (e) invest, subject to section 76, any of its money, including money in the fund referred to in section 77;
- (f) borrow money, subject to section 66 of the Public Finance Management Act;
- (g) charge fees for any work performed or services rendered by it or collect fees resulting from any intellectual property rights;
- (h) insure itself against—
 - (i) any loss, damage or risk; or
 - (ii) any liability it may incur in respect of Board members or staff members in the application of this Act;
- (i) perform legal acts, including acts in association with or on behalf of any other person or organ of state; and
- (j) institute or defend any legal action.

(Section 56 inserted by section 21 of Act 31 of 2004)

Part 2

Governing board, composition and membership

57. Composition

- (1) South African National Parks is governed by a board consisting of—
 - (a) no fewer than nine and no more than 12 members appointed in terms of section 59;
 - (b) the Director-General or an official of the Department designated by the Director-General; and
 - (c) the Chief Executive Officer.
- (2) The Minister—

- (a) must determine the number of members to be appointed in terms of subsection (1)(a)', and
 - (b) may alter from time to time the number determined in terms of paragraph (a), but a reduction in the number may be effected only when a vacancy in the Board occurs.
- (3) The Board takes all decisions in the performance of the functions of South African National Parks except—
- (a) those decisions taken in consequence of a delegation in terms of section 71; or
 - (b) where the Public Finance Management Act provides otherwise.

(Section 57 inserted by section 21 of Act 31 of 2004)

58. Qualifications

- (1) A member of the Board must—
- (a) be a fit and proper person to hold office as a member; and
 - (b) have appropriate qualifications or experience.
- (2) A person is disqualified from becoming or remaining a member of the Board if that person—
- (a) is holding office as a member of Parliament or a provincial legislature; or
 - (b) has been removed from office in terms of section 65.

(Section 58 inserted by section 21 of Act 31 of 2004)

59. Appointment procedure

- (1) Whenever it is necessary to appoint a member of the Board, the Minister must—
- (a) through advertisements in the media circulating nationally and in each of the provinces, invite nominations; and
 - (b) compile a list of the names of persons nominated, setting out the prescribed particulars of each individual nominee.
- (2) Any nomination made pursuant to an advertisement in terms of subsection (1)(a) must be supported by—

- (a) the personal details of the nominee;
 - (b) particulars of the nominee's qualifications or experience; and
 - (c) any other information that may be prescribed.
- (3) The Minister must make the required number of appointments from the list referred to in subsection (1)(b), but if the list is inadequate, the Minister may appoint any suitable person.
- (4) When making an appointment the Minister must have regard to the need for appointing persons disadvantaged by unfair discrimination.
- (5) Appointments must be made in such a way that the Board is composed of persons covering a broad range of appropriate expertise.

(Section 59 inserted by section 21 of Act 31 of 2004)

60. Chairperson

- (1) The Minister must appoint a member of the Board as the Chairperson.
- (2) The Chairperson is appointed for such period as the Minister may determine which may, in the case of a member referred to in section 57(1)(a), not extend beyond his or her term as a member.
- (3) The Minister may appoint a member of the Board as acting chairperson of the Board if—
- (a) the Chairperson is absent for a substantial period; or
 - (a) the appointment of a Chairperson is pending.

(Section 60 inserted by section 21 of Act 31 of 2004)

61. Term of office

- (1) Members of the Board referred to in section 57(1)(a) are—
- (a) appointed for a term of three years or, if section 66(2) applies, for a term determined in terms of that section;
 - (b) on completion of any term contemplated in paragraph (a), eligible for reappointment for one additional term of three years; and

- (c) after a break of at least three years after a term has ended, eligible for appointment in terms of paragraph (a) again and, if appointed, eligible for reappointment in terms of paragraph (b).
- (2) Any appointment in terms of subsection (1) may be extended by the Minister for a specific period not exceeding one year.

(Section 61 inserted by section 21 of Act 31 of 2004)

62. Conditions of appointment

- (1) The Minister must determine the conditions of appointment of members of the Board referred to in section 57(1)(a).
- (2)
 - (a) The conditions of appointment of members who are not in the employ of a national, provincial or local organ of state may provide for the payment of remuneration and allowances determined by the Minister with the concurrence of the Cabinet member responsible for finance.
 - (b) Such remuneration and allowances are payable by South African National Parks.
- (3) Members who are in the employ of a national, provincial or local organ of state are not entitled to remuneration and allowances, but must be compensated for out of pocket expenses by South African National Parks.
- (4) Members are appointed part-time.

