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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 749.

4 April 1990

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

No. 23 van 1990: Wysigingswet op Nasionale Parke, 1990.

No. 749.

4 April 1990

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

No. 23 of 1990: National Parks Amendment Act, 1990.

Wet No. 23, 1990

WYSIGINGSWET OP NASIONALE PARKE, 1990

ALGEMENE VERDUIDELIKENDE NOTA:

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

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

WET

Tot wysiging van die Wet op Nasionale Parke, 1976, ten einde sekere omskrywings te wysig; die instelling van parke deur die Minister van Omgewingsake en van Waterwese verder te reël; die naam van die Raad van Kuratore vir Nasionale Parke te wysig; verwysings na "provinsiale raad" te skrap; die bevoegdhede en werksaamhede van die raad verder te reël; die boetes wat ingevolge artikel 24 van die Wet opgelê kan word, te verhoog; 'n verouderde verwysing aan te pas; en die aangeleenthede waarvoor die raad regulasies kan uitvaardig, uit te brei; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 23 Maart 1990.)*

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

Wysiging van artikel 1 van Wet 57 van 1976, soos gewysig deur artikel 1 van Wet 23 van 1983 en artikel 1 van Wet 43 van 1986

1. Artikel 1 van die Wet op Nasionale Parke, 1976 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:

"Minister" die Minister van Omgewingsake en **[Toerisme]** van Waterwese;"

(b) deur die omskrywing van "park" of "die parke" deur die volgende omskrywing te vervang:

"park" of "die parke" 'n nasionale park of die nasionale parke by of kragtens artikel 2, 2A, **[of]** 2B of 2C ingestel;" en

(c) deur die omskrywing van "raad" deur die volgende omskrywing te vervang:

"raad" die ingevolge artikel 5 (1) ingestelde **[Raad van Kuratore vir]** Nasionale **[Parke]** Parkeraad;"

Wysiging van artikel 2 van Wet 57 van 1976, soos vervang deur artikel 2 van Wet 43 van 1986

2. Artikel 2 van die Hoofwet word hierby gewysig deur subartikel (2) te skrap.

Invoeging van artikel 2C in Wet 57 van 1976

3. Die volgende artikel word hierby in die Hoofwet na artikel 2B ingevoeg:

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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the National Parks Act, 1976, so as to amend certain definitions; to further regulate the establishment of parks by the Minister of Environment Affairs and of Water Affairs; to change the name of the National Parks Board of Trustees; to delete references to "provincial council"; to further regulate the functions and powers of the board; to increase the fines which may be imposed in terms of section 24 of the Act; to adapt an outdated reference; and to extend the matters relating to which the board may make regulations; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 23 March 1990.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 57 of 1976, as amended by section 1 of Act 23 of 1983 and section 1 of Act 43 of 1986

- 5 **1.** Section 1 of the National Parks Act, 1976 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the definition of "board" of the following definition:
 "board" means the National Parks Board **[of Trustees]** established in terms
 of section 5 (1);";
- 10 (b) by the substitution for the definition of "Minister" of the following
 definition:
 "Minister" means the Minister of Environment Affairs and **[Tourism]** of
 Water Affairs;"; and
- 15 (c) by the substitution for the definition of "park" or "the parks" of the
 following definition:
 "park" or "the parks" means a national park or the national parks
 established by or in terms of section 2, 2A, **[or] 2B or 2C;**".

Amendment of section 2 of Act 57 of 1976, as substituted by section 2 of Act 43 of 1986

- 20 **2.** Section 2 of the principal Act is hereby amended by the deletion of subsection
 (2).

Insertion of section 2C in Act 57 of 1976

- 3.** The following section is hereby inserted in the principal Act after section 2B:

“Verklaring van grond tot ’n park of deel van ’n park deur Minister

2C. (1) Die Minister kan by kennisgewing in die *Staatskoerant* enige grond wat ingevolge artikel 3 (1) verkry is, tot ’n nasionale park verklaar onder ’n naam wat in daardie kennisgewing daaraan toegeskryf moet word, en Bylae 1 wysig deur die naam en ’n gebiedsomskriving van ’n aldus ingestelde park by te voeg. 5

(2) Die Minister kan by kennisgewing in die *Staatskoerant* enige grond wat ingevolge artikel 3 (1) verkry is, tot deel van ’n park verklaar of, behoudens die bepalings van artikel 2 (3), grond uit ’n park wegneem en Bylae 1 dienoreenkomstig wysig.”. 10

