

REPUBLIC OF SOUTH AFRICA

**SELECT COMMITTEE AMENDMENTS
TO
NATIONAL FORESTS BILL**

[B 71—98]

*(As agreed to by the Select Committee on Land, Agriculture and Environmental Affairs
(National Council of Provinces))*

[B 71A—98]

REPUBLIEK VAN SUID-AFRIKA

**GEKOSE KOMITEE-AMENDEMENTE
OP
WETSONTWERP OP
NASIONALE BOSSE**

[W 71—98]

*(Soos goedgekeur deur die Gekose Komitee oor Landbou, Grond en Omgewingsake
(Nasionale Raad van Provinsies))*

[W 71A—98]

ISBN 0 621 28449 1

AMENDMENTS AGREED TO

NATIONAL FORESTS BILL [B 71—98]

PREAMBLE

1. On page 2, from line 1, to omit “**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:—”.

CLAUSE 2

1. On page 12, in line 17, to omit “53(1)(g)(i)” and to substitute “53(2)(g)(i)”.
2. On page 12, from line 19, to omit the definition of “owner”.
3. On page 12, after line 59, to insert the following definitions:

“province” means the premier of the province exercising his or her executive authority together with the other members of the executive council referred to in section 132 of the Constitution;
“registered owner” means an owner as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);
4. On page 14, in line 19, to omit “53(1)(g)(i)” and to substitute “53(2)(g)(i)”.
5. On page 16, from line 4, to omit subsection (5).

CLAUSE 4

1. On page 18, after line 15, to insert the following subsection:

(1) For the purposes of this section, “owner” means—
(a) the registered owner; or
(b) where the registered owner has transferred control of the forest management unit in question to another person or organ of State, whether by way of assignment, delegation, contract or otherwise, that person or organ of State.
2. On page 18, in line 30, to omit “53(1)(b)” and to substitute “53(2)(b)”.
3. On page 18, in line 47, to omit “(1)(a)” and to substitute “(2)(a)”.

CLAUSE 5

1. On page 20, from line 15, to omit subsections (3) and (4).

CLAUSE 6

1. On page 20, in line 19, to omit “4(5)” and to substitute “4(6)”.

CLAUSE 8

1. On page 22, in line 12, before “owner” to insert “registered”.

CLAUSE 9

1. On page 22, in line 39, to omit “the owner” and to substitute:

any person or organ of State to whom control of the area in question has been transferred, whether by way of assignment, delegation, contract or otherwise

CLAUSE 10

1. On page 24, in line 5, after “section” to insert “7(1)(b) or”.
2. On page 24, in line 7, before “owner” to insert “registered”.
3. On page 24, in line 8, to omit the full stop and to substitute a comma.
4. On page 24, after line 8, to insert “subject to the prohibition in section 7(1).”.

CLAUSE 11

1. On page 24, in line 23, after “protected” to insert “, unless suitable rules already exist for the area”.
2. On page 24, in line 24, before “owner” to insert “registered”.

CLAUSE 16

1. On page 28, in line 4, to omit “17(1)” and to substitute “17(2)”.

CLAUSE 17

1. On page 28, after line 11, to insert the following subsection:
 - (1) For the purposes of this section, “owner” means—
 - (a) the registered owner; and
 - (b) where the registered owner has transferred control of the forest management unit in question to another person or organ of State, whether by way of assignment, delegation, contract or otherwise, that person or organ of State.
2. On page 28, in line 25, to omit “(3)” and to substitute “(4)”.
3. On page 28, in line 26, to omit “(3)(e)” and to substitute “(4)(e)”.

4. On page 28, in line 27, to omit “(3)(f)” and to substitute “(4)(f)”.
5. On page 28, in line 28, to omit “(2)” and to substitute “(3)”.
6. On page 28, in line 40, to omit “(2)” and to substitute “(3)”.
7. On page 30, in line 6, after “woodland” to insert “in a controlled forest area”.