(Section 62 inserted by section 21 of Act 31 of 2004)

63. Conduct of members

- (1) A member of the Board—
 - (a) must perform the functions of office in good faith and without favour or prejudice;
 - (b) must disclose to the Board any personal or private business interest that that member, or any spouse, partner or close family member of that member, may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered, unless the Board decides that the interest of that Board member in the matter is trivial or irrelevant;
 - (c) may not use the position, privileges or knowledge of a member for private gain or to improperly benefit another person; and

(d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of South African National Parks.

(2) A member of the Board who contravenes or fails to comply with subsection (1) is guilty of misconduct.

(Section 63 inserted by section 21 of Act 31 of 2004)

64. Termination of membership

(1) A person referred to in section 57(1)(a) ceases to be a member of the Board when that person—

(a) is no longer eligible in terms of section 58 to be a member;

(b) resigns; or

(c) is removed from office in terms of section 65.

(2) A member may resign by giving at least three months' written notice to the Minister, but the Minister may accept a shorter period in a specific case.

(Section 64 inserted by section 21 of Act 31 of 2004)

65. Removal from office

(1) The Minister may remove a member of the Board referred to in section 57(1)(a) from office on the ground of—

(a) misconduct, incapacity or incompetence;

(b) absence from three consecutive meetings of the Board without the prior permission of the Board, except on good cause shown;

(c) insolvency; or

(d) conviction of a criminal offence without the option of a fine.

(2) A member of the Board may be removed from office on the ground of misconduct or incompetence only after a finding to that effect has been made by a board of inquiry appointed by the Minister.

(3) The Minister may suspend a member under investigation in terms of this section.

(Section 65 inserted by section 21 of Act 31 of 2004)

66. Filling of vacancies

- (1) A vacancy in the Board is filled—
 - (a) in the case of a vacating Chairperson, by appointing another member in terms of section 60(1) as the Chairperson; and
 - (b) in the case of a vacating member referred to in section 51(1)(a), by following the procedure set out in section 59.
- (2) A person appointed to fill a vacancy holds office for the unexpired portion of the term of the vacating Chairperson or member.

(Section 66 inserted by section 21 of Act 31 of 2004)

Part 3

Operating procedures of Board

67. Meetings

- (1) The Chairperson of the Board decides when and where the Board meets, but a majority of the members may request the Chairperson in writing to convene a meeting at a time and place set out in the request.
- (2) The Chairperson presides at meetings of the Board, but if absent from a meeting, the members present must elect another member to preside at the meeting.

(Section 67 inserted by section 21 of Act 31 of 2004)

68. Procedures

- (1) The Board may determine its own procedures subject to the other provisions of this Act.
- (2) The Board must keep a record of its proceedings and of decisions taken.

(Section 68 inserted by section 21 of Act 31 of 2004)

69. Quorum and decisions

- (1) A majority of the serving members of the Board constitutes a quorum for a meeting of the Board.

- (2) A matter before the Board is decided by the votes of a majority of the members present at the meeting.
- (3) If on any matter before the Board there is an equality of votes, the member presiding at the meeting must exercise a casting vote in addition to that person's vote as a member.

(Section 69 inserted by section 21 of Act 31 of 2004)

70. Committees

- (1) The Board may establish one or more committees to assist it in the performance of its functions.
- (2) When appointing members to a committee, the Board is not restricted to members of the Board.
- (3) The Board—
 - (a) must determine the functions of a committee;
 - (b) must appoint the chairperson and other members of the committee;
 - (c) may remove a member of a committee from office at any time; and
 - (d) may determine a committee's procedure.
- (4) The Board may dissolve a committee at any time.
- (5)
 - (a) Section 62 applies with the changes required by the context to the conditions of appointment of committee members.
 - (b) A staff member of South African National Parks appointed to a committee serves on the committee subject to the terms and conditions of that person's employment.