Wysiging van artikel 3 van Wet 57 van 1976, soos vervang deur artikel 1 van Wet 13 van 1982 en gewysig deur artikel 3 van Wet 23 van 1983 en artikel 4 van Wet 43 van 1986

4. Artikel 3 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang: 15

“(3) Grond deur die Minister van **[Kommunikasie]** Vervoer en van Openbare Werke en Grondsake kragtens subartikel (1) vir die doeleindes van die een of ander park verkry en wat nie deel van daardie park uitmaak nie, word onverwyld deur die Minister kragtens artikel **[2 (2)]** 2C (2) tot deel van daardie park verklaar.” 20

Vervanging van artikel 5 van Wet 57 van 1976, soos gewysig deur artikel 46 van Wet 97 van 1986

5. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

“Instelling en samestelling van Nasionale Parkeraad

5. (1) Die Staatspresident stel by kennisgewing in die *Staatskoerant* ’n raad in, met die naam die **[Raad van Kuratore vir]** Nasionale **[Parke]** Parkeraad, vir die beheer, bestuur en instandhouding van die parke. 25

(2) Die raad is ’n regspersoon wat in regte as eiser en verweerder kan optree en, behoudens die bepalings van hierdie Wet en vir sover dit nodig is ten einde sy werksaamhede en pligte beter te kan uitvoer, die handeling kan verrig wat regspersone regtens kan verrig: Met dien verstande dat ’n lening nie sonder die magtiging van die Minister deur die raad aangegaan word nie. 30

(3) (a) Die raad bestaan, behoudens die bepalings van paragraaf (b), uit die Administrateurs van die vier provinsies en agt ander lede deur die Minister aangestel te word, van wie— 35

(i) een genomineer word deur die Genootskap tot Beskerming van Wilde Dierelewe van Suid-Afrika of, ingeval daardie Genootskap ophou om te bestaan, ’n deur die Minister aangewese genootskap wat die beskerming van wilde dierelewe ten doel het of, waar daardie Genootskap of so ’n genootskap in gebreke bly om ’n nominasie te doen, deur die Minister; en 40

(ii) die oorblywende lede deur die Minister genomineer word.

(b) Indien die Administrateur van ’n provinsie die Minister skriftelik in kennis stel dat hy nie in die raad wil dien of langer wil dien nie, stel die Minister ’n lid van die betrokke uitvoerende komitee **[of provinsiale raad]** wat deur daardie Administrateur genomineer is of, indien so ’n lid nie deur hom genomineer word nie, ’n lid wat deur die Minister genomineer word, in die plek van daardie Administrateur aan. 45

(c) Een van die lede van die raad word deur die Minister as voorsitter van die raad aangewys.”. 50

Wysiging van artikel 7 van Wet 57 van 1976, soos gewysig deur artikel 46 van Wet 97 van 1986

6. Artikel 7 van die Hoofwet word hierby gewysig deur paragraaf (d) deur die volgende paragraaf te vervang: 55

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"Declaration of land to be a park or part of a park by Minister

5 2C. (1) The Minister may by notice in the *Gazette* declare any land which has been acquired in terms of section 3 (1), to be a national park under a name to be assigned to it in that notice, and amend Schedule 1 by the addition of the name and a definition of the area of any park so established.

10 (2) The Minister may by notice in the *Gazette* include any land which has been acquired in terms of section 3 (1), in or, subject to the provisions of section 2 (3), exclude any land from any park and amend Schedule 1 accordingly."

Amendment of section 3 of Act 57 of 1976, as substituted by section 1 of Act 13 of 1982 and amended by section 3 of Act 23 of 1983 and section 4 of Act 43 of 1986

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

15 "(3) Land acquired by the Minister of **[Communications]** Transport and of Public Works and Land Affairs under subsection (1) for the purposes of any park and not included in that park, shall forthwith be included by the Minister under section **[2 (2)]** 2C (2) in that park."

Substitution of section 5 of Act 57 of 1976, as amended by section 46 of Act 97 of 1986

20 5. The following section is hereby substituted for section 5 of the principal Act:

"Establishment and constitution of National Parks Board

25 5. (1) The State President shall by notice in the *Gazette* establish a board to be known as the National Parks Board **[of Trustees]**, for the control, management and maintenance of the parks.

(2) The board shall be a corporate body capable of suing and being sued and, subject to the provisions of this Act and in so far as may be necessary for the better performance of its functions and duties, of performing all such acts as bodies corporate may by law perform: Provided that no loan shall be raised by the board without the authority of the Minister.

