

North West, South Africa

North West Parks Board Act, 2015

Act 3 of 2015

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North West South Africa

North West Parks Board Act, 2015

Act 3 of 2015

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Assented to on 17 April 2015

Commenced on 15 May 2015 by North West Parks Board Act, 2015: Commencement

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includes any amendments published up to 12 September 2023.]*

(The English text is the official text of the act)

BILL

To provide for the establishment, management and control of protected areas in the North West Province; to provide for the repeal of the North West Parks and Tourism Board Act, 1997 (Act No. 3 of 1997 as amended); to provide for the establishment of the North West Parks Board to determine the objects, powers, duties and functions of the North West Parks Board: to determine the manner in which the North West Parks Board is to be managed, governed, staffed and financed; and to provide for matters incidental thereto.

RECOGNISING that the North West Parks and Tourism Board Act 1997, (Act No. 3 of 1997 as amended) is to be repealed by the promulgation of this Act;

WHEREAS the North West Parks and Tourism Board is to be disestablished to give effect to the establishment of the North West Parks Board;

WHEREAS upon the disestablishment of the North West Parks and Tourism Board all assets and liabilities, will devolve to both the North West Parks Board and the North West Tourism Board respectively;

AND WHEREAS the North West Parks Board, as successor in title to the North West Parks and Tourism Board in as far as its Protected Areas function is concerned, must have a legal basis to acquire and manage the assets and liabilities, including subsidiaries.

BE IT ENACTED by the Provincial Legislature of the Province of North West, as follows:-

Chapter 1 Definitions and application

1. Definitions

In this Act, unless the context indicates otherwise-

"**Board**" means the North West Parks Board established in terms of section 3;

"**board**" means a collective of members of the North West Parks Board contemplated in section 7(1);

"**Chief Executive Officer**" means the Chief Executive Officer of the Board appointed in terms of section 17;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Department**" means the Department responsible for protected areas in the Province;

"**Executive Council**" means the Executive Council of the Province of North West;

"**financial year**" means the period as contemplated in [section 25](#);

"**Gazette**" means the official *Provincial Gazette* of North West;

"**Head of Department**" means the person appointed as head of the Department responsible for parks in terms of section 12 of the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#));

"**Member of the Executive Council responsible for finance**" means the member of the Executive Council responsible for finance in the Province;

"**Portfolio Committee**" means the Portfolio Committee of the Provincial Legislature responsible for protected areas;

"**prescribed**" means prescribed by regulation under [section 31](#), and "prescribe" has a corresponding meaning;

"**Province**" means the province of North West contemplated in section 103 of the [Constitution](#), and "provincial" has a corresponding meaning;

"**Provincial Government**" means the government of the Province of North West;

"**Provincial Legislature**" means the Legislature of the Province of North West as contemplated in section 105 of the [Constitution](#), and having legislative authority for the Province as contemplated in section 104(1) of the [Constitution](#);

"**regulations**" means regulations made in terms of [section 31](#);

"**responsible Member**" means the member of the Executive Council of the Province of North West responsible for protected areas;

"**protected area**" means a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature and wildlife with associated ecosystem services; and

"**this Act**" includes the regulations.

2. Objects of Act

The objects of this Act are to provide for -

- (a) the management and control of protected areas in the Province;
- (b) the nature and wildlife conservation in protected areas under the control and management of the North West Parks Board in the Province;
- (c) the creation of an enabling environment for investment promotions in protected areas in the Province; and
- (d) the creation of enabling environment for transformation of the wildlife sector.

Chapter 2 North West Parks Board

3. Establishment of North West Parks Board

- (1) A Board to be known as the North West Parks Board is hereby established.
- (2) The Board is a juristic person capable of suing and being sued.
- (3) The Board is a Schedule 3(c) provincial public entity subject to the Public Finance Management Act 1999, ([Act No. 1 of 1999](#)).

4. Objects of Board

The objects of the Board are -

- (a) to initiate, develop, administer, manage and maintain protected areas, in the Province;
- (b) to conserve and preserve wildlife sector in protected areas in the Province;
- (c) to perform the powers duties and functions specified in sections 5 and 6;
- (d) to create enabling environment for access to markets for new entrants in the wildlife sector in the Province; and
- (e) to contribute to the establishment of enabling environment for job creation in the wildlife sector in the Province.

5. Powers, duties and functions of Board

(1) The Board must, -

- (a) initiate, develop, administer, manage and maintain protected areas in the Province;
- (b) conserve and preserve wildlife in protected areas under its control and management, in the Province;
- (c) undertake research aimed at applying new or known methods of nature conservation in protected areas under its control and management;
- (d) promote awareness on the protection of wildlife and nature conservation in protected areas under its control and management, in the Province;
- (e) take reasonable steps to create awareness by the public with regard to any matter related to but not limited to -
 - (i) measures to protect and conserve wildlife;
 - (ii) safety precautions that must be adhered to when visiting protected areas or being around wildlife; and
 - (iii) safety precautions that must be adhered to when attacked by any dangerous wildlife species, in protected areas under its control and management;
- (f) promote biodiversity by striving to reduce any negative environmental impact within protected areas, under its control and management;
- (g) where a need arises, own, manage and maintain State Owned Companies geared at advancing the objectives of this Board;
- (h) determine and annually review entry fees for visitors to protected areas, in the Province;
- (i) In determining the fees contemplated in subsection (1)(h), the board must take into account persons who are from historically disadvantaged background, and develop a policy for non-payment of entry fees for such a category of persons;
- (j) investigate and make recommendations to and advise the responsible Member regarding any matter related to the protection of wildlife in protected areas under its control and management in the Province;