CLAUSE 20

1. On page 30, after line 35, to insert the following subsection:
 - (1) For the purposes of this section, “owner” means any person or organ of State to whom control of the forest management unit in question has been transferred, whether by way of assignment, delegation, contract or otherwise.
2. On page 32, in line 6, to omit “Minister” and to substitute “Director-General”.
3. On page 32, in line 11, to omit “Minister may” and to substitute “Director-General”.
4. On page 32, in line 12, before “change” to insert “may”.
5. On page 32, in line 12, to omit the second “and”.
6. On page 32, in line 13, before “where” to insert “may,”.
7. On page 32, in line 14, after “area” to insert “,prepare a map”.
8. On page 32, in line 14, after “rules” to omit the full stop and to substitute “; and”.
9. On page 32, after line 14, to insert the following paragraph:
 - (c) must designate an area for public access and prepare a map and rules as set out in subsection (3), where control of a forest management unit has not been transferred as referred to in subsection (2).
10. On page 32, from line 15, to omit paragraph (a) and to substitute:
 - (a) An owner who objects to—
 - (i) a change by, or to rules made by the Director-General under subsection (6); or
 - (ii) the way in which the public or members of the public exercise their right of access; and
11. On page 32, in line 21, to omit “Minister” and to substitute “Director-General”.
12. On page 32, in line 22, to omit “Minister” and to substitute “Director-General”.

13. On page 32, after line 24, to insert the following subsection:
 - (9) If the matter is not resolved in terms of subsection (8), the Director-General must refer the matter to the Minister who must—
 - (a) rule on the objection; or
 - (b) appoint an arbitrator from the panel referred to in section 45 to do so.
14. On page 32, in line 25, after “the” to insert “Minister or the”.
15. On page 32, in line 28, to omit “Minister” and to substitute “Director-General”.
16. On page 32, in line 30, to omit the second “on” and to substitute “to”.
17. On page 32, in line 35, to omit “Minister” and to substitute “Director-General”.
18. On page 32, in line 35, to omit “(5) to (8)” and to substitute “(6) to (10)”.

CLAUSE 21

1. On page 32, in line 41, before “owners” to insert “registered”.
2. On page 32, in line 43, before “owner” to insert “registered”.
3. On page 32, in line 48, to omit “an” and to substitute “a registered”.
4. On page 32, in line 51, to omit “an” and to substitute “a registered”.
5. On page 32, in line 56, to omit “an” and to substitute “a registered”.
6. On page 32, in line 59, before “owner” to insert “registered”.

CLAUSE 22

1. On page 34, in line 19, after “Minister” to insert “, the Director-General or an arbitrator, as the case may be,”.
2. On page 34, in line 20, to omit “20(5)” and to substitute “11(2)(b) or 20(6)”.
3. On page 34, after line 20, to insert the following paragraph:
 - (b) make a ruling in terms of section 20(10);
4. On page 34, in line 21, after “23;” to add “or”.
5. On page 34, after line 21, to insert the following paragraph:
 - (d) grant a servitude under section 26;
6. On page 34, in line 22, to omit “; or” and to substitute a comma.
7. On page 34, in line 23, to omit paragraph (d).

CLAUSE 24

1. On page 36, after line 11, to insert the following paragraph:
 - (b) he or she is a purchaser in terms of an agreement referred to in section 28(1);
2. On page 36, in line 13, to omit “, in the opinion of the Minister, poor” and to substitute “unable to pay in terms of criteria set by the Minister”.

CLAUSE 26

1. On page 36, in line 48, after (a) to insert:

in the case of State forests other than trust forests,
2. On page 36, in line 48, after “agrees;” to add “or”.
3. On page 36, after line 48, to insert the following paragraphs:
 - (b) in the case of trust forests on land held in trust by the Ingonyama referred to in the KwaZulu Ingonyama Trust Act, 1994 (KwaZulu Act No. 3 of 1994), the authority with the necessary power in terms of that Act agrees; or
 - (c) in the case of trust forests other than those referred to in paragraph (b), the Minister of Land Affairs agrees; and
4. On page 36, in line 49, after “right;” to add “and”.
5. On page 38, after line 2, to insert the following subsection:

(3) A community or members of a community who are granted a servitude of right of way in order to walk to or from their homes are exempt from payment for such rights.