30 (3) (a) The board shall consist, subject to the provisions of paragraph (b), of the Administrators of the four provinces and eight other members to be appointed by the Minister, of whom—

35 (i) one shall be nominated by the Wild Life Protection Society of South Africa or, in the event of that Society ceasing to exist, any society designated by the Minister which aims at the protection of wild animal life or, where that Society or such a society fails to make a nomination, by the Minister; and

(ii) the remaining members shall be nominated by the Minister.

40 (b) If the Administrator of a province notifies the Minister in writing that he does not wish to serve or to continue to serve on the board, the Minister shall appoint in the place of such Administrator a member of the executive committee **[or provincial council]** concerned nominated by such Administrator, or if no such member is nominated by him, a member nominated by the Minister.

45 (c) One of the members of the board shall be designated by the Minister as chairman of the board."

Amendment of section 7 of Act 57 of 1976, as amended by section 46 of Act 97 of 1986

50 6. Section 7 of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

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- “(d) in die geval van ’n lid ingevolge artikel 5 (3) (b) aangestel, as hy ophou om ’n lid van die betrokke uitvoerende komitee **[of provinsiale raad]** te wees of as die Administrateur in wie se plek hy aangestel is, ophou om Administrateur van die betrokke provinsie te wees;”.

Wysiging van artikel 12 van Wet 57 van 1976, soos gewysig deur artikel 7 van Wet 43 van 1986 en artikel 2 van Wet 60 van 1987 5

7. Artikel 12 van die Hoofwet word hierby gewysig—

- (a) deur subparagraaf (ii) van paragraaf (b) van subartikel (2) deur die volgende subparagraaf te vervang:
- “(ii) die stappe doen wat die veiligheid van besoekers, die diere- en 10 plantelewe in die park; en die bewaring van die park en die diere en plantegroei daarin in ’n natuurlike staat, sal verseker;”;
- (b) deur subartikel (4) deur die volgende subartikel te vervang:
- “(4) (a) Die raad kan, indien deur die Minister daartoe gemagtig, die vraag ondersoek of dit wenslik al dan nie sou wees om enige **[gebied]** 15 grond tot ’n park **[te verklaar]** of **[om enige grond]** tot deel van ’n park te verklaar.
- (b) Waar **[’n gebied of]** grond ten opsigte waarvan ’n ondersoek ingevolge paragraaf (a) uitgevoer is daarna by kennisgewing kragtens artikel **[2 (2)]** 2A, **[of]** 2B of 2C tot ’n park of tot deel van ’n park verklaar word, 20 word enigiets wat voor die datum van die kennisgewing met die goedkeuring van die Minister deur die raad gedoen is in verband met die beheer, bestuur of instandhouding van sodanige **[gebied of]** grond asof dit ’n park of deel van ’n park was, geag na die datum van die kennisgewing gedoen te gewees het.”; en 25
- (c) deur die volgende subartikel by te voeg:
- “(6) Indien die raad dit vir die beheer, bestuur en instandhouding van ’n park nodig ag, kan die raad, met die goedkeuring van die Minister—
- (a) onroerende goed buite ’n park verkry of huur;
- (b) onroerende goed wat die raad kragtens paragraaf (a) verkry het, 30 verhuur, verkoop of op ’n ander wyse van die hand sit.”.

Wysiging van artikel 24 van Wet 57 van 1976, soos gewysig deur artikel 6 van Wet 23 van 1983

8. Artikel 24 van die Hoofwet word hierby gewysig—

- (a) deur in paragraaf (a) van subartikel (1) die uitdrukkings “duisend rand” en 35 “twee duisend rand” deur onderskeidelik die uitdrukkings “R4 000” en “R8 000” te vervang;
- (b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:
- “(b) ’n olifant, swartrenoster of witrenoster, is aan ’n misdryf skuldig en by 40 skuldigbevinding strafbaar—
- (i) met ’n boete van minstens **[drieduisend rand]** R30 000 en hoogstens **[tienduisend rand]** R100 000 of, by wanbetaling van sodanige boete, met gevangenisstraf vir ’n tydperk van minstens **[een]** drie jaar en hoogstens **[twee]** tien jaar; of 45
- (ii) as so iemand voorheen ingevolge hierdie subartikel of subartikel (2) veroordeel is, kan hy tot sodanige gevangenisstraf sonder die keuse van ’n boete gevonniss word, en
- by ’n eerste of latere skuldigbevinding—
- (aa) met ’n verdere boete van hoogstens drie maal die handelswaarde 50 van die dier ten opsigte waarvan die misdryf gepleeg is; en
- (bb) as die hof wat so iemand aldus veroordeel, bevind dat die oortreding opsetlik was, kan die hof **[by ’n eerste of latere skuldigbevinding]** benewens enige boete of gevangenisstraf waar- 55 toe so iemand gevonniss kan word, so iemand tot lyfstraf van hoogstens sewe houe vonnis.”;
- (c) deur in subartikel (2) die uitdrukkings “tweehonderd rand” en “duisend rand” deur onderskeidelik die uitdrukkings “R1 000” en “R6 000” te vervang;