(Section 70 inserted by section 21 of Act 31 of 2004)

71. Delegation of powers and assignment of duties

- (1) When necessary for the proper performance of its functions the Board may delegate any of its powers or assign any of its duties, excluding those mentioned in subsection (2), to—
 - (a) a Board member;

- (b) a committee referred to in section 70; or
 - (c) a staff member of South African National Parks.
- (2) The following powers and duties may not be delegated or assigned by the Board:
- (a) The appointment or reappointment of a person as the Chief Executive Officer in terms of section 72(1) or (2);
 - (b) the determination of the conditions of service of the Chief Executive Officer in terms of section 72(3);
 - (c) the determination of an employment policy in terms of section 73(1);
 - (d) the setting of financial limits in terms of section 73(2)(a) or (3); and
 - (e) the approval of the budget.
- (3) A delegation or assignment in terms of subsection (1)—
- (a) must be in writing;
 - (b) is subject to such limitations, conditions and directions as the Board may impose;
 - (c) does not divest the Board of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty; and
 - (d) does not prevent the exercise of the assigned power or the performance of the assigned duty by the Board.
- (4) The Board may confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.

(Section 71 inserted by section 21 of Act 31 of 2004)

Part 4

Administration of South African National Parks

72. Appointment of Chief Executive Officer

- (1) The Board, acting with the concurrence of the Minister, must appoint a person with appropriate qualifications and experience as the Chief Executive Officer of South African National Parks.
- (2) The Chief Executive Officer
 - (a) is appointed for a term not exceeding five years; and
 - (b) may be reappointed by the Board with the concurrence of the Minister.
- (3) The Chief Executive Officer is employed subject to such terms and conditions of employment as the Board may determine in accordance with a policy approved by the Minister with the concurrence of the Cabinet member responsible for finance.
- (4) The Chief Executive Officer
 - (a) is responsible for the management of South African National Parks;
 - (b) must perform such duties and may exercise such powers as the Board may assign or delegate to the Chief Executive Officer; and
 - (c) must report to the Board on aspects of management, the performance of duties and the exercise of powers at such frequency and in such manner as the Board may determine.
- (5)
 - (a) Whenever the Chief Executive Officer is for any reason absent or unable to perform his or her functions, or whenever there is a vacancy in the office of the Chief Executive Officer, the Chairperson of the Board may appoint another staff member of South African National Parks as acting Chief Executive Officer for a period not exceeding six months.
 - (b) Whilst acting as Chief Executive Officer, such staff member—
 - (i) has the powers and duties of the Chief Executive Officer; and
 - (ii) is employed subject to such terms and conditions of employment as the Chairperson of the Board may determine in accordance with the policy referred to in subsection (3).

(Section 72 inserted by section 21 of Act 31 of 2004)

73. Employment of staff

- (1) The Board, acting with the concurrence of the Minister, must determine an employment policy for South African National Parks.
- (2) The Chief Executive Officer

- (a) within the financial limits set by the Board, must determine a staff establishment necessary to enable South African National Parks to perform its functions; and
 - (b) may appoint persons in posts on the staff establishment.
- (3) An employee of South African National Parks is employed subject to the terms and conditions of employment determined by the Chief Executive Officer in accordance with the employment policy and within the financial limits set by the Board.
- (4) (a) A person in the service of another organ of state may be seconded to South African National Parks by agreement between the Chief Executive Officer and such organ of state.
- (b) Persons seconded to South African National Parks perform their functions under the supervision of the Chief Executive Officer.
- (5) A person in the service of South African National Parks may, with the consent of that person, be seconded to another organ of state by agreement between the Chief Executive Officer and such organ of state.

(Section 73 inserted by section 21 of Act 31 of 2004)

Part 5

FINANCIAL MATTERS

74. Financial accountability

South African National Parks is a public entity for the purposes of the Public Finance Management Act, and must to that end comply with the provisions of that Act.

(Section 74 inserted by section 21 of Act 31 of 2004)

75. Funding

The funds of South African National Parks consist of—

- (a) income derived from the performance of its functions;
- (b) money appropriated for its purposes by Parliament;
- (c) grants received from organs of state;
- (d) voluntary contributions, donations and bequests;

- (e) money borrowed in terms of section 56(f);
- (f) income derived from investments;
- (g) fines received or recovered in respect of offences committed under this Act; and
(Section 75(g) amended by section 7 of Act 15 of 2009)
- (h) money derived from any other source, with the approval of the Cabinet member responsible for finance.