CLAUSE 28

1. On page 38, in line 37, to omit the comma and to substitute “; or”.
2. On page 38, after line 37, to insert the following paragraph:

(d) the South African Forestry Company Limited,
3. On page 38, in line 42, to omit “three” and to substitute “five”.
4. On page 38, in line 48, to omit “the terms of”.
5. On page 38, in line 49, after “(c)” to insert “or an agreement referred to in section 77(2) with the South African Forestry Company Limited”.
6. On page 38, in line 54, to omit “derived from” and to substitute “in”.
7. On page 38, from line 55, to omit “deemed to have been entered into under subsection (1).” and to substitute:

despite the terms of the agreement, subject to the following:

 - (a) Either party may elect to terminate the agreement on either of the following bases—

- (i) five years written notice to the other; or
 - (ii) such greater or lesser period of notice as the agreement may provide;
 - (b) notice in terms of subparagraph (i) of paragraph (a) may be given at any time after the commencement of this Act;
 - (c) before the seller acts in terms of subparagraph (i) of paragraph (a), the Minister must be of the opinion that—
 - (i) it will serve one or more of the purposes referred to in section 1;
 - (ii) the purchaser will, by the end of the notice period, have had an opportunity of realising a reasonable return on any investments which were made before the commencement of the Act primarily as a result of the agreement, unless the parties agree otherwise;
 - (d) if either party elects to terminate the agreement in terms of subparagraph (i) of paragraph (a), neither it nor any other person or organ of State has to pay any compensation to, or buy any assets of, any other party, except that the State must compensate the purchaser for the depreciated value of any improvements which the purchaser has erected in a State forest in terms of or as a result of the agreement if—
 - (i) the seller terminated the agreement; and
 - (ii) the purchaser must vacate the improvements as a result of the termination;
 - (e) the seller is not obliged to deliver to the purchaser a quantity of timber or other forest produce which is greater than that which the forest yielded on a sustainable basis during the period of the contract, or a cycle within a contract, unless any shortfall was due to negligence by the seller.
8. On page 40, from line 1, to omit subsection (6) and to substitute the following subsection:
- (6) The compensation for improvements referred to in paragraph (d) of subsection (5) is not payable if the agreement—
 - (a) is terminated no earlier than a date on which the agreement could lawfully have been terminated had this Act not been promulgated; and
 - (b) does not provide for compensation for improvements on termination.
9. On page 40, in line 16, to omit “(6)(e)” and to substitute “(5)(e)”.

CLAUSE 32

1. On page 44, in line 25, before “whether” to insert “in a rural or an urban area and”.

CLAUSE 33

1. On page 44, in line 48, to omit “hereby”.

2. On page 46, in line 4, to omit “hereby”.
3. On page 46, in line 7, to omit “hereby”.
4. On page 46, in line 9, to omit “hereby”.

CLAUSE 34

1. On page 46, from line 14, to omit “representation by” and to substitute “the interests of”.
2. On page 46, in line 19, to omit “disadvantaged by unfair discrimination”.
3. On page 46, in line 21, to insert the existing paragraph *(f)* as a new paragraph *(e)*.
4. On page 46, in line 22, to omit “disadvantaged by unfair discrimination”.
5. On page 46, in line 22, to insert the existing paragraph *(e)* as a new paragraph *(f)*.
6. On page 46, in line 24, to omit “and forest products industry; and” and to substitute “industry;”.
7. On page 46, after line 24, to insert the following paragraph:

(h) the forest products industries; and
8. On page 46, in line 26, to omit “a member of”.

CLAUSE 36

1. On page 48, in line 31, to omit “20(8)” and to substitute “20(10)”.

CLAUSE 41

1. On page 50, in line 27, to omit “hereby”.
2. On page 50, in line 32, to omit “hereby”.

CLAUSE 45

1. On page 52, in line 43, to omit the punctuation mark “—” and to substitute:

for the purposes referred to in sections 20(8), 20(10), 21(3), 27(2)(*h*), 29(4)(*g*) and 31(1)(*h*).
2. On page 52, from line 44, to omit paragraphs *(a)* and *(b)*.