(2) In relation to protected areas, the Board has authority, -

- (a) to determine and approve measures to safeguard the public against fatal wildlife attacks within protected areas under its control and management, in the Province; and

- (b) to specify the procedures and control measures to be adopted in connection with the conservation and protection of wildlife within protected areas under its control and management.
- (3) The Board must exercise control over and manage any existing protected areas as provided for in this Act.
- (4) The Board must -
 - (a) consult and liaise with different spheres of government, organization, institution, body or committee on any matter pertaining to the environment, tourism and economic development affecting protected areas under its control and management, in the Province;
 - (b) consult with different spheres of government, organization, institution, body or committee on any matter affecting any existing or proposed protected areas or the protection of wildlife in protected areas under its control and management in the Province;
 - (c) enter into agreements for the attainment of its objects, the exercise of its powers, duties and functions;
 - (d) purchase, lease or hire any movable or immovable property for the purposes of research, development, marketing and maintenance of measures to safeguard wildlife in protected areas under its control and management;
 - (e) subject to the regulations contemplated in [section 31](#), sell, lease, hire or, donate -
 - (i) any obsolete, worn-out or useless equipment;
 - (ii) accommodation, or immovable property owned or under the control of the Board: Provided that any immovable property under the control of the Board may only be disposed of -
 - (aa) in accordance with the provisions of any applicable legislation regulating the disposal of state land;
 - (bb) in accordance with policies and procedures contemplated in [section 26](#) of this Act and in accordance with the provisions of the Public Finance Management Act 1999, ([Act No. 1 of 1999](#)); and
 - (cc) with the approval of the responsible Member of the Executive Council.
- (f) subject to the prior approval of the responsible Member and the Member of the Executive Council responsible for finance -
 - (i) acquire an interest in companies, partnerships or other bodies and dispose of such interests in whole or in part; or
 - (ii) enter into joint ventures with other institutions, organisations, municipalities, bodies or persons;
- (g) register patents and trade marks, buy and sell patent rights and trade marks, and license the use of any trade mark, patent or patent rights held by the Board;
- (h) raise funds by any lawful means including but not limited to -
 - (i) the acceptance of conditional and unconditional donations, bequests and sponsorships;
 - (ii) the sale, lease, hire, donation or exchange of natural resources, souvenirs or curios; or
 - (iii) revenue derived from tourism, levies and the issue of permits, and any other similar sources of funds;

- (i) acquire or dispose of movable assets by any lawful means including but not limited to -
 - (i) the acceptance of conditional and unconditional donations, bequests and sponsorships; or
 - (ii) the sale lease, hire, donation or exchange of natural resources, souvenirs or curios;
 - (j) render assistance to or place its services at the disposal of different spheres of government, institution, body, association of persons or person in relation to the protection of wildlife;
 - (k) subject to the consent of the responsible Member-
 - (i) render assistance to;
 - (ii) give advice to;
 - (iii) furnish supplies to;
 - (iv) place its services at the disposal of any person or body outside the borders of the Province or outside the borders of the Republic;
 - (l) subject to the regulations made in terms of this Act -
 - (i) provide humanitarian and other aid or assistance in connection with the saving of lives in cases of dangerous wildlife attacks and drownings; or,
 - (ii) place its staff, equipment and other resources at the disposal of appropriate authorities during times of natural or humanitarian disasters or emergencies;
 - (m) subject to [section 31\(2\)](#), charge fees for -
 - (i) the provision of any service by the Board;
 - (ii) entrance into an exhibition or display of wildlife conservation resources by the Board; and
 - (n) generally, do anything -
 - (i) necessary or expedient for the carrying out of its powers, functions or duties in providing measures for the protection of the public against wild animal attacks in protected areas under its control and management;
 - (ii) to preserve and protect areas of historic importance including graves inside protected areas; and
 - (iii) reasonably incidental or ancillary to the carrying out of such powers, functions or duties.
- (5) The board contemplated in subsection (1) is the accounting authority of the Board as contemplated in the Public Finance Management Act 1999 ([Act No. 1 of 1999](#)).

6. Powers of responsible Member

The powers of the responsible Member are following:

- (a) the power to appoint Members of the board in terms of [section 7 \(7\)\(a\)](#);
- (b) the power to terminate appointment of board members in terms of [section 13 \(2\)](#);
- (c) the power to approve the appointment of the Chief Executive Officer in terms of [section 17 \(3\)](#);
- (d) the power to approve the appointment of board members of subsidiaries in terms of [section 4 \(c\)](#); and
- (e) the power to disestablish the subsidiaries in consultation with the Provincial Executive Council.