(Section 75 inserted by section 21 of Act 31 of 2004)

76. Investments

South African National Parks may invest any of its funds not immediately required—

- (a) subject to any investment policy that may be prescribed in terms of section 7(4) of the Public Finance Management Act; and
- (b) in accordance with any criteria set by the Minister.

(Section 76 inserted by section 21 of Act 31 of 2004)

77. National Parks Land Acquisition Fund

The National Parks Land Acquisition Fund established by section 12A of the National Parks Act, 1976 (Act No. 57 of 1976), continues to exist as a separate fund under the administration of South African National Parks despite the repeal of that Act by section 90 of this Act.

- (2) The Fund is administered by South African National Parks and consists of—
 - (a) any voluntary contributions, donations and bequests received by South African National Parks for the purpose of the Fund;
 - (b) money appropriated by Parliament for the purpose of the Fund;
 - (c) the proceeds of land sold by South African National Parks which it has acquired in terms of section 81;
 - (d) income derived from investing any credit balances in the Fund;

- (e) money borrowed by South African National Parks in terms of section 56(f) for the purpose of the Fund; and
 - (f) money derived from any other source for the purpose of the Fund.
- (3) The money in the Fund may be used—
- (a) to finance—
 - (i) the acquisition of private land or a right in or to private land in terms of section 80 or 81; or
 - (ii) the cancellation of a servitude or a right in land in terms of section 82 or 83; or
 - (b) to defray expenses incurred by South African National Parks in connection with the management of the Fund.
- (4) The Chief Executive Officer must—
- (a) keep account of the Fund separately from the other money of South African National Parks; and
 - (b) comply with the Public Finance Management Act in administering the Fund.

(Section 77 inserted by section 21 of Act 31 of 2004)

Part 6

GENERAL

78. Minister's supervisory powers

- (1) The Minister—
- (a) must monitor the performance by South African National Parks of its functions;
 - (b) may determine norms and standards for the performance by South African National Parks of its functions;
 - (c) may issue directives to South African National Parks on measures to achieve those norms and standards;
 - (d) may determine limits on fees charged by South African National Parks in the performance of its functions; and

- (e) may identify land for new national parks and extensions to existing national parks.
- (2) South African National Parks must perform its functions subject to the norms and standards, directives and determinations issued by the Minister in terms of subsection (1).

(Section 78 inserted by section 21 of Act 31 of 2004)

79. Absence of functional Board

In the absence of a functional Board, the functions of the Board revert to the Minister who, in such a case, must perform those functions until the Board is functional again.

(Section 79 inserted by section 21 of Act 31 of 2004)

(Chapter 5 inserted by section 21 of Act 31 of 2004)

CHAPTER 6 ACQUISITION OF RIGHTS IN OR TO LAND

80. Acquisition of private land by State

- (1) The Minister, acting with the concurrence of the Cabinet member responsible for land affairs, may acquire land, or any right in or to land, which has been or is proposed to be declared as or included in a national protected area, by –
 - (a) purchasing the land or right;
 - (b) exchanging the land or right for other land or rights; or
 - (c) expropriating the land or right in accordance with the Expropriation Act, 1975 (Act No. 63 of 1975), and subject to section 25 of the Constitution, if no agreement is reached with the owner of the land or the holder of the right in or to the land.
- (2) The MEC, acting with the approval of the Executive Council of the province, may acquire private land, or any right in or to private land, which has been or is proposed to be declared as or included in a provincial protected area, by –
 - (a) purchasing the land or right;
 - (b) exchanging the land or right for other land or rights; or

- (c) expropriating the land or right in accordance with the Expropriation Act, 1975, and subject to section 25 of the Constitution, if no agreement is reached with the owner of the land or the holder of the right in or to the land.

