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PRESIDENT'S OFFICE

No. 1525.

4 October 1995

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

No. 63 of 1995: Forest Amendment Act, 1995.

KANTOOR VAN DIE PRESIDENT

No. 1525.

4 Oktober 1995

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

No. 63 van 1995: Boswysigingswet, 1995.

GENERAL EXPLANATORY NOTE:

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

_____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Forest Act, 1984, so as to delete or substitute certain definitions and obsolete provisions; to provide for the establishment of the National Forestry Advisory Council; to provide for the objects, constitution and powers of the council; and to provide for the abolition of the Forestry Council; and to provide for matters connected therewith.

(Afrikaans text signed by the President.)
(Assented to 28 September 1995.)

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

Amendment of section 1 of Act 122 of 1984, as amended by section 1 of Act 52 of 1987, section 1 of Act 53 of 1991, section 59 of Act 129 of 1993 and section 5 of Act 51 of 1994

1. Section 1 of the Forest Act, 1984 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of “council” of the following definition:

“ ‘council’ in Part **[VIII]** VIIA means the National Forestry Advisory Council **[mentioned in]** established under section [47] 46A;” and

(b) by the deletion of the definition of “fund” relating to Part VIII.

Amendment of section 9A of Act 122 of 1984, as inserted by section 2 of Act 52 of 1987

2. Section 9A of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Minister may **[on the recommendation of the committee referred to in subsection (2)]** from moneys appropriated for that purpose by Parliament, and subject to the provisions of regulations contemplated in section 73(1)(gA), grant a loan to **[an owner of land]** any person for the planting or replanting of trees to produce timber for **[commercial or industrial purposes]** any purpose.” and

(b) by the deletion of paragraph (b) of subsection (2).

ALGEMENE VERDUIDELIKENDE NOTA:

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

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

WET

Tot wysiging van die Boswet, 1984, ten einde sekere omskrywings en verouderde bepalings te skrap of te vervang; voorsiening te maak vir die instelling van die Nasionale Bosbou-adviesraad; voorsiening te maak vir die oogmerke, samestelling en bevoegdhede van die raad; en voorsiening te maak vir die afskaffing van die Bosbouraad; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die President geteken.)
(Goedgekeur op 28 September 1995.)

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

Wysiging van artikel 1 van Wet 122 van 1984, soos gewysig deur artikel 1 van Wet 52 van 1987, artikel 1 van Wet 53 van 1991, artikel 59 van Wet 129 van 1993 en
5 artikel 5 van Wet 51 van 1994

1. Artikel 1 van die Boswet, 1984 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur die omskrywing van “fonds” met betrekking tot Deel VIII te skrap; en
10 (b) deur die omskrywing van “raad” met betrekking tot Deel VIII deur die volgende omskrywing te vervang:
“ ‘raad’ in Deel **[VIII]** **VIIA** die **[Bosbouraad]** Nasionale Bosbou-adviesraad **[vermeld in]** ingestel kragtens artikel **[47]** **46A**;”.

Wysiging van artikel 9A van Wet 122 van 1984, soos ingevoeg deur artikel 2 van
15 Wet 52 van 1987

2. Artikel 9A van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
“(1) Die Minister kan **[op aanbeveling van die komitee bedoel in subartikel (2)]** uit geld vir dié doel deur die Parlement bewillig, en
20 behoudens die bepalings van regulasies beoog in artikel 73(1)(gA), aan **[’n eienaar van grond]** enige persoon ’n lening toestaan vir die aanplant of heraanplant van bome om hout vir **[handels- of nywerheidsdoeleindes]** enige doeleinde te produseer.”; en
25 (b) deur paragraaf (b) van subartikel (2) te skrap.

Amendment of section 11 of Act 122 of 1984, as amended by section 3 of Act 52 of 1987 and section 78 of Act 85 of 1991

3. Section 11 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) The provisions of this section shall not be construed as prohibiting the granting under any law of a right in connection with the prospecting for, and mining of, **[precious metals, base minerals, precious stones, natural oil]** any mineral and source material as defined in the **[Precious Stones Act, 1964 (Act No. 73 of 1964), the Mining Rights Act, 1967 (Act No. 20 of 1967), and the Nuclear Energy Act, 1982 (Act No. 92 of 1982)]** Minerals Act, 1991 (Act No. 50 of 1991), and the Nuclear Energy Act, 1993 (Act No. 131 of 1993), respectively, in a State forest, and the disposal of such **[metals, minerals, stones, oil]** mineral and source material, but no forest produce shall be cut, damaged, taken or removed by the holder of such a right, except on the authority of a licence or permit of the director-general.”.

Amendment of section 16 of Act 122 of 1984

4. Section 16 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may **[after consultation with the Forestry Council]** by notice in the *Gazette* prohibit the removal from one place to another, or the purchase, sale or disposal, of any timber, except on such conditions as he or she may determine and which are set out in the notice.”.

Amendment of section 38 of Act 122 of 1984

5. Section 38 of the principal Act is hereby amended by the substitution for the proviso to subsection (1) of the following proviso:

“: Provided that if it is proposed to construct a hiking trail or walk in a State forest in respect of which a surface right permit **[in terms of]** issued under the Mining Rights Act, 1967 (Act No. 20 of 1967), **[is held]** remains in force under section 48 of the Minerals Act, 1991 (Act No. 50 of 1991), the permission of the Minister of Mineral and Energy Affairs shall first be obtained.”.

Amendment of section 42 of Act 122 of 1984

6. Section 42 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The accounts contemplated in subsection (2) shall be audited by an auditor registered in terms of the Public Accountants' and Auditors' Act, **[1951 (Act No. 51 of 1951)]** 1991 (Act No. 80 of 1991), and a copy of the audited accounts together with a report dealing with the activities of the body in question during that financial year shall as soon as practicable thereafter be submitted by that body to the board.”.

Insertion of Part VIIA in Act 122 of 1984

7. The following Part is hereby inserted in the principal Act after section 46:

“PART VIIA

NATIONAL FORESTRY ADVISORY COUNCIL

Establishment of National Forestry Advisory Council

46A. The Minister may establish a body to be known as the National Forestry Advisory Council.

Wysiging van artikel 11 van Wet 122 van 1984, soos gewysig deur artikel 3 van Wet 52 van 1987 en artikel 78 van Wet 85 van 1991

3. Artikel 11 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:

- 5 “(b) Die bepalings van hierdie artikel word nie uitgelê as sou dit die verlening kragtens die een of ander wet van ’n reg in verband met die prospektering na, en die ontginning van, **[edelmetale, onedele minerale, edelgesteentes, aardolie]** enige mineraal en bronnemateriaal soos omskryf in, onderskeidelik, die **[Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964), die**
 10 **Wet op Mynregte, 1967 (Wet No. 20 van 1967), en die Wet op Kernenergie, 1982 (Wet No. 92 van 1982)]** Mineraalwet, 1991 (Wet No. 50 van 1991), en die Wet op Kernenergie, 1993 (Wet No. 131 van 1993), in ’n Staatsbos en die beskikking oor sodanige **[edelmetale, minerale, edelgesteentes, aardolie]** mineraal en bronnemateriaal belet nie, maar geen bosprodukt mag deur die
 15 houer van so ’n reg gekap, beskadig, geneem of verwyder word nie, behalwe op gesag van ’n lisensie of permit van die direkteur-generaal.”.

Wysiging van artikel 16 van Wet 122 van 1984

4. Artikel 16 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 20 “(1) Die Minister kan **[na oorleg met die Bosbouraad]** by kennisgewing in die *Staatskoerant* die verwydering van een plek na ’n ander, of die koop, verkoop of vandiehandsetting, van enige hout verbied, behalwe op die voorwaardes wat hy of sy bepaal en wat in die kennisgewing vermeld word.”.

25 **Wysiging van artikel 38 van Wet 122 van 1984**

5. Artikel 38 van die Hoofwet word hierby gewysig deur die voorbehoudsbepaling by subartikel (1) deur die volgende voorbehoudsbepaling te vervang:

- “: Met dien verstande dat indien daar beoog word om ’n voetslaanpad of wandelpad aan te lê in ’n Staatsbos ten opsigte waarvan ’n oppervlaktereg-
 30 permit uitgereik kragtens die Wet op Mynregte, 1967 (Wet No. 20 van 1967), **[gehou word]** van krag bly kragtens artikel 48 van die Mineraalwet, 1991 (Wet No. 50 van 1991), die goedkeuring van die Minister van Mineraal- en Energiesake vooraf verkry moet word.”.

Wysiging van artikel 42 van Wet 122 van 1984

35 6. Artikel 42 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

- “(3) Die finansiële state bedoel in subartikel (2) moet deur ’n ouditeur geregistreer kragtens die Wet op Openbare Rekenmeesters en Ouditeurs, **[1951 (Wet No. 51 van 1951)]** 1991 (Wet No. 80 van 1991), geouditeer word,
 40 en ’n afskrif van die geouditeerde finansiële state tesame met ’n verslag oor die werksaamhede van die betrokke liggaam gedurende daardie boekjaar moet so gou doenlik daarna deur die liggaam aan die raad voorgelê word.”.

Invoeging van Deel VIIA in Wet 122 van 1984

7. Die volgende Deel word hierby in die Hoofwet na artikel 46 ingevoeg:

45

“DEEL VIIA

NASIONALE BOSBOU-ADVIESRAAD

Instelling van Nasionale Bosbou-adviesraad

46A. Die Minister kan ’n liggaam instel wat as die Nasionale Bosbou-adviesraad bekend staan.

Object of council

46B. The object of the council is to advise the Minister on any aspect of commercial and non-commercial forestry referred to the council by the Minister, and on any other forestry-related matter.

Constitution of council

46C. (1) The council shall consist of such number of members as the Minister may from time to time determine.

(2)(a) Whenever a member of the council has to be appointed, the Minister shall—

(i) by notice in at least two national newspapers and so many local newspapers as the Minister may determine, invite all interested persons to submit to him or her, within the period mentioned in the notice, the names of persons who in the opinion of such interested persons are fit to be so appointed;

(ii) establish a committee consisting of the number of persons which the Minister may determine, designate a chairperson for the committee and submit to the committee all the nominations received.

(b) The chairperson of the appropriate committee of the National Assembly and the chairperson of the corresponding committee of the Senate, or their delegates, shall be members of the committee referred to in paragraph (a)(ii).

(c) The committee referred to in paragraph (a)(ii) shall from the nominations submitted to it by the Minister, compile a short list of eligible candidates who have knowledge of any matter referred to in section 46B or who can make a contribution to the achievement of the objects of the council, and submit it to the Parliamentary committees referred to in paragraph (b).

(d) The Parliamentary committees referred to in paragraph (b) shall, within one month after receipt of the nominations from the Minister, and in consultation with each other, make a recommendation to the Minister as to which candidate should be appointed to the council.

(e) A member of the council shall be appointed by the Minister after due consideration of the recommendation made to him or her in terms of paragraph (d).

Term of office of members of council

46D. (1) A member of the council shall hold office for such period, but not exceeding three years, as the Minister may determine at the time of his or her appointment as a member.

(2) The Minister may, after consultation with the Parliamentary committees referred to in section 46C(2)(b), at any time terminate the term of office of a member of the council if there is sufficient reason for doing so.

Oogmerk van raad

5 **46B.** Die oogmerk van die raad is om die Minister te adviseer met betrekking tot enige aspek van kommersiële en nie-kommersiële bosbou wat deur die Minister na die raad verwys is, en met betrekking tot enige ander bosbouverwante aangeleentheid.

Samestelling van raad

10 **46C.** (1) Die raad bestaan uit die getal lede wat die Minister van tyd tot tyd bepaal.

(2)(a) Wanneer 'n lid van die raad aangestel moet word, moet die Minister—

15 (i) by kennisgewing in minstens twee nasionale koerante en soveel plaaslike koerante wat die Minister bepaal, alle belanghebbende persone uitnooi om aan hom of haar, binne die tydperk vermeld in die kennisgewing, die name van persone voor te lê wat na die mening van daardie belanghebbende persone geskik is om aldus

20 (ii) 'n komitee instel bestaande uit die getal persone wat die Minister bepaal, 'n voorsitter vir die komitee aanwys en al die nominasies wat ontvang is, aan die komitee voorlê.

25 (b) Die voorsitter van die aangewese komitee van die Nasionale Vergadering en die voorsitter van die ooreenstemmende komitee van die Senaat, of hulle afgevaardigdes, moet lede wees van die komitee bedoel in paragraaf (a)(ii).

30 (c) Die komitee bedoel in paragraaf (a)(ii), moet 'n kortlys opstel van benoembare kandidaat wat oor kundigheid beskik met betrekking tot 'n aangeleentheid bedoel in artikel 46B of wat 'n bydrae tot die uitvoering van die oogmerke van die raad kan lewer, en dit voorlê aan die Parlementêre komitees bedoel in paragraaf (b).

35 (d) Die Parlementêre komitees bedoel in paragraaf (b) moet, binne een maand na ontvangs van die nominasies vanaf die Minister, en in oorleg met mekaar, 'n aanbeveling aan die Minister doen oor watter kandidaat in die raad aangestel behoort te word.

40 (e) 'n Lid van die raad word deur die Minister aangestel na behoorlike oorweging van die aanbeveling wat ingevolge paragraaf (d) aan hom of haar gedoen is.

Ampstermyn van lede van raad

45 **46D.** (1) 'n Lid van die raad bekleed die amp vir die tydperk, maar hoogstens drie jaar, wat die Minister ten tyde van sy of haar aanstelling as lid bepaal.

50 (2) Die Minister kan te eniger tyd, na oorleg met die Parlementêre komitees bedoel in artikel 46C(2)(b), die ampstermyn van 'n lid van die raad beëindig indien daar voldoende rede is om dit te doen.

Meetings of council, records to be kept and submission of advice to Minister

46E. (1) The Minister shall determine—

- (a) the manner of the calling of, the quorum for, and the procedure at, meetings of the council; and
- (b) what records shall be kept by the council and the manner in which the advice of the council shall be submitted to the Minister.

(2) The Minister shall designate one member of the council as the chairperson and not more than three members as the vice-chairpersons.

(3) (a) If the chairperson of the council is absent from any meeting of the council, the members present shall elect one of the vice-chairpersons to preside at the meeting.

(b) If the chairperson as well as all the vice-chairpersons are absent from any meeting, the members present shall elect one from among their number to preside at the meeting.

(4)(a) The Minister shall regularly report on the activities of the council to the Parliamentary committees referred to in section 46C(2)(b) requesting such a report.

(b) The Minister shall on receipt submit the advice of the council to the Parliamentary committees referred to in section 46C(2)(b) for their consideration and comment within one month, prior to acting on that advice.

Committees of council

46F. (1)(a) The council may, with the approval of the Minister, from among its number, elect an executive committee consisting of such number of members as the Minister may from time to time determine.

(b) The chairperson of the council shall be the chairperson of the executive committee.

(c) The executive committee shall perform such functions as the council, with the approval of the Minister, may from time to time determine.

(2) (a) The council may, with the approval of the Minister, establish other subcommittees, consisting of such persons as may be determined by the council, in order to assist the council in the performance of its functions and with the co-ordination of the provinces.

(b) The council shall designate a member of a subcommittee as the chairperson of that subcommittee.

Allowances of members of council and committees

46G. A member of the council, and a member of a committee of the council, who is not in the full-time employment of the State, shall be paid from moneys appropriated by Parliament for this purpose, such allowances as the Minister, with the concurrence of the Minister of Finance, may determine either in general or in any particular case.

Staff of council

46H. The director-general shall designate, subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as many officers and employees of the department as may be necessary to assist the council and any committee thereof in the performance of the administrative work of the council or of such committee.”

Vergaderings van raad, aantekeninge wat gehou moet word en voorlegging van advies aan Minister

46E. (1) Die Minister bepaal—

(a) die wyse van byeenroeping van, die kworum vir, en die procedure op, vergaderings van die raad; en

(b) watter aantekeninge deur die raad gehou moet word en die wyse waarop die raad se advies aan die Minister voorgelê moet word.

(2) Die Minister wys een van die lede van die raad as die voorsitter en hoogstens drie lede as die ondervoorsitters aan.

(3) (a) Indien die voorsitter van die raad afwesig is van 'n vergadering van die raad, kies die aanwesige lede een van die ondervoorsitters om by die vergadering voor te sit.

(b) Indien die voorsitter asook al die ondervoorsitters afwesig is van 'n vergadering, kies die aanwesige lede iemand uit hul midde om by die vergadering voor te sit.

(4)(a) Die Minister doen gereeld verslag oor die aktiwiteite van die raad aan die Parlementêre komitees bedoel in artikel 46C(2)(b) wat so 'n verslag versoek.

(b) Die Minister lê by ontvangs die advies van die raad aan die Parlementêre komitees bedoel in artikel 46C(2)(b) voor vir hulle oorweging en kommentaar binne een maand, voor enige optrede op grond van daardie advies.

Komitees van raad

46F. (1)(a) Die raad kan, met die goedkeuring van die Minister, vanuit sy lede 'n uitvoerende komitee kies, bestaande uit die getal lede wat die Minister van tyd tot tyd bepaal.

(b) Die voorsitter van die raad is die voorsitter van die uitvoerende komitee.

(c) Die uitvoerende komitee verrig die werksaamhede wat die raad, met die goedkeuring van die Minister, van tyd tot tyd bepaal.

(2) (a) Die raad kan, met die goedkeuring van die Minister, subkomitees instel, bestaande uit die persone wat die raad bepaal, om die raad by te staan in die verrigting van sy werksaamhede en met die koördinering van die provinsies.

(b) Die raad wys 'n lid van 'n subkomitee aan as die voorsitter van die subkomitee.

Toelaes van lede van raad en komitees

46G. Daar word aan 'n lid van die raad, en aan 'n lid van 'n komitee van die raad, wat nie in die heeltidse diens van die Staat is nie, uit geld vir dié doel deur die Parlement bewillig, die toelaes betaal wat die Minister in die algemeen of in 'n bepaalde geval, met die instemming van die Minister van Finansies, bepaal.

Personeel van raad

46H. Die direkteur-generaal wys, behoudens die bepalinge van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), soveel beamptes en werknemers van die departement aan as wat nodig is om die raad en enige komitee daarvan by te staan in die verrigting van die administratiewe werk van die raad of van so 'n komitee."

Repeal of Part VIII of Act 122 of 1984, and transitional provisions

8. (1) Subject to the provisions of this section, Part VIII of the principal Act is hereby repealed.

(2) (a) The Minister of Water Affairs and Forestry shall appoint a committee consisting of three persons, one of whom shall be designated by the Minister as the chairperson of the committee, to furnish the Minister with a report on the dissolution and winding-up of the Forestry Council. 5

(b) After consideration of the report of the committee referred to in paragraph (a), the Minister of Water Affairs and Forestry may make such order with regard to the assets and liabilities of the Forestry Council as the Minister, with the concurrence of the Minister of Finance, deems fit. 10

Amendment of section 73 of Act 122 of 1984, as amended by section 5 of Act 52 of 1987 and section 10 of Act 53 of 1991

9. Section 73 of the principal Act is hereby amended—

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

“with regard to loans **[and the committee]** referred to in section 9A—”; 20

(b) by the deletion of subparagraph (iii) of paragraph (gA) of subsection (1); and

(c) by the substitution for subsection (3) of the following subsection:

“(3) Before any regulation is made under this section, it shall be referred to the Parliamentary committees referred to in section 46C(2)(b) for their approval.”.

Short title and commencement 25

10. (1) This Act shall be called the Forest Amendment Act, 1995.

(2) Section 8(1) shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Herroeping van Deel VIII van Wet 122 van 1984, en oorgangsbepalings

8. (1) Behoudens die bepalinge van hierdie artikel word Deel VIII van die Hoofwet hierby herroep.

5 (2)(a) Die Minister van Waterwese en Bosbou stel 'n komitee bestaande uit drie persone aan, van wie een deur die Minister as die voorsitter van die komitee aangewys word, om die Minister van 'n verslag te voorsien met betrekking tot die ontbinding en likwidasië van die Bosbouraad.

10 (b) Na oorweging van die komitee se verslag bedoel in paragraaf (a), kan die Minister van Waterwese en Bosbou sodanige bevel met betrekking tot die bates en laste van die Bosbouraad maak as wat die Minister, met die instemming van die Minister van Finansies, goedgevind.

Wysiging van artikel 73 van Wet 122 van 1984, soos gewysig deur artikel 5 van Wet 52 van 1987 en artikel 10 van Wet 53 van 1991

9. Artikel 73 van die Hoofwet word hierby gewysig—

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

“met betrekking tot lenings **[en die komitee]** bedoel in artikel 9A—”;

20 (b) deur subparagraaf (iii) van paragraaf (gA) van subartikel (1) te skrap; en

(c) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Voordat 'n regulasie kragtens hierdie artikel uitgevaardig word, moet dit na die Parlementêre komitees bedoel in artikel 46C(2)(b) verwys word vir hulle goedkeuring.”.

25 Kort titel en inwerkingtreding

10. (1) Hierdie Wet heet die Boswysigingswet, 1995.

(2) Artikel 8(1) tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