7. Composition of board

- (1) The board is composed of -
 - (a) not less than five and not more than nine members appointed by the responsible Member, one of which must, be from communities neighbouring, protected areas; and
 - (b) the Chief Executive Officer *ex officio*, as contemplated in [section 17\(7\)](#).
- (2) The responsible Member may designate the Head of the Department -
 - (a) to facilitate liaison between the responsible Member and the board;
 - (b) to report to the responsible Member from time to time regarding matters which are considered relevant; and
 - (c) to attend meetings of the board of directors and participate in discussion.
- (3) The person designated in terms of subsection (2) does not have the right to vote when a decision of the board is taken.
- (4) Members of the board must -
 - (a) be fit and proper persons to serve the best interests of the Province;
 - (b) be characterised by their independence, impartiality and fairness; and
 - (c) collectively possess -
 - (i) legal skills, experience and qualifications;
 - (ii) financial skills, experience and qualifications;
 - (iii) extensive knowledge of and experience in business management including human resources management and labour relations;
 - (iv) extensive knowledge of and experience in the conservation industry; and
 - (v) any other skill, experience or qualification that might be of benefit to the Board.
- (5) The responsible Member must, by notice in the *Gazette*, and at least two newspapers circulating in the Province, invite interested parties within the Province to nominate candidates to serve on the board.
- (6) The invitation for nominations in terms of subsection (5) must specify the -
 - (a) nomination procedure;
 - (b) requirements for nomination;
 - (c) date by which a nomination must be received by the responsible Member; and
 - (d) acceptance by nominees.
- (7) The responsible Member must appoint the members of the board and designate -
 - (a) one of the members of the board as the chairperson; and
 - (b) one of the members of the board as the deputy chairperson.
- (8) The responsible Member must publish the names of the persons appointed to the board in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the board.

- (9) The responsible Member must, within two months after the appointment of members of the board, inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.
- (10) The Code of Conduct contained in Schedule 1 and the Declaration of Interests and Gifts by Members of board, contained in Schedule 2 to this Act apply to all members of the board.
- (11) This section applies, with the necessary changes, to the filling of a vacancy on the board.

8. Disqualification from being appointed to board

- (1) A person is disqualified from being appointed to the board or from remaining on the board, by reason that he or she -
 - (a) is or becomes an unrehabilitated insolvent;
 - (b) is or has been declared by a competent court to be of unsound mind;
 - (c) has a direct or indirect interest in any contract with the Board and fails to declare the interest and the nature thereof in the manner required by this Act;
 - (d) is a person under curatorship;
 - (e) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;
 - (f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member may, upon a person who is nominated for appointment disclosing full details of an offence in an affidavit, condone a conviction in a manner that is consistent with section 106(1)(e) of the [Constitution](#); and
 - (g) fails to disclose an interest in accordance with [section 10](#) or attended or participated in the proceedings of the board while having an interest contemplated in [section 10](#).
- (2) A disqualification in terms of subsection (1)(f) ends five years after the sentence has been completed.

9. Term of office of members of board

- (1) Persons appointed to the board hold office for a period of three years or such lesser period as the responsible Member may determine and are, subject to [section 7](#), eligible for reappointment at the expiration of such period.
- (2) No person may be reappointed after having served on the board for more than two consecutive terms.

10. Declaration of financial or other interests by nominees to board

- (1) A nominee to the board must -
 - (a) within 10 days of having accepted an appointment to the board, submit to the responsible Member a written declaration of any and all financial or other interests in the tourism sector or related sectors which could be related to or may be in conflict with an appointment as a member of the board, which declaration must include relevant information about any conviction for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 ([Act No. 51 of 1977](#)); and
 - (b) in the declaration referred to in paragraph (a), include financial and other interests in the activities of the board or related sectors of family members or close associates, which could be related to or may be in conflict with an appointment as a member of the board.

- (2) Any failure by the nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of [section 8](#) to be considered for the position of the member of the board.
- (3) Every member of the board must, upon assuming office and at the beginning of every financial year, submit a written declaration of his or her direct or indirect interest in any company or other business interest in the manner provided for in section 75 of the Companies Act, 2008 ([Act No. 71 of 2008](#)).
- (4) Where a member of the board or family member or close associate experiences a change in financial or any other circumstances and acquires an interest in the activities of the Board or has reason to know of any changed circumstances, the member of the board must, within 10 days of this date of the changed circumstances, submit a written declaration of change of financial or other interests to the responsible Member.
- (5) The responsible Member must -
 - (a) keep a register of the interests, of members of the board disclosed in terms of this section; and
 - (b) update that register from time to time.

11. Failure to declare financial or other interests

- (1) A member of the board who fails to make a declaration envisaged in [section 10](#) commits an offence.
- (2) The Member of the Executive Council, on becoming aware that a member of the board has failed to comply with the provisions of [section 10](#), must investigate the matter and consider appropriate disciplinary action.

12. Recusal of member of board

- (1) A member of the board must recuse himself or herself in any matter or proceeding where he or she, a family member or close associate has or reasonably could be expected to have, a financial or other interest in the outcome of a decision by the board.
- (2) Any person may make an application, orally or in writing, for a member of the board to recuse himself or herself where that person has reason to believe that the member of the board, a family member or close associate has or could reasonably be expected to have a financial or other conflict of interest in the outcome of a decision by the board.
- (3) A person making an application referred to in subsection (2) must give reasons for his or her request.
- (4) In the event of an application referred to in subsection (2), the chairperson of the board must decide on the matter, save that in cases, where the application concerns the chairperson of the Board the matter must be decided on by the deputy chairperson.
- (5) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.
- (6) If it subsequently emerges that the board took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the board is invalid.