81. Acquisition of private land by South African National Parks

- (1) South African National Parks, with the approval of the Minister acting with the concurrence of the Cabinet member responsible for land affairs, may acquire private land, or any right in or to private land, which has been or is proposed to be declared as or included in a national park—
 - (a) by purchasing the land or right; or
 - (b) if the land or right is donated or bequeathed to it, by accepting the donation or bequest.
- (2) If the parties fail to agree on a purchase price for the land or right contemplated in subsection (1)(a), the Minister may on behalf of South African National Parks or the State expropriate the land or right in accordance with the Expropriation Act, 1975 (Act No. 63 of 1975), subject to section 25 of the Constitution.

(Section 81 inserted by section 22 of Act 31 of 2004)

82. Cancellation of servitude on, or privately held right in or to, state land

- (1) The Minister, acting with the concurrence of the Cabinet member responsible for public works, may take any steps necessary to cancel a servitude on state land, or a privately held right in or to state land, which has been or is proposed to be declared as or included in a national protected area.
- (2) The MEC, acting with the concurrence of the MEC responsible for public works in the province, may take any steps necessary to cancel a servitude on provincial land, or a privately held right in or to provincial land, which has been or is proposed to be declared as or included in a provincial protected area.
- (3) If the Minister or MEC fails to reach an agreement with the owner of the property in whose favour the servitude is registered or with the person holding the right, the Minister or MEC may expropriate the servitude or the privately held right in or to State land, in accordance with the Expropriation Act, 1975 (Act No. 63 of 1975), subject to section 25 of the Constitution.

(Section 82(3) substituted by section 26 of Act 14 of 2009)

83. Cancellation of servitude on, or privately held right in or to, land owned by South African National Parks

- (1) South African National Parks may take any steps necessary to cancel a servitude on land owned by South African National Parks, or a privately held right in or to such land, which has been or is proposed to be declared as or included in a national park.
- (2) If South African National Parks fails to reach an agreement with the owner of the property in whose favour the servitude is registered or with the person holding the right, the Minister may on behalf of South African National Parks or the State expropriate the servitude or right in accordance with the Expropriation Act, 1975 (Act No. 63 of 1975), subject to section 25 of the Constitution.

(Section 83 inserted by section 23 of Act 31 of 2004)

84. Mineral right

The Minister may in accordance with section 80(1)(c), 81(2), 82(3) or 83(2), and the MEC may in accordance with section 80(2) or 82(3), acquire or cancel a mineral right by way of expropriation only with the concurrence of the Cabinet member responsible for mineral and energy affairs.

(Section 84 substituted by section 24 of Act 31 of 2004)

85. Financing

- (1) The Minister may finance the acquisition of private land or a right in or to private land in terms of section 80, or the cancellation of a servitude on, or a privately held right in or to, state land in terms of section 82, from –
 - (a) money appropriated for this purpose by Parliament; or
 - (b) the Fund, by agreement with South African National Parks.
- (2) South African National Parks may finance the acquisition of private land or a right in or to private land in terms of section 81, or the cancellation of a servitude on, or a privately held right in or to, land owned by South African National Parks in terms of section 83, from—
 - (a) the funds of South African National Parks; or
 - (b) the Fund, by agreement with the Minister.

(Section 85 amended by section 25 of Act 31 of 2004)

CHAPTER 7 ADMINISTRATION OF ACT

86. Regulations by Minister

- (1) The Minister may make regulations that are not in conflict with this Act –
 - (a) regarding any matter that may or must be prescribed in terms of this Act;
 - (b) conferring additional powers or assigning additional duties to management authorities;
 - (c) regulating –
 - (i) biodiversity management and conservation in protected areas;
 - (ii) the use of biological resources in protected areas;
 - (iii) access to protected areas;
 - (iv) tourism in protected areas where tourism is allowed;
 - (v) activities that may be carried out in terms of section 50;
 - (vi) the use of land and water in protected areas;
 - (vii) community-based natural resource utilisation; or
 - (viii) consultation activities which are required in terms of this Act.
 - (d) prohibiting or restricting –
 - (i) activities that have an adverse effect in protected areas;
 - (ii) the use of biological resources in protected areas;
 - (iii) land uses in protected areas that are harmful to the environment;
 - (e) providing for the establishment of advisory committees for protected areas, the appointment of members and their role;
 - (f) setting norms and standards for the proper performance of any function contemplated in this Act, and the monitoring and enforcing of such norms and standards;
 - (g) regarding any other matter which it is necessary or expedient to prescribe for the proper implementation of administration of this Act.