CLAUSE 47

1. On page 54, in line 26, after “of” to insert “**powers and**”.

2. On page 54, from line 28, to omit paragraph *(a)* and to substitute:
 - (a)* assign any power or duty in this Act to—
 - (i) a province or other organ of State; or
 - (ii) a person who or which is not an organ of State, indefinitely or for a fixed period;
3. On page 54, in line 31, to omit paragraph *(b)* and to substitute:
 - (b)* withdraw an assignment, including any assignment of powers and duties in the Forest Act, 1984 (Act No. 122 of 1984), whether that assignment was effected in terms of that Act or any other legislation;
4. On page 54, from line 34, to omit subsections (2) and (3) and to substitute:
 - (2) The Minister must—
 - (a)* consult with the province, organ of State or person concerned; and
 - (b)* consider the administrative capacity of the province, organ of State or person concerned to assume, or continue to provide, effective responsibility, before making or withdrawing an assignment.
 - (3) A province may implement those provisions of the Act relating to the powers and duties assigned to it—
 - (a)* from the date of the assignment;
 - (b)* in the area to which the assignment relates.

CLAUSE 48

1. On page 54, in line 39, to omit “**to officials**”.
2. On page 54, in line 48, after “been” to insert “assigned or”.

CLAUSE 50

1. On page 56, in line 25, to omit “with the consent of the Minister of Public Works” and to insert:

if—

 - (a)* in the case of State forests other than trust forests, the Minister of Public Works agrees; or
 - (b)* in the case of trust forests on land held in trust by the Ingonyama referred to in the KwaZulu Ingonyama Trust Act, 1994 (KwaZulu Act No. 3 of 1994), the authority with the necessary power in terms of that Act agrees; or
 - (c)* in the case of trust forests other than those referred to in paragraph *(b)*, the Minister of Land Affairs agrees

CLAUSE 53

1. On page 56, after line 38, to insert the following subsection:
 - (1) For the purposes of this section, “owner” means—
 - (a)* the registered owner; and

(b) where the registered owner has transferred control of the forest management unit in question to another person or organ of State, whether by way of assignment, delegation, contract or otherwise, that person or organ of State.

2. On page 56, in line 41, to omit “4(1)(a)” and to substitute “4(2)(a)”.
3. On page 56, in line 44, to omit “4(1)(b)” and to substitute “4(2)(b)”.
4. On page 56, in line 45, to omit “4(1)(c)” and to substitute “4(2)(c)”.
5. On page 56, from line 46, to omit all the words after “research” up to and including “5(3)” in line 47.
6. On page 58, from line 32, to omit paragraph (j).
7. On page 58, in line 39, to omit (1) and to substitute “(2)”.

CLAUSE 55

1. On page 60, in line 25, after “any” to insert “product or”.

CLAUSE 61

1. On page 64, in line 16, to omit “4(7)” and to substitute “4(8)”.

CLAUSE 62

1. On page 64, in line 33, to omit “17(2) and (3)” and to substitute “17(3) and (4)”.

CLAUSE 63

1. On page 64, in line 40, to omit “20(2) or” and to substitute “20(3) or a registered owner in terms of section”.
2. On page 64, in line 42, to omit “an” and to substitute “a registered”.
3. On page 66, in line 7, before “owner” to insert “registered”.

CLAUSE 73

1. On page 70, in line 41, to omit “hereby”.

CLAUSE 74

1. On page 72, in line 13, to omit “Delegations” and to substitute “Assignments and delegations”.
2. On page 72, in line 13, after “become” to insert “assignments or”.

3. On page 72, from line 15, to omit subsection (4).

CLAUSE 75

1. On page 72, in line 24, after the second “of” to insert “Act”.
2. On page 72, in line 25, to omit “hereby”.

CLAUSE 76

1. On page 72, in line 30, to omit “hereby”.

CLAUSE 77

1. On page 72, in line 37, to omit “hereby”.
2. On page 72, in line 44, after “may” to insert “amend the existing agreements or”.

CLAUSE 78

1. On page 74, in line 13, to omit “hereby”.

SCHEDULE 2

CLAUSE 1

1. On page 78, in line 6, to omit “hereby”.

SCHEDULE 2

CLAUSE 2

1. On page 78, in line 8, to omit “hereby”.
2. On page 78, in line 12, to omit “hereby”.

SCHEDULE 2

CLAUSE 3

1. On page 78, in line 15, to omit “hereby”.

SCHEDULE 2

CLAUSE 4

1. On page 78, in line 17, to omit “hereby”.

SCHEDULE 2

CLAUSE 5

1. On page 80, in line 39, to omit “hereby”.

SCHEDULE 2

CLAUSE 6

1. On page 80, in line 41, to omit “hereby”.