13. Vacancies, removal and resignation from office of members of board

- (1) A member of the board must vacate office if he or she becomes subject to a disqualification contemplated in [section 10](#).

- (2) The responsible Member may, after having afforded a member the opportunity to state his or her case at any time terminate the term of office of such member if, in his or her discretion, there are good reasons for doing so.
- (3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the board, from two consecutive meetings of the board for which reasonable notice was given to that member personally or by post.
- (4) A member may resign from office in writing by giving not less than 30 days notice to the responsible Member.
- (5) The responsible Member may waive the resignation notice contemplated in subsection (4), if such waiver would not be detrimental to the efficient functioning of the Board.
- (6) Whenever a vacancy occurs on the board, the responsible Member must subject to section 7, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

14. Meetings of board

- (1) The board must hold routine quarterly meetings and may convene special meetings as required and the chairperson may direct how the meetings should be held.
- (2) Every member of the board must be notified of each meeting in writing, at least 14 days prior to such meeting, and such notification must contain an agenda for the proposed meeting.
- (3) In the event that the chairperson or the deputy chairperson of the board is absent from any meeting of the board, the members present at that meeting may elect one of their number to preside at that meeting.
- (4) A special meeting of the board may be called at the request of -
 - (a) the chairperson; or
 - (b) the majority of the members of the board by written petition, whereupon the chairperson must, in writing, notify every member of the board of the time and place of the special meeting.
- (5) A quorum for a meeting of the board is a majority of its members.
- (6) Any decision of the board must be taken by resolution of the majority of the members present at any meeting of the board and, in the event of an equality of votes on any matter, the member presiding at the meeting in question will have a casting vote in addition to his or her deliberative vote as a member of the board.
- (7) No decision of the board is invalid merely by reason of a vacancy in the board: Provided that the decision is taken by the required majority of the members of the board then present and entitled to sit as members of the board.
- (8) The proceedings of all meetings of the board must be duly recorded, minuted and retained on file.
- (9)
 - (a) The minutes of the previous meeting must be read at the commencement of each meeting.
 - (b) The minutes may be regarded as read if copies thereof were furnished to the members of the board prior to the meeting.
 - (c) The chairperson may only sign the minutes once objections or corrections have been dealt with.
- (10) The chairperson must decide on issues of order or procedure: Provided that if any member objects to any such decision, the issue must be put to the vote and the decision of the majority of the members is final and binding on the board.

- (11) A member of the board who has an interest in relation to any matter to be discussed at a meeting of the board, which reasonably considered, may preclude him or her from performing his or her duties in a fair, unbiased and proper manner, must recuse himself or herself from such meeting.
- (12) A member of staff of the board may, on invitation by the board, attend a meeting of the board.
- (13) The board may invite any person to attend any of its meetings.

15. Committees of board

- (1) The board may appoint one or more committees, not limited to its own members, to assist it in the exercise of its powers and the performance of its duties and functions.
- (2) Any committee appointed in terms of subsection (1) must be chaired by a member of the board.
- (3) A committee contemplated in subsection (1) must perform such duties and functions as the board may determine.
- (4) The board may at any time dissolve or reconstitute such a committee.
- (5) The board -
 - (a) may delegate any of its powers or assign any of its duties or functions to a committee appointed in terms of subsection (1);
 - (b) is not absolved from exercising or performing any power, duty or function so delegated or assigned; and
 - (c) may amend, review or rescind any decision of a committee.
- (6) Any delegated or assigned power, duty or function exercised or performed by a committee is regarded to have been exercised or performed by the Board.
- (7)
 - (a) The Chief Executive Officer may attend and take part in, but may not vote at, a meeting of a committee.
 - (b) A member of staff of the board may, on invitation by the relevant committee, attend a meeting of that committee.

16. Remuneration of members of board

- (1)
 - (a) A member of the board may be paid such remuneration or allowances as may be determined by the responsible Member in consultation with the Member of the Executive Council responsible for finance.
 - (b) A member of the board who receives remuneration, allowances or other benefits by virtue of his or her post or employment in -
 - (i) the national government;
 - (ii) a provincial government;
 - (iii) a municipality; or
 - (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest,who continues to receive such remuneration, allowances or other benefits while serving as a member of the board may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial position in which he or she would have been were it not for such post or employment.
- (2)
 - (a) A member of the board and a member of a committee of the board may, in respect of his or her functions as a member, receive reimbursement for reasonable actual subsistence and

traveling expenses necessitated by the actual attendance of a meeting of the Board or a committee of the board.

- (b) The responsible Member must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

Chapter 3

Chief Executive Officer and other staff of Board

17. Chief Executive Officer of Board

- (1) The Board must, with the approval of the responsible Member and using a method which will, in the opinion of the responsible Member, reach the greatest number of residents of the Province, invite applications for the position of the Chief Executive Office.
- (2) The board must, with the approval of the responsible Member, appoint a selection panel to review all the applications, shortlist and interview applicants.
- (3) The board must, subject to the provisions of subsection (2) and with the approval of the responsible Member, appoint a suitably qualified, skilled and experienced person as the Chief Executive Officer of the Board.
- (4)
 - (a) The Chief Executive Officer is appointed for a period not exceeding five years.
 - (b) The Chief Executive Officer may be reappointed.
- (5)
 - (a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board.
 - (b) The Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.
- (6)
 - (a) For purposes of the declaration of financial or other interests, the provisions of [section 10](#) apply with the necessary changes to the Chief Executive Officer except that the Chief Executive Officer must declare his or her interests to the Board.
 - (b) The board must keep and maintain a register of financial or other interests declared by the Chief Executive Officer.
- (7) The Chief Executive Officer is an *ex officio* member of the Board but does not have the right to vote at its meetings.