- (2) Any regulation with material financial implications must be made with the concurrence of the Cabinet member responsible for finance.
- (3) Before publishing any regulation contemplated in subsection (1), the Minister must publish the draft regulations in the *Gazette* for public comment.

87. Regulations by MEC

- (1) The MEC may, in relation to provincial and local protected areas, make regulations not in conflict with this Act regarding any matter referred to in section 86, except a matter referred to in section 86(1)(f).
- (2) Any regulation made under subsection (1) must be consistent with the norms and standards prescribed under section 11 or 86(1)(f).
- (3) Any regulation with substantive financial implications for the province must be made with the concurrence of the MEC responsible for finance in the province.
- (4) Before publishing any regulation contemplated in subsection (1), the MEC must publish the draft regulations in the *Gazette* for public comment.

88. General

- (1) Regulations made under section 86 or 87 may –
 - (a) restrict or prohibit any act either absolutely or conditionally;
 - (b) apply –
 - (i) generally throughout the Republic or a province, as the case may be, or only in a specified area or category of areas;
 - (ii) generally to all persons or only a specified category of persons; or
 - (iii) generally with respect to all species or only a specified species or category of species; or
 - (c) differentiate between –
 - (i) different areas or categories of areas;
 - (ii) persons or categories of persons; or

(iii) species or categories of species.

- (2) Regulations made under section 86 or 87 may provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable in case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment.

(Section 88(2) substituted by section 27 of Act 14 of 2009)

CHAPTER 8 OFFENCES AND PENALTIES

89. Offences and penalties

- (1) A person is guilty of an offence if that person –

(a) contravenes or fails to comply with a provision of section 45(1), 46(1), 47(2), (3) or (3A), 48(1), 49A(5)(b), 50(5) or 55(2)(fA);

(Section 89(1)(a) substituted by section 28(a) of Act 14 of 2009)

(b) contravenes a notice issued under section 51;

(c) hinders or interferes with a management authority or a member or staff member of a management authority in the performance of official duties; or

(d) falsely professes to be a member or staff member of a management authority, or the interpreter or assistant of such an officer.

- (2) A person convicted of an offence in terms of subsection (1) is liable, in the case of a first conviction, to a fine not exceeding R5 million or imprisonment for a period not exceeding five years and, in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding ten years or in both instances to both a fine and such imprisonment.

(Section 89(2) substituted by section 28(b) of Act 14 of 2009)

- (3) Contravention of or failure to comply with any provision of a regulation made under section 86 or 87 is an offence.

(Section 89(3) inserted by section 28(c) of Act 14 of 2009)

- (4) Notwithstanding anything to the contrary in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

(Section 89(4) inserted by section 28(c) of Act 14 of 2009)

CHAPTER 9 MISCELLANEOUS

90. Repeal of laws

- (1) Subject to subsection (2), the laws mentioned in the second column of Schedule 1 are hereby repealed to the extent set out in the third column thereof.
- (2) Sections 16 and 17 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), are repealed in a province with effect from the date of publication by the MEC of regulations under section 87 prescribing matters covered by the said sections 16 and 17.
- (3) Section 43 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), is hereby repealed.
(Section 90(3) added by section 15 of Act 21 of 2014)

91. Savings and transitional provisions

(Heading of section 91 substituted by section 16(a) of Act 21 of 2014)

- (1) Anything done in terms of a law repealed by section 90 which can or must be done in terms of this Act must be regarded as having been done in terms of this Act.
- (2) A person who, immediately before the repeal of the National Parks Act, 1976 (Act No. 57 of 1976), was —
 - (a) a board member of South African National Parks becomes a member of the Board for the unexpired part of the term for which that person was appointed as a member of South African National Parks; or
 - (b) the Chairperson of South African National Parks becomes the Chairperson of the Board for the unexpired part of the term for which that person was appointed as the Chairperson of South African National Parks.
- (3)
 - (a) Any regulation relating to a marine protected area prescribed in terms of section 77 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), which exists when the National Environmental Management: Protected Areas Amendment Act, 2014, takes effect, must be regarded as having been prescribed in terms of this Act and remains of force and effect until it is repealed or amended in terms of this Act.
 - (b) Anything done in relation to a marine protected area in terms of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), and which could have been done in terms of this Act must be regarded as having been done in terms of this Act.