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“(d) in the case of a member appointed in terms of section 5 (3) (b), if he ceases to be a member of the executive committee **[or provincial council]** concerned or if the Administrator in whose place he has been appointed, ceases to be Administrator of the province concerned;”.

5 Amendment of section 12 of Act 57 of 1976, as amended by section 7 of Act 43 of 1986 and section 2 of Act 60 of 1987

7. Section 12 of the principal Act is hereby amended—

- (a) by the substitution for subparagraph (ii) of paragraph (b) of subsection (2) of the following subparagraph:
- 10 “(ii) take such steps as will ensure the security of visitors, the animal and plant life in the park, and the preservation of the park and the animals and vegetation therein in a natural state;”;
- (b) by the substitution for subsection (4) of the following subsection:
- 15 “(4) (a) The board may, if authorized thereto by the Minister, investigate the question whether or not it would be desirable to have any **[area]** land declared a park or **[to have any land included in]** a part of a park.
- (b) Where any **[area or]** land in respect of which an investigation has been carried out in terms of paragraph (a) is thereafter by notice under section **[2 (2)]** 2A, **[or]** 2B or 2C declared to be a park or to be a part of a park, anything done before the date of the notice by the board with the approval of the Minister in connection with the control, management or maintenance of such **[area or]** land as if it were a park or part of a park, shall be deemed to have been done after the date of the notice.”; and
- 20 (c) by the addition of the following subsection:
- 25 “(6) If the board deems it necessary for the control, management and maintenance of a park, the board may, with the approval of the Minister—
- (a) acquire or hire immovable property outside a park;
- (b) let, sell or otherwise dispose of immovable property which the board
- 30 acquired under paragraph (a).”.

Amendment of section 24 of Act 57 of 1976, as amended by section 6 of Act 23 of 1983

8. Section 24 of the principal Act is hereby amended—

- (a) by the substitution in paragraph (a) of subsection (1) for the expressions “one thousand rand” and “two thousand rand” of the expressions
- 35 “R4 000” and “R8 000”, respectively;
- (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
- “(b) an elephant, black rhinoceros or white rhinoceros, shall be guilty of an offence and liable on conviction—
- 40 (i) to a fine of not less than **[three thousand rand]** R30 000 and not more than **[ten thousand rand]** R100 000 or, in default of payment of such fine, to imprisonment for a period of not less than **[one year]** three years and not more than **[two]** ten years; or
- 45 (ii) if such person has been previously convicted under this subsection or subsection (2), he may be sentenced to such imprisonment without the option of a fine, and
- on a first or subsequent conviction—
- (aa) to a further fine not exceeding three times the commercial value of the animal in respect of which the offence was committed; and
- 50 (bb) if the court so convicting such person finds that the contravention was wilful, it may **[on a first or subsequent conviction]** in addition to any fine or imprisonment to which such person may be sentenced, sentence such person to corporal punishment not exceeding seven strokes.”;
- 55 (c) by the substitution in subsection (2) for the expressions “two hundred rand” and “one thousand rand” of the expressions “R1 000” and “R6 000”, respectively;

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- (d) deur in subartikel (3) die uitdrukkings "honderd rand", "vierhonderd rand", "tweehonderd rand" en "agthonderd rand" deur onderskeidelik die uitdrukkings "R300", "R1 000", "R1 000" en "R2 000" te vervang;
- (e) deur in subartikel (4) die uitdrukkings "honderd rand" en "tweehonderd rand" deur onderskeidelik die uitdrukkings "R300", en "R1 000" te vervang; 5
- (f) deur in subartikel (5) die uitdrukkings "tweehonderd rand" en "duisend rand" deur onderskeidelik die uitdrukkings "R1 000" en "R6 000" te vervang;
- (g) deur in subartikel (6) die uitdrukkings "honderd rand" en "vierhonderd rand" deur onderskeidelik die uitdrukkings "R300" en "R1 500" te vervang; en 10
- (h) deur in subartikel (8) die uitdrukkings "tweehonderd rand" en "vierhonderd rand" deur onderskeidelik die uitdrukkings "R1 000" en "R2 000" te vervang. 15

Vervanging van artikel 25 van Wet 57 van 1976

9. Artikel 25 van die Hoofwet word hierby deur die volgende artikel vervang:

"Regsbevoegdheid van landdroshowe betreffende strawwe

25. 'n Landdroshof [en 'n in artikel 9 van die Swart Administrasiewet, 1927 (Wet No. 38 van 1927), vermelde Kommissarishof] het regsbevoegdheid om 'n straf wat in artikel 24 bepaal word, op te lê."

Wysiging van artikel 29 van Wet 57 van 1976, soos gewysig deur artikel 3 van Wet 60 van 1987

10. Artikel 29 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang: 25
 - "(e) die toelating van vliegtuie, motors of ander voertuie of van vaartuie tot, en die neem van foto's in, 'n park, of enige ander aangeleentheid wat met die gebruik en genot van 'n park in verband staan;" en
- (b) deur paragraaf (i) van subartikel (1) deur die volgende paragraaf te vervang: 30
 - "(i) die reëling van verkeer en passasiersvervoer in 'n park, met inbegrip van (maar behoudens die bepalinge van enige ander wet in dié verband) die vereistes waaraan vaartuie en persone op sodanige vaartuie moet voldoen, die plekke waar mense 'n park kan betree of verlaat, en die roetes waarlangs hulle deur 'n park kan gaan;" 35

Vervanging van sekere uitdrukkings in Wet 57 van 1976

11. Die Hoofwet word hierby gewysig deur die uitdrukkings "Minister van Kommunikasie en van Openbare Werke" en "Minister van Minerale- en Energiesake" oral waar dit voorkom deur onderskeidelik die uitdrukkings "Minister van Vervoer en van Openbare Werke en Grondsake" en "Minister van Minerale- en Energiesake en Openbare Ondernemings" te vervang. 40

Kort titel

12. Hierdie Wet heet die Wysigingswet op Nasionale Parke, 1990.

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- (d) by the substitution in subsection (3) for the expressions "one hundred rand", "four hundred rand", "two hundred rand" and "eight hundred rand" of the expressions "R300", "R1 000", "R1 000" and "R2 000", respectively;
- 5 (e) by the substitution in subsection (4) for the expressions "one hundred rand" and "two hundred rand" of the expressions "R300" and "R1 000", respectively;
- (f) by the substitution in subsection (5) for the expressions "two hundred rand" and "one thousand rand" of the expressions "R1 000" and "R6 000", respectively;
- 10 (g) by the substitution in subsection (6) for the expressions "one hundred rand" and "four hundred rand" of the expressions "R300" and "R1 500", respectively; and
- 15 (h) by the substitution in subsection (8) for the expressions "two hundred rand" and "four hundred rand" of the expressions "R1 000" and "R2 000", respectively.

Substitution of section 25 of Act 57 of 1976

9. The following section is hereby substituted for section 25 of the principal Act:

"Jurisdiction of magistrates' courts as to punishment

- 20 25. A magistrate's court [and a Commissioner's Court referred to in section 9 of the Black Administration Act, 1927 (Act No. 38 of 1927)] shall have jurisdiction to impose any punishment provided for in section 24."

Amendment of section 29 of Act 57 of 1976, as amended by section 3 of Act 60 of 1987

10. Section 29 of the principal Act is hereby amended—
- 25 (a) by the substitution for paragraph (e) of subsection (1) of the following paragraph:
- "(e) the admission of aircraft, motor cars or other vehicles or vessels to, and the taking of photographs within, a park, or any other matter connected with the use and enjoyment of a park;" and
- 30 (b) by the substitution for paragraph (i) of subsection (1) of the following paragraph:
- "(i) the regulation of traffic and carriage of passengers in a park, including (but subject to the provisions of any other law in this regard) the requirements to which vessels and persons on such vessels shall conform, the places at which persons may enter or leave and the routes
- 35 by which they may pass through a park;"

Substitution of certain expressions in Act 57 of 1976

11. The principal Act is hereby amended by the substitution for the expressions "Minister of Communications and of Public Works" and "Minister of Mineral and Energy Affairs" wherever they occur of the expressions "Minister of Transport and of Public Works and Land Affairs" and "Minister of Mineral and Energy Affairs and Public Enterprises", respectively.
- 40

Short title

12. This Act shall be called the National Parks Amendment Act, 1990.