18. Functions of Chief Executive Officer

- (1) The Chief Executive Officer is the chief administrative and financial officer and is responsible for -
 - (a) the administrative and financial management of the Board in accordance with the Public Finance Management Act 1999, ([Act No. 1 of 1999](#)), and the direction of the Board;
 - (b) in consultation with the board, the appointment of members of staff of the Board contemplated in [section 20\(1\)](#);
 - (c) in consultation with the board, the determination of a code of conduct, applicable to the Chief Executive Officer, all staff of the Board and justiciable for purposes of disciplinary proceedings, to ensure -
 - (i) compliance with applicable law, including this Act;
 - (ii) the effective, efficient and economical use of the Board's funds and resources;
 - (iii) the promotion and maintenance of a high standard of professional ethics;

- (iv) the prevention of conflicts of interest;
 - (v) the protection of confidential information held by the Board; and
 - (vi) professional, honest, impartial, fair, ethical and equitable service;
 - (d) the maintenance of discipline over the staff;
 - (e) the keeping and maintenance of the register of interests declared by members of staff of the Board; and
 - (f) ensuring compliance by the Board with the provisions of the Public Finance Management Act 1999, ([Act No. 1 of 1999](#)), and any other applicable legislation.
- (2) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Board must, in writing, and with the approval of the responsible Member, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

19. Resignation and removal from office of Chief Executive Officer

- (1) The Chief Executive Officer vacates offices -
- (a) in the case of resignation, when the resignation takes effect;
 - (b) when, in terms of the Companies Act 2008, ([Act No. 71 of 2008](#)), the person holding that office has become disqualified to serve as director of a company; and
 - (c) upon having been removed from office in terms of subsection (2).
- (2) The board may, with the approval of the Member of the Executive Council, terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

20. Staff of Board

- (1) The Chief Executive Officer must, subject to subsection (2), employ members of staff of the Board as may be reasonably necessary-
- (a) to assist him or her in fulfilling his or her functions in terms of this Act; and
 - (b) to assist the Board with the work incidental to the performance of its functions.
- (2) The board must determine human resources policies for staff, including the Chief Executive Officer.
- (3) For purposes of the declaration of financial or other interests, and subject to [section 18\(1\)\(e\)](#), the provisions of [section 10](#) apply with the necessary changes to staff.
- (4) The Chief Executive Officer must keep an updated register of the interests of staff, disclosed in terms of subsection (3).

21. Secondment or transfer of staff to Board

The Board may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act 1994, ([Proclamation No. 103 of 1994](#)), or from a municipality, other organs of state and the private sector.

Chapter 4

Funding and financial management of Board

22. Funds of Board

- (1) The funds of the Board consist of -
 - (a) money appropriated by the Provincial Legislature;
 - (b) donations or contributions or income lawfully received by the Board from any source;
 - (c) interest on investments of the Board;
 - (d) fees received by the Board in payment for -
 - (i) the processing of applications or approvals in terms of this Act;
 - (ii) the provision of services by the Board;
 - (iii) the exhibition or display of preserved wildlife and resources by the Board; or
 - (e) income lawfully derived from any other source.
- (2) The Board must utilise its funds -
 - (a) for the payment of remuneration, allowances and subsistence and travelling expenses of the -
 - (i) members of the board;
 - (ii) Chief Executive Officer; and
 - (iii) members of staff of the Board;
 - (b) to cover costs in connection with the -
 - (i) day to day operation and administration of the Board;
 - (ii) performance of the duties and functions of the Board, and
 - (iii) exercise of its powers in terms of this Act.
- (3) The Chief Executive Officer must, with the concurrence of the board and the responsible Member -
 - (a) open an account in the name of the Board with an institution registered as a bank in terms of the Banks Act, 1990 ([Act No. 94 of 1990](#)); and
 - (b) deposit therein all money received in terms of subsection (1).

23. Financial management

- (1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.
- (2) The Chief Executive Officer must ensure that the Board's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)).
- (3) The Board must, in each financial year at such time as the responsible Member determines, submit to the responsible Member for approval-
 - (a) a business plan for the Board containing measurable objectives and the other information contemplated in [section 24\(3\)\(b\)](#) and such further information as the responsible Member determines; and

- (b) a statement of the Board's estimated income and expenditure, in respect of the following three financial years or such longer or shorter period as the Member of the Executive Council determines.
- (4) In any financial year the Board must submit to the responsible Member, for approval, supplementary statements of the Board's estimated income and expenditure for that financial year.
- (5) The Board may not enter into any financial commitment beyond its approved budget and its accumulated reserves.
- (6) The Board may, with the approval of the responsible Member of Executive Council -
 - (a) invest any unexpended portion of its funds in a registered bank in terms of the Banks Act, 1990 ([Act No. 94 of 1990](#)); or
 - (b) with the approval of the Member of the Executive Council dispose of that portion in any other manner.
- (7) The Board may establish such reserve funds, and deposit therein such amounts, as the responsible Member approves.
- (8) The Board may only invest or dispose of funds as contemplated in subsection (6) and establish a reserve fund as contemplated in subsection (7), with the prior written approval of National Treasury, as required by section 53 of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)).

24. Audit and annual report

- (1) Subject to the provisions of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)), the Auditor-General must audit the financial statements of the Board.
- (2) The Board must, through the responsible Member of Executive Council, table the report on its activities in the Provincial Legislature within five months after the end of each financial year.
- (3) The report must -
 - (a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;
 - (b) state the extent to which the Board has achieved or advanced its objectives referred to in sections [5](#) and [6](#), and the measurable objectives as set out in its business plan as contemplated in [section 23\(3\)\(a\)](#) during the financial year concerned; and
 - (c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

25. Financial year of Board

The financial year of the Board commences on 1 April of a particular year and ends on 31 March of the following year.

Chapter 5 General provisions

26. Immovable property

The Board must, consistent with relevant laws, determine the policies and procedures with regard to the acquisition and disposal of immovable property.

27. Legal proceedings against Board

- (1) Any legal proceedings against the Board must be instituted in accordance with the institution of Legal Proceedings against Certain Organs of State Act, 2002 ([Act No. 40 of 2002](#)).
- (2) The Board is, for purposes of subsection (1), regarded as an organ of state contemplated in section 239 of the [Constitution](#).

28. Security of confidential information held by Board

- (1) Subject to the [Constitution](#) and the Promotion of Access to Information Act, 2000 ([Act No. 2 of 2000](#)) no person may disclose any information submitted to the Board in connection with any legal brief or instruction, unless he or she is ordered to do so by a court of law or unless the person who gave such brief or instruction consents thereto in writing.
- (2) No person may disclose any information kept in the registers contemplated in sections [10\(5\)](#), [17\(6\)](#) and [20](#) (4) unless such disclosure is-
 - (a) in terms of any law that compels or authorises such disclosure;
 - (b) materially necessary for the proper functioning of the Board; or
 - (c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Board.
- (3) Any person who contravenes subsection (1) or (2) commits an offence.

29. Dissolution of Board

The Board may only be dissolved in terms of an Act of the Provincial Legislature.

30. Use of name of Board

- (1) Unless authorised in writing by the Board to do so, no person may in any way represent or make use of the name, acronym logos, plaques, designs or other material used or owned by this Board.
- (2) No person may falsely claim to be acting on behalf of the Board.
- (3) Any person who contravenes subsections (1) or (2) is guilty of an offence.

31. Regulations and notices

- (1) The responsible Member may, by notice in the *Gazette* and after consultation with the Board, make regulations prescribing -
 - (a) any matter which is required or permitted to be prescribed in terms of this Act; or
 - (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.
- (2) The responsible Member must -
 - (a) in consultation with the Member of the Executive Council responsible for finance; and
 - (b) after consultation with the Board; and
 - (c) by notice in the *Gazette*
determine fees for -
 - (i) the provision of any service by the Board; and
 - (ii)) entrance into an exhibition or display of wildlife resources by the Board.

32. Delegations

- (1) The responsible Member may delegate to the Head of Department -
 - (a) any power conferred on the responsible Member by this Act, except the power, in terms of [section 31](#), to make regulations; or
 - (b) any duty imposed on the responsible Member by this Act, except any duty regarding the appointment, and termination of office, of the members of the board contemplated in [sections 7](#) and [13](#).
- (2) The board may delegate to the Chief Executive Officer any power or duty conferred or imposed on the board by this Act.
- (3) The Chief Executive Officer may delegate to any member of staff of the Board any power or duty conferred or imposed on him or her by this Act, except any duty as accounting officer of the Board.
- (4) Any power or duty delegated in terms of subsection (1), (2) or (3) must be exercised or performed subject to such conditions as the person or body that made the delegation considers necessary.
- (5) Any delegation in terms of subsection (1), (2) or (3) -
 - (a) must be in writing;
 - (b) must not prohibit the person or body that made the delegation from exercising that power or performing that duty; and
 - (c) may at any time be withdrawn or amended in writing by that person or body.

33. General offences pertaining to Board

- (1) A member of the Board, a member of staff, advisor, agent or other person employed by or acting on behalf of the Board commits an offence if he or she directly or indirectly accepts any unauthorised fee or reward from any person in respect of or in connection with any service rendered or anything done or offered by the Board.
- (2) Any person commits an offence if he or she, in respect of or in connection with any service rendered or anything done or offered by the Board, bribes or attempts to bribe, or corruptly influences or attempts to corruptly influence, any member of staff or any adviser, agent or other person employed by or acting on behalf of the Board.
- (3) Any person who falsely claims that he or she is authorised to charge or collect fees on behalf of or by direction of the Board, commits an offence.
- (4) Any person who obstructs the Board, including any officer or agent of the Board, in the exercise of any powers of the Board in terms of this Act commits an offence.

34. Penalties

Any person convicted of an offence in terms of this act is liable to a fine or to imprisonment for a period not exceeding 5 years.

35. Repeal of law

The North West Parks and Tourism Board Act, 1997 ([Act No. 3 of 1997](#)), is hereby repealed.

36. Transitional arrangements and validation in respect of repeal of North West Parks and Tourism Board Act

- (1)
 - (a) Notwithstanding the fact that the North West Parks Board is the legal successor in law to the North West Parks and Tourism Board, all protected areas assets, liabilities and responsibilities of the North West Parks and Tourism Board established in terms of section 2 of the North West Parks and Tourism Board Act 1997, ([Act No. 3 of 1997](#) as amended), devolve to the North West Parks Board; and
 - (b) Persons who, on the day before the date of commencement of this Act were members of staff in the protected areas component including support staff of the North West Parks and Tourism Board, are regarded as having been appointed in terms of [section 20](#) of this Act with the retention of at rights and benefits.
- (2) Any protected areas related act, determination, designation, decision, matter or any other thing done, made, taken, executed or carried out or purported to have been done, made, taken, executed or earned out by the North West Parks and Tourism Board, the Chief Executive Officer, an officer or member of staff of the North West Parks and Tourism Board or the responsible Member in terms of or in pursuance of the repealed Act, to the date of commencement of this Act, is not invalid by reason of-
 - (a) the regulations referred to in the repealed Act not having been published by the responsible Member; or
 - (b) any procedure process, requirement condition or detail referred to in the repealed Act not having been determined or prescribed by regulation, as contemplated in the repealed Act.
- (3) In achieving the objects contemplated in subsections (1) and (2) the responsible Member and the Member of the Executive Council responsible for Protected Areas in the Province must establish a joint task team to deal with matters related thereto.

37. Short title

This Act is called the North West Parks Board Act, 2015 and comes into operation on a date to be determined by the responsible Member.

Schedule 1 (Section 7(12))

Code of conduct for Board Members

1. General conduct of Board Members

A board member -

- (a) must perform the functions allocated to him or her in good faith diligently, honestly and in a transparent manner;
- (b) must fulfil his or her role in an efficient manner;
- (c) may not conduct himself or herself in a disgraceful, improper or unbecoming manner;
- (d) must comply with any applicable legislation;
- (e) must act in the best interest of the Board;
- (f) may not embark on actions that would create division within the Board;
- (g) may not refuse to provide any service to a person on political or ideological grounds;
- (h) must foster good relations with the organs of state with whom he or she interacts; and

- (i) must disclose gifts received.

2. Attendance at meetings

A member of the Board must attend each meeting of the Board and of a committee of which that member of the Board is a member, except when -

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the Board; or
- (b) that member of the Board is required in terms of this Code to withdraw from the meeting.

3. Sanctions for non-attendance of meetings

- (1) The Board may impose a sanction as determined by the Board on a member of the Board for -
 - (a) not attending a meeting which that member of the Board is required to attend in terms of item 2; or
 - (b) failing to remain in attendance at such a meeting.
- (2) A member of the Board, who is absent from three or more consecutive meetings of the Board, or from three or more consecutive meetings of a committee of the Board, which that member of the Board is required to attend in terms of item 2, must be removed from office as a member of the Board, by the responsible Member.
- (3) The responsible Member must inform the relevant Premier of the removal of the member of the Board represented.
- (4) Proceedings for the imposition of a sanction including removal of a member of Board must be conducted in accordance with a uniform standing procedure which the Board must adopt for the purposes of this item.

4. Disclosure of interests

- (1) A member of the Board must -
 - (a) disclose to the Board; or to any committee of the Board of which that member of the Board is a member any direct or indirect personal or private business interest that that member of the Board, or any spouse, partner or business associate of that member of the Board, may have in any matter before the Board or the committee of the Board; and
 - (b) withdraw from the proceedings of the Board or committee of the Board when that matter is considered by the Board or its committee, unless the Board or its committee decides that the member of the Board's direct or indirect interest in the matter is trivial or irrelevant.
- (2) A member of the Board who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the Board, must disclose full particulars of the benefit of which the member of the Board is aware at the first meeting of the Board at which it is possible for the member of the Board to make the disclosure.
- (3) This section does not apply to an interest or benefit which a member of the Board, or a spouse, partner, business associate or close family member has or acquires in common with other members of the Board.

5. Personal gain

- (1) A member of the Board may not use the position or privileges of a member of the Board, or confidential information obtained as a member of the Board, for private gain or to improperly benefit another person.

- (2) Except with the prior consent of the Board, a member of the Board may not -
 - (a) be a party to or beneficiary under a contract for -
 - (i) the provision of goods or services to the Board; or
 - (ii) the performance of any work otherwise than as a member of the Board and for the Board;
 - (b) obtain a financial interest in any business of the Board; or
 - (c) for a fee or other consideration appear on behalf of any other person before the Board or its committee.
- (3) If more than one quarter of the members of the Board object to consent being given to a member of the Board in, terms of sub-item (2), such consent may only be given to the member of the Board with the approval of the responsible Member of the Executive Council.