- (c) Any permission granted in terms of section 43 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), which was valid immediately before the commencement of the National Environmental Management: Protected Areas Amendment Act, 2014, remains valid and the person concerned must be regarded as having been issued with a permit contemplated in section 48A(2).
- (d) Any application for a permit or exemption lodged in terms of section 43 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), which has not been finalised when the National Environmental Management: Protected Areas Amendment Act, 2014, takes effect must, despite the repeal of section 43 of that Act by section 90(3), be dispensed with in terms of section 43 of the Marine Living Resources Act, 1998, and a decision taken in terms of section 43 must be deemed as a decision taken in terms of this Act.

(Section 91(3) added by section 16(b) of Act 21 of 2014)

(Section 91 inserted by section 26 of Act 31 of 2004)

92. Protected areas existing before commencement of section

(1) South African National Parks—

- (a) is the management authority for any protected area it managed immediately before this section took effect, unless otherwise assigned by the Minister in terms of this Act; and
- (b) must manage such area in accordance with—
 - (i) this Act and any management plan in terms of Chapter 4 for the area; and
 - (ii) any condition and agreement which existed immediately before this section took effect and which were applicable to the area.

(Section 92(1) inserted by section 27(a) of Act 31 of 2004)

- (2) The organ of state managing a protected area immediately before this section took effect, other than a protected area referred to in subsection (1), must continue managing the area until the management of the area is assigned either to it or to another management authority in terms of Chapter 4.

(Section 92(2) substituted by section 27(b) of Act 31 of 2004)

93. Short title commencement

This Act is called the National Environmental Management: Protected Areas Act, 2003, and takes effect on a date determined by the President by proclamation in the *Gazette*.

SCHEDULE 1
REPEAL OF LAWS
(Section 90)

No. and year of Act	Short title of Act	Extent of repeal
Act No. 39 of 1975	Lake Areas Development Act, 1975	The repeal of the whole
Act No. 57 of 1976	National Parks Act, 1976	The repeal of the whole
Act No. 60 of 1979	National Parks Amendment Act, 1979	The repeal of the whole[, except section 2(1) and Schedule 1]
Act No.9 of 1980	Lake Areas Development Amendment Act, 1980	The repeal of the whole
Act No. 13 of 1982	National Parks Amendment Act, 1982	The repeal of the whole
Act No. 23 of 1983	National Parks Amendment Act, 1983	The repeal of the whole
Act No. 43 of 1986	National Parks Amendment Act, 1986	The repeal of the whole
Act No. 111 of 1986	National Parks Second Amendment Act, 1986	The repeal of the whole
Act No. 60 of 1987	National Parks Amendment Act, 1987	The repeal of the whole
Act No. 73 of 1989	Environment Conservation Act, 1989	The repeal of sections 16, 17 and 18
Act No. 23 of 1990	National Parks Amendment Act, 1990	The repeal of the whole
Act No. 52 of 1992	National Parks Amendment Act, 1992	The repeal of the whole
Act No. 91 of 1992	National Parks Second Amendment Act, 1992	The repeal of the whole
Act No. 38 of 1995	National Parks Amendment Act, 1995	The repeal of the whole
Act No. 70 of 1997	National Parks Amendment Act, 1997	The repeal of the whole
Act No. 106 of 1998	National Parks Amendment Act, 1998	The repeal of the whole
Act No. 54 of 2001	National Parks Amendment Act, 2001	The repeal of the whole".

(Schedule substituted by section 28 of Act 31 of 2004)

(Schedule 1 renumbered and substituted by section 8 of Act 15 of 2009)

SCHEDULE 2
NATIONAL PARK AREAS
(Section 20(6))

(Schedule 2 inserted by section 8 of Act 15 of 2009)

(Schedule 2 amended by Government Notice R236, Gazette No. 36295 dated 27 March 2013.

Commencement date: 1 April 2013 [Proc. No. R7, Gazette No. 36296])

Prepared by:



In partnership with:

