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GOVERNMENT GAZETTE

STAATSKOERANT

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OFFICE OF THE PRESIDENT

No. 1539.

27 November 1998

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

No. 106 of 1998: National Parks Amendment Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1539.

27 November 1998

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

No. 106 van 1998: Wysigingswet op Nasionale Parke, 1998.

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.

(English text signed by the President.)
(Assented to 19 November 1998.)

ACT

To amend the National Parks Act, 1976, so as to allow the board of South African National Parks to accept and receive any land or mineral rights in respect of land donated or bequeathed to that board for the purposes of a national park, and to exchange land or mineral rights in respect of land for other land that may be required for those purposes; to extend the activities that may be carried out within a national park by private persons with that board's authorization; to impose a prohibition on the possession, within a national park, of any animal or carcass or part thereof, and to provide that contravention of that prohibition will be an offence; to regulate the delegation or assignment by that board of the powers, duties and functions conferred or imposed on it by or in terms of that Act; to empower the Minister of Environmental Affairs and Tourism to transfer the powers, duties and functions conferred or imposed on that board with regard to the Knysna National Lake Area by section 30C of that Act, to an authority under the government of the Province of the Western Cape, or another authority in that province, as designated by the Premier of that province; to repeal certain unconstitutional provisions of that Act; to extend the application of the National Parks Act, 1976, to all those areas in the national territory where it was not of force and did not apply previously; and to provide for incidental matters.

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

Amendment of section 2A of Act 57 of 1976, as inserted by section 3 of Act 43 of 1986

1. Section 2A(1)(a) of the National Parks Act, 1976 (hereafter called the principal Act), is hereby amended by the substitution for the words "Minister of Mineral and Energy Affairs" of the words "Minister of Minerals and Energy". 5

Amendment of section 2B of Act 57 of 1976, as inserted by section 3 of Act 43 of 1986

2. Section 2B of the principal Act is hereby amended by the substitution for the words "Minister of Mineral and Energy Affairs", wherever they occur in subsection (1), of the words "Minister of Minerals and Energy". 10

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.

(Engelse teks deur die President geteken.)
(Goedgekeur op 19 November 1998.)

WET

Tot wysiging van die Wet op Nasionale Parke, 1976, ten einde die raad van Suid-Afrikaanse Nasionale Parke in staat te stel om enige grond of mineraalregte ten opsigte van grond wat aan dié raad vir die doeleindes van 'n nasionale park geskenk of bemaak word, te aanvaar en in ontvangs te neem, en om grond of mineraalregte ten opsigte van grond te verruil vir ander grond wat vir daardie doeleindes benodig mag word; die bedrywighede wat deur privaatpersone binne 'n nasionale park met dié raad se magtiging voortgesit kan word, uit te brei; 'n verbod te plaas op die besit van enige dier of karkas of gedeelte daarvan binne 'n nasionale park, en te reël dat oortreding van dié verbod 'n misdryf uitmaak; die delegering of opdra deur daardie raad van die bevoegdhede, pligte en werksaamhede hom by of ingevolge daardie Wet verleen of opgelê, te reël; die Minister van Omgewingsake en Toerisme die bevoegdheid te verleen om die bevoegdhede, pligte en werksaamhede wat dié raad by artikel 30C van daardie Wet met betrekking tot die Knysna Nasionale Meer gebied verleen of opgelê word, oor te dra aan 'n gesag onder die regering van die provinsie Wes-Kaap, of 'n ander gesag in daardie provinsie, soos deur die Premier van dié provinsie aangewys; sekere onkonstitusionele bepalings van daardie Wet te herroep; die toepassing van die Wet op Nasionale Parke, 1976, uit te brei na al daardie gebiede in die nasionale grondgebied waar dit nie voorheen van krag en van toepassing was nie; en om voorsiening te maak vir bykomstige aangeleenthede.

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

Wysiging van artikel 2A van Wet 57 van 1976, soos ingevoeg deur artikel 3 van Wet 43 van 1986

- 5 1. Artikel 2A(1)(a) van die Wet op Nasionale Parke, 1976 (hierna die Hoofwet genoem), word hierby gewysig deur die woorde "Minister van Mineraal- en Energiesake" deur die woorde "Minister van Minerale en Energie" te vervang.

Wysiging van artikel 2B van Wet 57 van 1976, soos ingevoeg deur artikel 3 van Wet 43 van 1986

- 10 2. Artikel 2B van die Hoofwet word hierby gewysig deur die woorde "Minister van Mineraal- en Energiesake", waar dit ook al in subartikel (1) voorkom, deur die woorde "Minister van Minerale en Energie" te vervang.

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, section 4 of Act 43 of 1986, section 4 of Act 23 of 1990 and section 4 of Act 52 of 1992

3. Section 3(1) of the principal Act is hereby amended by the substitution for the words "Minister of Mineral and Energy Affairs" of the words "Minister of Minerals and Energy". 5

Amendment of section 3A of Act 57 of 1976, as inserted by section 5 of Act 52 of 1992

4. Section 3A of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 10

“(1) Notwithstanding the provisions of section 3, the board [may], with the approval of the Minister granted after consultation with the Minister of Public Works and the Minister of [Mineral] Minerals and Energy [Affairs], may—

 - (a) purchase land or a mineral right to land for the purposes of a park; and
 - (b) accept and receive land or a mineral right to land donated or bequeathed 15

for those purposes.”;
- (b) by the substitution for subsection (3) of the following subsection:

“(3) Land or a mineral right to land purchased or accepted and received as a donation or bequest in terms of subsection (1), or expropriated in terms of subsection (2), shall be registered in the name of the board.”; and 20
- (c) by the substitution for subsection (4) of the following subsection:

“(4) The board [may], with the approval of the Minister granted after consultation with the Minister of Minerals and Energy, may sell or exchange land or a mineral right to land which has been acquired in terms of subsection (1) or (2).” 25

Amendment of section 12 of Act 57 of 1976, as amended by section 7 of Act 43 of 1986, section 2 of Act 60 of 1987, section 7 of Act 23 of 1990 and section 6 of Act 52 of 1992

5. Section 12(2) of the principal Act is hereby amended—

- (a) in paragraph (a), by the substitution for the words "Minister of Mineral and Energy Affairs" of the words "Minister of Minerals and Energy"; and 30
- (b) in paragraph (b), by the substitution for subparagraph (x) of the following subparagraph:

“(x) authorize any person to carry on, subject to such conditions and to the payment of such charges as [it may think] the board considers fit, any activity, [other than] except the sale of liquor, which [may] in terms of [subparagraph (v), (vi) or (vii)] this subsection may be carried on by the board;” 35

Amendment of section 21 of Act 57 of 1976, as amended by section 12 of Act 43 of 1986 and section 9 of Act 52 of 1992 40

6. Section 21(1) of the principal Act is hereby amended—

- (a) in the portion preceding paragraph (a), by the substitution for the word “shall” of the word “may”; and
- (b) by the substitution for paragraph (h) of the following paragraph: 45

“(h) [remove from] within a park be in possession of any animal (other than an animal lawfully introduced into [that] the park), whether alive or dead, or any part of an animal, or remove such an animal or any part thereof from a park;”

Amendment of section 24 of Act 57 of 1976, as amended by section 6 of Act 23 of 1983, section 8 of Act 23 of 1990, section 2 of Act 33 of 1997 and section 4 of Act 70 of 1997 50

7. Section 24(1) of the principal Act is hereby amended by the substitution for the portion preceding paragraph (a) of the following:

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, artikel 4 van Wet 43 van 1986, artikel 4 van Wet 23 van 1990 en artikel 4 van Wet 52 van 1992

3. Artikel 3(1) van die Hoofwet word hierby gewysig deur die woorde "Minister van 5 Mineraal- en Energiesake" deur die woorde "Minister van Minerale en Energie" te vervang.

Wysiging van artikel 3A van Wet 57 van 1976, soos ingevoeg deur artikel 5 van Wet 52 van 1992

4. Artikel 3A van die Hoofwet word hierby gewysig—
- 10 (a) deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) Ondanks die bepalings van artikel 3 kan die raad, met die goedkeuring van die Minister verleen na oorlegpleging met die Minister van Openbare Werke en die Minister van [Mineraal-] Minerale en [Energiesake] Energie—
- 15 (a) grond of 'n mineraalreg oor grond vir die doeleindes van 'n park aankoop; en
- (b) grond of 'n mineraalreg oor grond wat vir dié doeleindes geskenk of bemaak is, aanvaar en in ontvangs neem.”;
- 20 (b) deur subartikel (3) deur die volgende subartikel te vervang:
- “(3) Grond of 'n mineraalreg oor grond wat ingevolge subartikel (1) aangekoop [is] of as skenking of bemaking aanvaar en in ontvangs geneem is of ingevolge subartikel (2) onteien is, word in die naam van die raad geregistreer.”; en
- 25 (c) deur subartikel (4) deur die volgende subartikel te vervang:
- “(4) Die raad kan, met die goedkeuring van die Minister verleen na oorlegpleging met die Minister van Minerale en Energie, grond of 'n mineraalreg oor grond wat kragtens subartikel (1) of (2) verkry is, verkoop of verruil.”.

30 Wysiging van artikel 12 van Wet 57 van 1976, soos gewysig deur artikel 7 van Wet 43 van 1986, artikel 2 van Wet 60 van 1987, artikel 7 van Wet 23 van 1990 en artikel 6 van Wet 52 van 1992

5. Artikel 12(2) van die Hoofwet word hierby gewysig—
- (a) deur in paragraaf (a) die woorde "Minister van Mineraal- en Energiesake" deur die woorde "Minister van Minerale en Energie" te vervang; en
- 35 (b) deur in paragraaf (b) subparagraaf (x) deur die volgende subparagraaf te vervang:
- “(x) enigiemand magtig om, onderworpe aan die voorwaardes en aan betaling van die gelde wat die raad goedvind, enige bedrywigheid, behalwe die verkoop van drank, voort te sit wat ingevolge [subpara-
- 40 graaf (v), (vi) of (vii)] hierdie subartikel deur die raad voortgesit kan word.”.

Wysiging van artikel 21 van Wet 57 van 1976, soos gewysig deur artikel 12 van Wet 43 van 1986 en artikel 9 van Wet 52 van 1992

6. Artikel 21(1) van die Hoofwet word hierby gewysig—
- 45 (a) deur in die gedeelte wat paragraaf (a) voorafgaan, die woord "kan" deur die woord "mag" te vervang; en
- (b) deur paragraaf (h) deur die volgende paragraaf te vervang:
- “(h) in 'n park in besit wees van 'n dier nie (behalwe 'n dier wat wettiglik in [daardie] die park ingebring is), hetsy lewendig of dood, of 'n deel
- 50 van 'n dier nie, of so 'n dier of 'n deel daarvan uit 'n park verwyder nie;”.

Wysiging van artikel 24 van Wet 57 van 1976, soos gewysig deur artikel 6 van Wet 23 van 1983, artikel 8 van Wet 23 van 1990, artikel 2 van Wet 33 van 1997 en artikel 4 van Wet 70 van 1997

- 55 7. Artikel 24(1) van die Hoofwet word hierby gewysig deur die gedeelte wat paragraaf (a) voorafgaan, deur die volgende te vervang:

“(1) Any person who contravenes the provisions of section 21(1)(c) or (h) with reference to—”.

Repeal of section 26 of Act 57 of 1976

8. Section 26 of the principal Act is hereby repealed.

Substitution of section 28 of Act 57 of 1976, as amended by section 61 of Act 88 of 1996

9. The following section is hereby substituted for section 28 of the principal Act:

“Limitation of liability

28. Neither the board nor any of its members, officers or employees shall be liable for any damage or loss caused by any animal in or from a park, unless the damage or loss is attributable to any negligent or intentional act or omission of the board or any of its members, officers or employees.”. 10

Substitution of section 30A of Act 57 of 1976, as inserted by section 2 of Act 13 of 1982

10. The following section is hereby substituted for section 30A of the principal Act: 15

“Delegation

30A. (1) (a) The Minister may delegate any power conferred upon him or her by or under this Act, to the Director-General: [Environment] Environmental Affairs and Tourism or any other officer in the Department of [Environment] Environmental Affairs and Tourism. However, the delegation of a power shall not prevent the Minister from personally exercising the power. 20

[(2)] (b) The Minister may at any time revoke any delegation made under [subsection (1), and no delegation of any power shall prevent the exercise of the power by the Minister himself] paragraph (a). 25

(2) The board may—

- (a) delegate to its chairperson or any other member, or to any committee, officer or employee of the board, any power conferred on the board by or under this Act, on such conditions as the board may determine; and
- (b) authorize its chairperson or such a member, committee, officer or employee to perform any duty or function of the board in terms of this Act. 30

(3) An officer authorized by the board to do so (in this section called the designated officer), may—

- (a) delegate to any officer or employee of the board who is subject to the supervision and control of the designated officer, any power conferred upon the designated officer by or under this Act; and
- (b) authorize such an officer or employee to perform any duty or function assigned to the designated officer by or under this Act. 35

(4) Any delegation or authorization under subsection (2) or (3)— 40

- (a) does not preclude the board or the designated officer (as the case may be) from personally exercising or performing the relevant power, duty or function;
- (b) may at any time be revoked by the board or the designated officer (as the case may be). 45

(5) The board may ratify any act or thing performed or done by any of its members, officers or employees which purports to have been performed or done on behalf of the board (including, without derogating from the generality of the foregoing, any contract purporting to have been concluded on behalf of the board), if— 50

“(1) Iemand wat die bepalings van artikel 21(1)(c) of (h) oortree met betrekking tot—”.

Herroeping van artikel 26 van Wet 57 van 1976

8. Artikel 26 van die Hoofwet word hierby herroep.

5 Vervanging van artikel 28 van Wet 57 van 1976, soos gewysig deur artikel 61 van Wet 88 van 1996

9. Artikel 28 van die Hoofwet word hierby deur die volgende artikel vervang:

“Beperking van aanspreeklikheid

10 28. Nóg die raad nóg enige van sy lede, beamptes of werknemers is vir enige skade of verlies wat deur enige dier in of van 'n park veroorsaak word, aanspreeklik tensy die skade of verlies gewyt kan word aan enige nalatige of opsetlike handeling of versuim van die raad of enige van sy lede, beamptes of werknemers.”.

15 Vervanging van artikel 30A van Wet 57 van 1976, soos ingevoeg deur artikel 2 van Wet 13 van 1982

10. Artikel 30A van die Hoofwet word hierby deur die volgende artikel vervang:

“Delegasie

20 30A. (1) (a) Die Minister kan 'n bevoegdheid by of kragtens hierdie Wet aan hom of haar verleen, aan die Direkteur-generaal: Omgewingsake en Toerisme of [’n] enige ander beampte in die Departement van Omgewingsake en Toerisme deleger. Die delegasie van 'n bevoegdheid verhinder egter nie die Minister om self die bevoegdheid uit te oefen nie.

25 [(2) (b) Die Minister kan te eniger tyd [’n] enige delegasie kragtens [subartikel (1)] paragraaf (a) gedoen, intrek [en geen delegasie van 'n bevoegdheid belet die uitoefening van daardie bevoegdheid deur die Minister self nie].

(2) Die raad kan—

30 (a) enige bevoegdheid by of kragtens hierdie Wet aan die raad verleen, aan sy voorsitter of enige ander lid of aan enige komitee, beampte of werknemer van die raad deleger op die voorwaardes wat die raad bepaal; en

(b) sy voorsitter of so 'n lid, komitee, beampte of werknemer magtig om enige plig of werksaamheid van die raad ingevolge hierdie Wet, te verrig.

35 (3) 'n Beampte deur die raad daartoe gemagtig (in hierdie artikel die aangewese beampte genoem), kan—

40 (a) aan enige beampte of werknemer van die raad wat aan die toesig en beheer van die aangewese beampte onderhewig is, enige bevoegdheid deleger wat by of kragtens hierdie Wet aan die aangewese beampte verleen word; en

(b) so 'n beampte of werknemer magtig om enige plig of werksaamheid te verrig wat die aangewese beampte by of kragtens hierdie Wet opgedra word.

45 (4) 'n Delegasie of magtiging kragtens subartikel (2) of (3)—

(a) belet nie die raad of die aangewese beampte (na gelang van die geval) om self die betrokke bevoegdheid, plig of werksaamheid uit te oefen of te verrig nie;

(b) kan te eniger tyd deur die raad of die aangewese beampte (na gelang van die geval) ingetrek word.

50 (5) Die raad kan enige handeling of ding verrig of gedoen deur enige van sy lede, beamptes of werknemers wat heet namens die raad verrig of gedoen te gewees het (ingesluit, sonder afbreuk aan die algemeenheid van die voorgaande, enige kontrak wat heet namens die raad gesluit te gewees het), bekragtig, indien—

- (a) the board itself is competent in law to perform such an act or do such a thing; and
 - (b) the relevant act or thing otherwise complies with all legal requirements; and
 - (c) that act or thing will be to the board's benefit should it be ratified; and
 - (d) the member, officer or employee concerned acted in good faith under the mistaken belief that the relevant act or thing had been authorized by the board and that he or she had the board's authorization to perform or do it.
- (6) The provisions of this section shall not be construed as derogating from the validity of any delegation of powers or assignment of duties or functions in terms of this Act by the board to any of its members, committees, officers or employees that occurred before the commencement of section 10 of the National Parks Amendment Act, 1998."

Amendment of section 30C of Act 57 of 1976, as inserted by section 12 of Act 52 of 1992

11. (1) Section 30C of the principal Act is hereby amended by the addition after the existing provisions (which become subsection (1)) of the following subsection:

"(2) The Minister, by notice in the *Gazette* and with effect from a date determined by the Minister with the agreement of the Premier of the Province of the Western Cape and specified in that notice, may transfer the powers, duties and functions in respect of the said Knysna National Lake Area that were conferred or imposed on the board by subsection (1), to an authority under the government of the province of the Western Cape, or any other authority in that province, that has been designated for that purpose by the Premier of that province."

(2) Subsection (1) comes into operation on a date that will be determined by the President by proclamation in the *Gazette*.

Insertion of section 30D in Act 57 of 1976

12. The following section is hereby inserted in the principal Act after section 30C:

"Application of Act

30D. This Act, together with all amendments thereof, including the amendments effected by the National Parks Amendment Act, 1998, shall, with effect from the commencement of section 12 of the National Parks Amendment Act, 1998, apply and be of force in the whole of the national territory to the exclusion and in substitution of any other law relating to national parks applicable in any particular portion of the national territory."

Substitution of "chairman" in Act 57 of 1976

13. The principal Act is hereby amended by the substitution for the word "chairman", wherever it occurs in the principal Act, of the word "chairperson".

Short title

14. This Act is called the National Parks Amendment Act, 1998.

- (a) die raad self regtens bevoeg is om so 'n handeling te verrig of so 'n ding te doen; en
- (b) die betrokke handeling of ding andersins aan alle regsvereistes voldoen; en
- 5 (c) dié handeling of ding die raad tot voordeel sal strek indien dit bekragtig sou word; en
- (d) die betrokke lid, beampte of werknemer te goeder trou opgetree het in die waan dat die betrokke handeling of ding deur die raad gemagtig was en dat hy of sy die raad se magtiging had om dit te verrig of te
- 10 doen.
- (6) Die bepalings van hierdie artikel word nie uitgelê as sou dit afbreuk doen aan die geldigheid van enige delegasie van bevoegdhede of opdra van pligte of werksaamhede ingevolge hierdie Wet deur die raad aan enige van sy lede, komitees, beamptes of werknemers wat plaasgevind het vóór die
- 15 inwerkingtreding van artikel 10 van die Wysigingswet op Nasionale Parke, 1998, nie."

Wysiging van artikel 30C van Wet 57 van 1976, soos ingevoeg deur artikel 12 van Wet 52 van 1992

11. (1) Artikel 30C van die Hoofwet word hierby gewysig deur ná die bestaande
- 20 bepalings (wat subartikel (1) word) die volgende subartikel by te voeg:

"(2) Die Minister kan by kennisgewing in die *Staatskoerant* en met ingang vanaf 'n datum deur die Minister met die instemming van die Premier van die provinsie Wes-Kaap bepaal en in dié kennisgewing vermeld, die bevoegdhede, pligte en werksaamhede ten opsigte van genoemde Knysna Nasionale Meergebied

25 wat die raad by subartikel (1) verleen of opgelê is, oordra aan 'n gesag onder die regering van die provinsie van die Wes-Kaap, of enige ander gesag in dié provinsie, wat deur die Premier van daardie provinsie vir dié doel aangewys word."

- (2) Subartikel (1) tree in werking op 'n datum wat deur die President by proklamasie
- 30 in die *Staatskoerant* bepaal sal word.

Invoeging van artikel 30D in Wet 57 van 1976

12. Die volgende artikel word hierby in die Hoofwet ingevoeg na artikel 30C:

"Toepassing van Wet

30D. Hierdie Wet, tesame met alle wysigings daarvan, met inbegrip van die wysigings aangebring deur die Wysigingswet op Nasionale Parke, 1998, is met ingang vanaf die inwerkingtreding van artikel 12 van die Wysigingswet op Nasionale Parke, 1998, in die nasionale grondgebied as 'n geheel van toepassing en van krag tot uitsluiting en vervanging van enige ander wet met betrekking tot nasionale parke in enige bepaalde

35 gedeelte van die nasionale grondgebied van toepassing."

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Vervanging van "chairman" in Engelse teks van Wet 57 van 1976

13. Die Hoofwet word hierby gewysig deur die woord "chairman", waar dit ook al in die Engelse teks van die Hoofwet voorkom, deur die woord "chairperson" te vervang.

45 Kort titel

14. Hierdie Wet word die Wysigingswet op Nasionale Parke, 1998, genoem.