6. Declaration of interests

- (1) When elected or appointed, a member of the Board must, within 60 days, declare in writing, to an officer of the Board designated by the responsible Member of the Executive Council the following financial interests held by that member of the Board -
 - (a) shares and securities in any company;
 - (b) membership of any close corporation;
 - (c) interest in any trust;
 - (d) directorships;
 - (e) partnerships;
 - (f) other financial interests in any business undertaking;
 - (g) employment and remuneration;
 - (h) interest in property;
 - (i) pension; and
 - (j) subsidies, grants and sponsorships by any organisation.
- (2) Any change in the nature or detail of the financial interests of a member of the Board must be declared, in writing, to the officer referred to in sub-item (1) annually.
- (3) Gifts received by a member of the Board in excess of an amount as may be prescribed by notice in the *Provincial Gazette* from time to time, must also be declared in accordance with sub-item (1).
- (4) The Board must determine which of the financial interests referred to in sub-item (1) must be made public, having regard to the need for confidentiality and the public interest for disclosure.
- (5) The declaration of interests and gifts contemplated in this item must substantially comply with the format of Annexure A to this Schedule, and must be completed annually where necessary, in order to comply with the provisions, of sub-item (2).

7. Rewards, gifts and favours

A member of the Board may not request, solicit or accept any reward, gift or favour for -

- (a) voting or not voting in a particular manner on any matter before the Board or before a committee of the Board of which that member of the Board is a member;

- (b) persuading the Board or any committee of the Board in regard to the exercise of any power, function or duty;
- (c) making a representation to the Board or any committee of the Board; or
- (d) disclosing privileged or confidential information.

8. Unauthorised disclosure of information

- (1) A member of the Board may not, without the permission of the Board or a committee, disclose any privileged or confidential information of the Board or committee to any unauthorised person.
- (2) For the purpose of this item "privileged or confidential information" includes any information -
 - (a) determined by the Board or committee of the Board to be privileged or confidential;
 - (b) discussed in closed session by the Board or its committee;
 - (c) of which disclosure would violate a person's right to privacy; or
 - (d) declared to be privileged, confidential or secret in terms of the law.
- (3) This item does not derogate from the right of any person to access information in terms of national legislation.

9. Breach of Code of Conduct

- (1) If the Board, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct has been breached, the Board must -
 - (a) authorise an investigation of the facts and circumstances of the alleged breach;
 - (b) give the member of the Board a reasonable opportunity to reply in writing regarding the alleged breach; and
 - (c) report the matter to a meeting of the Board after paragraphs (a) and (b) have been complied with.
- (2) A report referred to in sub-item (1)(c) may be made available to the public.
- (3) The Board must report the outcome of the investigation to the responsible Member of the Executive Council.
- (4) The Secretary of the Board must ensure that each member of the Board, when taking office, is given a copy of this Code and that a copy of this Code is available in every room or place where the Board or a committee of the Board meets.
- (5) The Board may -
 - (a) investigate and make a finding on any alleged breach of a provision of this Code; or
 - (b) establish a special committee -
 - (i) to investigate and make a finding on any alleged breach of this Code; and
 - (ii) to make appropriate recommendations to the Board.
- (6) If the Board, or a special committee appointed by the Board to conduct the investigation, finds that a member of the Board has breached a provision of this part of the Code of Conduct, the Board may -
 - (a) issue a formal warning to the member of the Board;
 - (b) reprimand the member of the Board;

- (c) suspend the member of the Board for a period in consultation with the responsible Member; and
 - (d) remove the member of the Board from office in consultation with the responsible Member.
- (7) (a) Any member of the Board who has been warned, reprimanded, suspended or removed in terms of paragraph (a), (b), (c) or (d) of sub-item (6) may, within 14 days of having been notified of the decision of the Board, appeal to the responsible Member in writing, setting out the reasons on which the appeal is based.
- (b) A copy of the appeal must be provided to the Board.
- (c) The Board may, within 14 days of receipt of the appeal referred to in paragraph (b), make any representation pertaining to the appeal to the responsible Member in writing.
- (d) The responsible Member of the Executive Council may after having considered the appeal, confirm, set aside or vary the decision of the Board and inform the member of the Board and the Board of the outcome of the appeal.
- (8) The responsible Member may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make recommendations on whether the member of the Board should be suspended or removed from office.
- (9) If the responsible Member is of the opinion that a member of the Board has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the responsible Member Council may -
- (a) suspend the member of the Board for a period and on conditions determined by the responsible Member; or
 - (b) remove the member of the Board from office.
- (10) Any investigation in terms of this item must be conducted in accordance with the rules of natural justice.

Schedule 2 (Section 7(12))

Declaration of interests and gifts

I, the undersigned: _____

(full names)

Identity number: _____

Postal address: _____

Residential address: _____

Position held: _____

PERSAL No: _____

Telephone number: _____

Fax number: _____

hereby certify that the following information is complete and correct to the best of my knowledge:

1. Shares and other financial interests

Number of shares extent of financial interests	Nature	Nominal Value	Name of company/ entity

6. Land and property

Description	Extent	Area	Value

SIGNATURE

PLACE: _____

DATE: _____

Oath/affirmation

1. I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence:

- (a) Do you know and understand the contents of the declaration?

Answer _____

- (b) Do you have any objection to taking the prescribed oath or affirmation?

Answer _____

- (c) Do you consider the prescribed oath or affirmation to be binding on your conscience?

Answer _____

2. I certify that the deponent, has acknowledged that she/he knows and understands the contents of this declaration. the deponent uttered the following words: "I swear that the contents of this declaration are true, so help me God."/ "I truly affirm that the contents of the declaration are true". The signature/ mark of the deponent has been affixed to the declaration in my presence.

Commissioner of Oaths/Justice of Peace
