# Government Gazette

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**THE PRESIDENCY**

**No. 1131** **1 July 2022**

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

**Act No. 1 of 2022: National Forests Amendment Act, 2022**

**DIE PRESIDENSIE**

**No. 1131** **1 Julie 2022**

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

**Wet No. 1 van 2022: Wysigingswet op Nasionale Bosse, 2022**

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**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. |

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*(English text signed by the President)*
*(Assented to 26 June 2022)*

# ACT

**To amend the National Forests Act, 1998, so as to provide for clear definitions of natural forests and woodlands; to provide for public trusteeship of the nation's forestry resources; to increase the promotion and enforcement of sustainable forest management; to increase the measures provided for in the Act to control and remedy deforestation; to provide for appeals against decisions taken under delegated powers and duties; to reinforce offences and penalties; and to provide for matters connected therewith.**

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

**Amendment of section 2 of Act 84 of 1998, as amended by section 1 of Act 12 of 2001**

**1.** Section 2 the National Forests Act, 1998 (Act No. 84 of 1998) (hereinafter referred to as the ''principal Act''), is hereby amended—

*(a)* by the insertion in subsection (1) before the definition of ''biological diversity'' of the following definition:

'' **'assignment'** means the permanent or temporary transfer of—

*(a)* a power, duty, role or function from the functional domain of national government to one or more provincial governments, organs of state or to persons who are not organs of state; or

*(b)* the administration of a matter listed in Schedule 4, Part A, of the Constitution;'';

*(b)* by the insertion in subsection (1) after the definition of ''biological diversity'' of the following definition:

'' **'Appeal Committee'** means the committee constituted in terms of section 57A(2);'';

*(c)* by the insertion after the definition of ''Department'' of the following definition:

'' **'destruction of natural forest'** means any action where one or more trees in a natural forest is felled or caused to die, or the undergrowth removed, for the purpose of land use or resource use;'';

**ALGEMENE VERDUIDELIKENDE NOTA:**

| | |
|---|---|
| **[ ]** | Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan. |
| ______ | Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan. |

*(Engelse teks deur die President geteken)*
*(Goedgekeur op 26 Junie 2022)*

# WET

**Tot wysiging van die Nasionale Wet op Bosse, 1998, ten einde duidelike omskrywings vir nasionale bosse en boomveld te voorsien; om voorsiening te maak vir openbare trusteeskap van die land se bosbouhulpbronne; die bevordering en afdwinging van volhoubare bosbestuur te verhoog; vir meer maatreëls in die Wet voorsiening te maak om ontbossing te beheer en reg te stel; om voorsiening te maak vir appèlle teen besluite kragtens gedelegeerde bevoegdhede en pligte geneem; misdrywe en strawwe te verswaar; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

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

**Wysiging van artikel 2 van Wet 84 van 1998, soos gewysig deur artikel 1 van Wet 12 van 2001**

**1.** Artikel 2 van die Nasionale Wet op Bosse, 1998 (Wet No. 84 van 1998) (hierna die ''Hoofwet'' genoem), word hierby gewysig—

*(a)* deur in subartikel (1) die volgende omskrywing voor die omskrywing van ''boomveld'' in te voeg:

'' **'Appèlkomitee'** die komitee saamgestel ingevolge artikel 57A(2);'';

*(b)* deur in subartikel (1) die omskrywing van ''boomveld'' deur die volgende omskrywing te vervang:

'' **'boomveld'**—

*(a)* 'n groep inheemse bome wat nie natuurlike bos is nie, maar waarvan die krone ten minste 5% van die gebied dek wat deur die bome in beslag geneem word, wat in 'n toestand van agteruitgang 'n kroondekking van minder as 5% kan hê; of

*(b)* enige soort plantegroei wat by kennisgewing in die *Staatskoerant* deur die Minister tot boomveld verklaar is;'';

*(c)* deur in subartikel (1) die omskrywing van ''natuurlike bos'' deur die volgende omskrywing te vervang:

'' **'natuurlike bos'** 'n groep hoofsaaklik inheemse bome—

*(a)* waarvan die krone grotendeels aanrakend is in 'n ongerepte toestand;

*(d)* by the substitution in subsection (1) for the definition of ''natural forest'' of the following definition:

'' **'natural forest'** means a group of predominantly indigenous trees—

*(a)* whose crowns are largely contiguous in its undisturbed state;

*(b)* which may represent any successional stage or state of forest degradation, in which case crowns may not be contiguous;

*(c)* which occur in association with characteristic plants or animals recognised in vegetation science as diagnostic species of a specific natural forest type; or

*(d)* which have been declared by the Minister to be a natural forest in accordance with section 7(2);'';

*(e)* by the insertion after the definition of ''natural forest'' of the following definition:

'' **'new land use'** means any human activity leading to the use of land which would require the removal of natural forest, which is not restricted to land uses requiring land use approval, zoning or rezoning;''; and

*(f)* by the substitution in subsection (1) for the definition of ''woodland'' of the following definition:

'' **'woodland'** means—

*(a)* a group of indigenous trees which are not natural forest but whose crowns cover at least 5% of the area they occupy, and which may, in a degraded state have a crown cover of less than 5%; or

*(b)* any vegetation type declared by the Minister to be a woodland by notice in the *Gazette*.''.

**Insertion of section 2A in Act 84 of 1998**

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

''**Public trusteeship of nation's forestry resources**

**2A.** The National Government, as the public trustee of the nation's forestry resources, acting through the Minister, must ensure that these resources, together with the land and related ecosystems which they inhabit, are protected, conserved, developed, regulated, managed, controlled and utilised in a sustainable and equitable manner, for the benefit of all persons and in accordance with the constitutional and developmental mandate of government.''.

**Amendment of section 7 of Act 84 of 1998, as amended by section 2 of Act 12 of 2001 and section 1 of Act 35 of 2005**

**3.** Section 7 of the principal Act is hereby amended—

*(a)* by the substitution for the heading of the following heading:

''**Prohibition [on] against destruction [of trees] in natural forests**'';

*(b)* by the substitution in subsection (1) for paragraphs *(a)* and *(b)* of the following paragraphs:

''*(a)* cut, disturb, damage, or destroy any indigenous tree or any other indigenous vegetation in a natural forest;

*(b)* possess, collect, remove, transport, export, purchase, sell, donate or in any other manner acquire or dispose of any tree, **[or any]** forest product derived from a tree contemplated in paragraph *(a)*, other indigenous vegetation or any forest product derived from vegetation contemplated in paragraph *(a)*,''; and

*(c)* by the addition of the following subsections:

''(5) If a person is in breach of subsection 1*(a)*, the Minister may, by written notice—

*(a)* inform that person of the—

(i) nature of the alleged breach;

(ii) steps which the person must take to prevent or to redress the said breach; and

*(b)* wat enige suksessionele stadium of staat van bosagteruitgang kan verteenwoordig, in welke geval die krone nie noodwendig aanrakend is nie;

*(c)* wat voorkom saam met kenmerkende plante of diere wat in vegetasiekunde as diagnostiese spesies van 'n bepaalde natuurlike bostipe erken word; of

*(d)* wat deur die Minister verklaar is 'n natuurlike bos te wees ingevolge artikel 7(2);'';

*(d)* deur in subartikel (1) die volgende omskrywing na die omskrywing van ''natuurlike bos'' in te voeg:

'' **'nuwe grondgebruik'** enige menslike aktiwiteit wat lei tot die gebruik van grond wat sal vereis dat natuurlike bos verwyder word, wat nie beperk is tot grondgebruike wat grondgebruikgoedkeuring, sonering of hersonering vereis nie;'';

*(e)* deur in subartikel (1) die volgende omskrywing na die omskrywing van ''Staatsorgaan'' in te voeg:

'' **'toewysing'** die heeltydse of tydelike oordrag van—

*(a)* 'n bevoegdheid, plig, rol of werksaamheid van die funksionele domein van nasionale regering na een of meer provinsiale regerings, staatsorgane of aan persone wat nie staatsorgane is nie; of

*(b)* die administrasie van 'n aangeleentheid vermeld in Bylae 4, Deel A van die Grondwet;''; en

*(f)* deur die volgende omskrywing na die omskrywing van ''trustbos'' in te voeg:

'' **'vernietiging van natuurlike bos'** enige aksie waar een of meer bome in 'n natuurlike bos afgekap of doodgemaak word, of die ondergroei verwyder word, vir die doel van grondgebruik of hulpbrongebruik;''.

**Invoeging van artikel 2A in Wet 84 van 1998**

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

''**Openbare trusteeskap van nasionale bosbouhulpbronne**

**2A.** Die Nasionale Regering, as die openbare trustee van die land se bosbouhulpbronne, handelende deur die Minister, moet verseker dat hierdie hulpbronne, saam met die grond en verwante ekostelsels waar dit voorkom, op 'n volhoubare en gelyke wyse beskerm, bewaar, ontwikkel, gereguleer, bestuur, beheer en benut word tot voordeel van alle persone en ooreenkomstig die grondwetlike en ontwikkelingsopdrag van die staat.''.

**Wysiging van artikel 7 van Wet 84 van 1998, soos gewysig deur artikel 2 van Wet 12 van 2001 en artikel 1 van Wet 35 van 2005**

**3.** Artikel 7 van die Hoofwet word hierby gewysig—

*(a)* deur die opskrif deur die volgende opskrif te vervang:

''**Verbod [op] teen vernietiging [van bome] in natuurlike bosse**'';

*(b)* deur in subartikel (1) paragrawe *(a)* en *(b)* deur die volgende paragrawe te vervang:

*(a)* enige inheemse boom of enige ander inheemse plantegroei in 'n natuurlike bos afkap, versteur, beskadig of vernietig nie; of

*(b)* enige boom, **[of enige]** bosproduk afkomstig van 'n boom beoog in paragraaf *(a)*, ander inheemse plantegroei of enige bosproduk afkomstig van plantegroei in paragraaf *(a)* beoog, besit, versamel, verwyder, vervoer, uitvoer, koop, verkoop, skenk of op enige ander wyse verkry of daaroor beskik nie,''; en

*(c)* deur die volgende subartikels by te voeg:

''(5) Indien iemand subartikel 1*(a)* skend, kan die Minister by skriftelike kennisgewing—

*(a)* daardie persoon inlig van die—

(i) aard van die beweerde oortreding;

(ii) stappe wat die persoon moet doen om die genoemde skending te voorkom of reg te stel; en

(iii) period within which he or she must take the steps referred to in paragraph (ii); and

*(b)* in addition to any penalties in terms of section 63(2)—

(i) direct the said person to take the steps referred to in subsection (5)*(a)*(ii) to prevent further damage or to redress the said breach; and

(ii) determine the period within which he or she must take the steps referred to in subparagraph (i).

(6) If the person fails to comply with the directive within the period determined under subsection (5)*(b)*(ii), the Minister may—

(i) take reasonable steps to remedy the situation;

(ii) recover consequential damage or costs from the person concerned; and

(iii) approach a competent court for relief.''.

**Amendment of section 8 of Act 84 of 1998, as amended by section 2 of Act 35 of 2005**

**4.** Section 8 of the principal Act is hereby amended by the addition of the following subsection:

''(3) A person may not conduct any activity in a protected area which is inconsistent with the conservation, recreation or any other management objectives of that area, except under a licence issued by the Minister in exceptional circumstances that may be determined by the Minister.''.

**Amendment of section 14 of Act 84 of 1998**

**5.** Section 14 of the principal Act is hereby amended by the addition of the following subsection:

''(6) The Minister may issue a written order to immediately terminate the felling, mutilation or destruction of an individual tree or group of trees if he or she has reasonable grounds to believe that such a tree or group of trees may qualify to be declared as—

*(a)* protected, in accordance with section 12*(a)* and *(b)*, until such time that a notice in this regard is published in the *Gazette* in accordance with section 14(2); or

*(b)* a controlled forest area in accordance with section 17.''.

**Amendment of section 15 of Act 84 of 1998, as amended by section 3 of Act 35 of 2005**

**6.** Section 15 of the principal Act is hereby amended—

*(a)* by the substitution in subsection (3) for the words preceding paragraph *(a)* of the following words:

''The Minister must, by notice in the *Gazette* and in two newspapers circulating nationally, publish—''; and

*(b)* by the substitution in subsection (3) for paragraph *(b)* of the following paragraph:

''*(b)* an appropriate warning of the prohibition referred to in subsection (1) and the consequences of **[its]** an infringement **[,]** at least every five years or publish a change that has been effected to the list contemplated in paragraph *(a)* in the *Gazette* and in two newspapers circulating nationally.''.

(iii) tydperk waarbinne hy of sy die stappe in paragraaf (ii) bedoel, moet doen; en

*(b)* benewens enige strawwe ingevolge artikel 63(2)—

(i) gelas dat die genoemde persoon die stappe in die kennisgewing in subartikel (5)*(a)*(ii) bedoel, doen om verdere skade te voorkom of daardie skending reg stel; en

(ii) die tydperk vasstel waarbinne hy of sy die stappe in subparagraaf (i) bedoel, moet doen.

(6) Indien die persoon versuim het om binne die tydperk kragtens subartikel (5)*(b)*(ii) bepaal, aan die lasgewing te voldoen, kan die Minister—

(i) redelike stappe doen om die situasie reg te stel;

(ii) gevolglike skadevergoeding of kostes van die betrokke persoon verhaal; of

(iii) 'n bevoegde hof om regshulp nader.''.

**Wysiging van artikel 8 van Wet 84 van 1998, soos gewysig deur artikel 2 van Wet 35 van 2005**

**4.** Artikel 8 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

''(3) 'n Persoon mag nie enige aktiwiteit in 'n beskermde gebied verrig wat onbestaanbaar met die bewarings-, ontspannings- of enige ander bestuursoogmerke van daardie area is nie, met uitsondering van met 'n lisensie deur die Minister uitgereik onder buitengewone omstandighede wat die Minister kan bepaal.''.

**Wysiging van artikel 14 van Wet 84 van 1998**

**5.** Artikel 14 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

''(6) Die Minister kan 'n skriftelike bevel uitreik dat die afkap, verminking of vernietiging van 'n individuele boom of groep bome onmiddellik gestaak moet word indien hy of sy redelike gronde het om te vermoed dat daardie boom of groep bome kan kwalifiseer om verklaar te word tot—

*(a)* beskermd, ooreenkomstig artikel 12*(a)* en *(b)*, totdat 'n kennisgewing in hierdie opsig ooreenkomstig artikel 14(2) in die *Staatskoerant* gepubliseer word; of

*(b)* 'n beheerde bosgebied ooreenkomstig artikel 17.''.

**Wysiging van artikel 15 van Wet 84 van 1998, soos gewysig deur artikel 3 van Wet 35 van 2005**

**6.** Artikel 15 van die Hoofwet word hierby gewysig—

*(a)* deur in subartikel (3) die woorde wat op paragraaf *(b)* volg deur die volgende woorde te vervang:

''jaarliks publiseer by kennisgewing in die *Staatskoerant* en in twee koerante wat landswyd sirkuleer.''; en

*(b)* deur in subartikel (3) paragraaf *(b)* deur die volgende paragraaf te vervang:

''*(b)* 'n geskikte waarskuwing van die verbod in subartikel (1) bedoel en die gevolge van **[die]** 'n oortreding **[daarvan, jaarliks publiseer]** minstens elke vyf jaar publiseer of 'n verandering wat aan die lys in paragraaf *(a)* aangebring is, publiseer in die *Staatskoerant* en in twee koerante wat landswyd sirkuleer.''.

**Amendment of section 17 of Act 84 of 1998, as amended by section 4 of Act 35 of 2005**

**7.** Section 17 of the principal Act is hereby amended—

*(a)* by the substitution in subsection (2) for the words following paragraph *(b)* of the following words:

"a natural forest or a woodland, which is threatened with deforestation, or is being **[or has been]** deforested, he or she may declare it a controlled forest area."; and

*(b)* by the addition of the following subsections:

"(13) The Minister may declare a controlled forest area, and due to the urgency of the situation, the Minister may proceed with the declaration without prior consultation with, or affording a prior hearing to, any affected person but as soon as reasonably possible after the declaration contemplated in section 17(3), the Minister must—

*(a)* consult with, and afford a hearing to, any affected person;

*(b)* consider any representations received during such consultation or hearing; and

*(c)* confirm, vary or cancel the declaration concerned.

(14) If the Minister is of the opinion that the owner failed to comply with the notice issued in terms of subsections (3) and (4), he or she may—

(i) take reasonable steps to remedy the situation;

(ii) recover consequential damages or costs from the owner or person concerned; and

(iii) approach a competent court for any appropriate relief.".

**Amendment of section 23 of Act 84 of 1998, as amended by section 6 of Act 12 of 2001**

**8.** Section 23 of the principal Act is hereby amended by the addition of the following subsection:

"(4) No person may engage in any prospecting or mining activity in a State forest, except in terms of an existing lease agreement to mine, gravel or sand for road maintenance.".

**Amendment of section 34 of Act 84 of 1998**

**9.** Section 34 of the principal Act is hereby amended—

*(a)* by the substitution in subsection (2) for the full stop at the end of paragraph *(i)* of a semi-colon; and

*(b)* by the addition in subsection (2) of the following paragraph:

"*(j)* youth, women and persons with disabilities.".

**Amendment of section 35 of Act 84 of 1998**

**10.** Section 35 of the principal Act is hereby amended by the substitution for subsections (4) and (5) of the following subsections, respectively:

"(4) Members of the Council and members of **[a committee]** the committees of the Council referred to in section 36 who are not in the full-time employment of the State may be paid for their services, except for attending Council meetings.

(5) The Minister must determine the remuneration and allowances payable to members of the Council and members of **[a committee]** the committees of the Council referred to in section 36 with the consent of the Minister of Finance.".

**Amendment of section 36 of Act 84 of 1998**

**11.** Section 36 of the principal Act is hereby amended by the substitution in subsection (6) for the words preceding paragraph *(a)* of the following words:

"(6) The functions of the Committee on Forest Access are to advise the Council, the Department and the Minister on—".

**Wysiging van artikel 17 van Wet 84 van 1998, soos gewysig deur artikel 4 van Wet 35 van 2005**

**7.** Artikel 17 van die Hoofwet word hierby gewysig—

*(a)* deur in subartikel (2) die woorde wat op paragraaf *(b)* volg deur die volgende woorde te vervang:

"van 'n natuurlike bos of 'n boomveld wat deur ontbossing bedreig word of ontbos word **[of ontbos is]**, kan hy of sy dit 'n beheerde bosgebied verklaar."; en

*(b)* deur die volgende subartikels by te voeg:

"(13) Die Minister kan 'n beheerde bosgebied verklaar, en weens die dringendheid van die situasie, kan die Minister met die verklaring voortgaan sonder vooraf raadpleging met, of sonder om 'n vooraf verhoor toe te staan aan, enige geraakte persoon, maar so gou as redelik moontlik na die verklaring in artikel 17(3) beoog, moet die Minister—

*(a)* oorleg pleeg met, en 'n verhoor toestaan aan, enige geraakte persoon;

*(b)* enige vertoë oorweeg wat tydens sodanige oorlegpleging of verhoor ontvang is; en

*(c)* die betrokke verklaring bevestig, verander of kanselleer.

(14) Indien die Minister van oordeel is dat die eienaar versuim het om aan die kennisgewing ingevolge subartikels (3) en (4) uitgereik, te voldoen, kan hy of sy—

(i) redelike stappe doen om die situasie reg te stel;

(ii) gevolglike skade of koste van die betrokke eienaar of persoon verhaal; en

(iii) 'n bevoegde hof om gepaste regshulp nader.".

**Wysiging van artikel 23 van Wet 84 van 1998, soos gewysig deur artikel 6 van Wet 12 van 2001**

**8.** Artikel 23 van die Hoofwet word hierby gewysig deur die volgende artikel by te voeg:

"(4) Niemand mag enige prospekteer- of mynbouaktiwiteit in 'n Staatsbos onderneem nie, uitgesonderd ingevolge 'n bestaande huurooreenkoms om grys of sand vir padonderhoud uit te grawe nie.".

**Wysiging van artikel 34 van Wet 84 van 1998**

**9.** Artikel 34 van die Hoofwet word hierby gewysig—

*(a)* deur in subartikel (2) die punt aan die einde van paragraaf *(i)* deur 'n kommapunt te vervang; en

*(b)* deur die volgende paragraaf by subartikel (2) te voeg:

"*(j)* jeugdiges, vrouens en mense met gestremdhede.".

**Wysiging van artikel 35 van Wet 84 van 1998**

**10.** Artikel 35 van die Hoofwet word hierby gewysig deur subartikels (4) en (5) onderskeidelik deur die volgende subartikels te vervang:

"(4) Lede van die Raad en lede van **['n komitee]** die komitees van die Raad in artikel 36 bedoel wat nie in die voltydse diens van die Staat is nie, kan vir hulle dienste betaal word, uitgesonderd vir die bywoning van Raadsvergaderings.

(5) Die Minister moet die besoldiging en toelaes wat aan lede van die Raad en lede van **['n komitee]** die komitees van die Raad in artikel 36 bedoel, betaalbaar is, met die instemming van die Minister van Finansies bepaal.".

**Wysiging van artikel 36 van Wet 84 van 1998**

**11.** Artikel 36 van die Hoofwet word hierby gewysig deur in subartikel (6) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"(6) Die funksies van die Komitee vir Toegang tot Bosse is om die Raad, Departement en die Minister te adviseer oor—".

**Amendment of section 37 of Act 84 of 1998**

**12.** Section 37 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The chairperson of the Council must provide the Minister with advice or information emanating from any meeting **[within two weeks]** of the Council within a period not exceeding one month from the date of the said meeting.".

**Amendment of section 47 of Act 84 of 1998**

**13.** Section 47 of the principal Act is hereby amended by the substitution in subsection (1) for subparagraph (i) of paragraph *(a)* of the following subparagraph:

"(i) **[a province or other]** an organ of State in accordance with section 99 of the Constitution of the Republic of South Africa, 1996; or".

**Insertion of Chapter 6A in Act 84 of 1998**

**14.** The following chapter is hereby inserted in the principal Act after Chapter 6:

"**CHAPTER 6A**

**APPEAL**

**Right to appeal**

**57A.** (1) A person who is aggrieved by any decision or action taken by a delegated official in terms of this Act may appeal in the prescribed manner to the Minister against such decision or action.

(2) The Minister may constitute a committee known as the Appeal Committee to investigate and consider any appeal referred to it in terms of section 57D.

**Composition and membership of Appeal Committee**

**57B.** (1) The Appeal Committee must consist of at least three members appointed by the Minister, on an *ad hoc* basis and when necessary, of whom—

*(a)* one person must be appointed on account of his or her knowledge in the relevant fields of the law; and

*(b)* two or more persons must have expert knowledge on the subject of the appeal.

(2) The person referred to in subsection (1)*(a)* must be designated as the chairperson of the Appeal Committee.

(3) The Minister must appoint the members for a determined period through an open and transparent process.

(4) The chairperson and the other members of the Appeal Committee must, for each day or part of a day in any month on which the duties attached to the office concerned were performed, be remunerated and paid a travelling and subsistence allowance, at such daily rate as the Minister in consultation with the Minister of Finance may determine from time to time.

(5) In order to be eligible for appointment or designation as a member of the Appeal Committee, and to continue to hold that office, a person must—

*(a)* not be subject to any disqualification set out in subsection (6); and

*(b)* have submitted to the Minister a written declaration stating that the person—

(i) is not disqualified in terms of subsection (6); and

(ii) does not have any personal interests, or interest through a spouse, partner or associate.

**Wysiging van artikel 37 van Wet 84 van 1998**

**12.** Artikel 37 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die voorsitter van die Raad moet die Minister **[binne twee weke]** voorsien van advies of inligting voortspruitend uit enige vergadering van die Raad binne 'n tydperk van hoogstens een maand na die datum van die vermelde vergadering.".

**Wysiging van artikel 47 van Wet 84 van 1998**

**13.** Artikel 47 van die Hoofwet word hierby gewysig deur in paragraaf *(a)* van subartikel (1) subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) 'n **[provinsie of ander]** Staatsorgaan ooreenkomstig artikel 99 van die Grondwet van die Republiek van Suid-Afrika, 1996; of".

**Invoeging van Hoofstuk 6A in Wet 84 van 1998**

**14.** Die volgende hoofstuk word hierby na Hoofstuk 6 in die Hoofwet ingevoeg:

"**HOOFSTUK 6A**

**APPÈL**

**Reg op appèl**

**57A.** (1) Iemand wat te na gekom voel deur 'n beslissing of stap gedoen deur 'n gedelegeerde beampte ingevolge hierdie Wet, kan op die voorgeskrewe wyse by die Minister appelleer teen sodanige beslissing of handeling.

(2) Die Minister kan 'n komitee, wat as die Appèlkomitee bekendstaan, saamstel om enige appèl ingevolge artikel 57D wat daarheen verwys word, te ondersoek en te oorweeg.

**Samestelling en lidmaatskap van Appèlkomitee**

**57B.** (1) Die Appèlkomitee moet bestaan uit ten minste drie lede deur die Minister op 'n *ad hoc*-grondslag en wanneer nodig aangestel, waarvan—

*(a)* een persoon op grond van sy of haar kennis van die tersaaklike velde van die reg aangestel moet word; en
*(b)* twee of meer persone kundiges oor die onderwerp van die appèl moet wees.

(2) Die persoon in subartikel (1)*(a)* bedoel, moet as die voorsitter van die Appèlkomitee aangewys word.

(3) Die Minister moet die lede vir 'n vasgestelde tydperk deur 'n ope en deursigtige proses aanstel.

(4) Die voorsitter en die ander lede van die Appèlkomitee moet, vir elke dag of deel van 'n dag in enige maand waarop die pligte aan die betrokke amp verrig is, vergoed word en 'n reis- en bestaanstoelaag betaal word, teen sodanige daaglikse koers wat die Minister in oorleg met die Minister van Finansies van tyd tot tyd kan vasstel.

(5) Ten einde vir aanstelling of aanwysing as lid van die Appèlkomitee te kwalifiseer, en om aan te hou om daardie amp te beklee, moet 'n persoon—

*(a)* nie aan enige onbevoegdheid in subartikel (6) uiteengesit, onderworpe wees nie; en
*(b)* 'n skriftelike verklaring aan die Minister voorgelê het wat verklaar dat die persoon—
  (i) nie ingevolge subartikel (6) onbevoeg is nie; en
  (ii) nie enige persoonlike belange, of belang deur 'n gade, vennoot of medewerker het nie.

(6) A person may not be a member of the Appeal Committee if that person—
*(a)* is an unrehabilitated insolvent or he or she becomes insolvent and the insolvency results in the sequestration of that person's estate;
*(b)* has ever been, or is, removed from an office of trust on account of a guilty finding in respect of a complaint of misconduct related to fraud or the misappropriation of money;
*(c)* is subject to an order of a competent court holding that person to be mentally unfit;
*(d)* within the previous 10 years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), or an offence involving dishonesty; or
*(e)* has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1996, took effect, and sentenced to imprisonment without an option of a fine.

(7) A member of the Appeal Committee must not—
*(a)* engage in any activity that may undermine the integrity of the Appeal Committee;
*(b)* attend, participate in or influence the proceedings of the Appeal Committee, if, in relation to the matter before the Appeal Committee, that member has an interest that precludes that member from performing the functions of a member of the Appeal Committee in a fair, unbiased and proper manner;
*(c)* make private use of, or profit from, any confidential information obtained as a result of performing that person's functions as a member of the Appeal Committee; or
*(d)* divulge any information referred to in paragraph *(c)* to any third party, except as required as part of that person's official functions as a member of the Appeal Committee.

(8) If, at any time, it appears to a member of the Appeal Committee that a matter being considered by the Appeal Committee during proceedings concerns an interest of that member referred to in subsection (7)*(b)*, that member must—
*(a)* immediately and fully disclose the nature of that interest to the members present; and
*(b)* withdraw from the proceedings to allow the remaining members to discuss the matter and determine whether the member should be prohibited from participating in any further proceedings concerning that matter.

(9) The disclosure by a member of the Appeal Committee in terms of subsection (8)*(a)*, and the decision by the Appeal Committee in terms of subsection (8)*(b)*, must be expressly recorded in the records of the proceedings in question.

**Vacancies in Appeal Committee**

**57C.** (1) A member of the Appeal Committee vacates office—
*(a)* if the member becomes subject to any disqualification referred to in section 57B(6); and
*(b)* in the case where the member has resigned by giving one month's notice in writing to the Minister, when the member's resignation takes effect.

(2) The Minister may, subject to due process of law, remove any member of the Appeal Committee from office—
*(a)* for misconduct;
*(b)* for failing to perform the duties of a member or to perform such duties diligently and efficiently; or

(6) Iemand mag nie ’n lid van die Appèlkomitee wees nie indien daardie persoon—

*(a)* ’n ongerehabiliteerde insolvent is of hy of sy insolvent word en die insolvensie lei tot die sekwestrasie van daardie persoon se boedel;
*(b)* ooit uit ’n vertrouensamp verwyder is of word omrede ’n skuldigbevinding ten opsigte van ’n klagte van wangedrag wat verband hou met bedrog of die wanaanwending van geld;
*(c)* onderworpe is aan ’n bevel van ’n bevoegde hof wat daardie persoon geestesongeskik verklaar;
*(d)* binne die voorafgaande 10 jaar in die Republiek of elders skuldig bevind is, of word, aan diefstal, bedrog, vervalsing of uitgee van ’n vervalste dokument, meineed, ’n misdryf kragtens die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), ’n misdryf kragtens die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001), of ’n misdryf wat oneerlikheid behels; of
*(e)* aan enige ander misdryf skuldig bevind is wat gepleeg is nadat die Grondwet van die Republiek van Suid-Afrika, 1996, in werking getree het, en gevonnis is tot gevangenisstraf sonder die opsie van ’n boete.

(7) ’n Lid van die Appèlkomitee moet nie—

*(a)* by enige aktiwiteit betrokke raak wat die integriteit van die Appèlkomitee kan ondermyn nie;
*(b)* die verrigtinge van die Appèlkomitee bywoon, daaraan deelneem of dit beïnvloed nie indien, in verband met die saak voor die Appèlkomitee, daardie lid ’n belang het wat die lid daarvan verhoed om die werksaamhede van ’n lid van die Appèlkomitee op ’n regverdige, onbevooroordeelde en behoorlike wyse te verrig;
*(c)* private gebruik maak van, of wins maak uit, enige vertroulike inligting verkry na aanleiding van die verrigting van daardie persoon se werksaamhede as ’n lid van die Appèlkomitee nie; of
*(d)* enige inligting in paragraaf *(c)* bedoel aan enige derde party bekend maak nie, behalwe soos vereis as deel van daardie persoon se amptelike werksaamhede as ’n lid van die Appèlkomitee.

(8) Indien dit te eniger tyd vir ’n lid van die Appèlkomitee blyk dat ’n aangeleentheid wat tydens verrigtinge deur die Appèlkomitee oorweeg word, ’n belang van daardie lid in subartikel (7)*(b)* beoog, aangaan, moet daardie lid—

*(a)* die aard van daardie belang onmiddellik en ten volle aan die teenwoordige lede oordra; en
*(b)* uit die verrigtinge onttrek om die oorblywende lede toe te laat om die aangeleentheid te bespreek en vas te stel of die lid daarvan belet moet word om aan enige verdere verrigtinge aangaande daardie aangeleentheid deel te neem.

(9) Die bekendmaking deur ’n lid van die Appèlkomitee ingevolge subartikel (8)*(a)*, en die besluit deur die Appèlkomitee ingevolge subartikel (8)*(b)*, moet uitdruklik in die oorkonde van die betrokke verrigtinge opgeneem word.

**Vakatures op Appèlkomitee**

**57C.** (1) ’n Lid van die Appèlkomitee ontruim die amp—

*(a)* as die lid onderhewig word aan enige onbevoegdheid in artikel 57B(6) bedoel; en
*(b)* in die geval waar die lid bedank het deur een maand skriftelik aan die Minister kennis te gee, wanneer die lid se bedanking van krag word.

(2) Die Minister kan, behoudens die behoorlike regsproses, enige lid van die Appèlkomitee uit die amp verwyder—

*(a)* vir wangedrag;
*(b)* vir versuim om die pligte van ’n lid te verrig of om sodanige pligte pligsgetrou en doeltreffend te verrig; of

*(c)* if the member, because of any physical or mental illness or disability, has become incapable of performing a member's duties or performing the duties diligently and efficiently.

(3) *(a)* Any vacancy in the office of the Appeal Committee must be filled by the Minister through the appointment of another member in accordance with section 57B(3).

*(b)* A member so appointed holds office for the unexpired portion of the predecessor's term of office.

**Investigation and consideration of appeal by Appeal Committee**

**57D.** (1) The Minister may refer an appeal to the Appeal Committee.

(2) An appeal must be heard on the date, time and place determined by the chairperson.

(3) The chairperson must inform the appellant and any other party that has an interest in the appeal in writing of the date, time and place of the hearing.

(4) The chairperson may, for the purpose of the hearing of an appeal—

*(a)* summon any person who may have material information concerning the subject of the hearing or who has in his or her possession or custody or under his or her control, any document which has any bearing upon the subject of the hearing, to appear before the Appeal Committee at a date, time and place specified in the summons, to be questioned or to produce that document, and the chairperson may retain for examination any document so produced; and

*(b)* administer an oath to or accept an affirmation from any person called as a witness at the hearing.

(5) A person who appeals in terms of section 57A may be represented by any person.

(6) If a member of the Appeal Committee—

*(a)* dies during the investigation of the appeal or so soon before the commencement of the investigation that the vacancy cannot be filled in time;

*(b)* is unable to act and another person cannot be appointed in time; or

*(c)* is, after the investigation has commenced, unable to continue therewith,

the parties may agree that the investigation be continued by the remaining members of the Appeal Committee.

(7) Where the member of the Appeal Committee who has died or has become incapacitated as envisaged in subsection (5) was the chairperson of the Appeal Committee, the Minister must designate one of the remaining members of the Appeal Committee to act as chairperson, until the Minister appoints a chairperson.

(8) Any person appointed in terms of section 57B and 57C(3) must recuse himself or herself as a member of the Appeal Committee if he or she has any direct or indirect personal interest in the outcome of the appeal.

(9) The Appeal Committee must make recommendation to the Minister on its decision regarding an appeal.

**Consideration of appeal by Minister**

**57E.** (1) When the Minister receives a recommendation in terms of section 57D(9), he or she may—

*(a)* substitute, confirm or set aside the recommendations of the Appeal Committee; and

*(b)* order the delegated official to execute the decision in connection therewith.

(2) Where the Minister considers an appeal, he or she may—

*(a)* confirm, set aside or vary the decision of the delegated official; and

*(b)* order the delegated official to execute the decision in connection therewith.

*(c)* indien die lid, weens enige fisieke of geestesongesteldheid of gebrek, nie langer daartoe in staat is om 'n lid se pligte te verrig of die pligte pligsgetrou en doeltreffend te verrig nie.

(3) *(a)* Enige vakature op die Appèlkomitee moet deur die Minister gevul word deur die aanstelling van nog 'n lid ooreenkomstig artikel 57B(3).

*(b)* 'n Aldus aangestelde lid beklee die amp vir die onverstreke gedeelte van die voorganger se ampstermyn.

**Ondersoek en oorweging van appèl deur Appèlkomitee**

**57D.** (1) Die Minister kan 'n appèl na die Appèlkomitee verwys.

(2) 'n Appèl moet op die datum, tyd en plek deur die voorsitter bepaal, aangehoor word.

(3) Die voorsitter moet die appellant en enige ander party wat 'n belang by die appèl het, skriftelik inlig van die datum, tyd en plek van die verhoor.

(4) Die voorsitter kan, vir die doel van die aanhoor van 'n appèl—

*(a)* enige persoon dagvaar wat wesenlike inligting het oor die onderwerp van die verhoor of wat enige dokument in sy of haar besit of bewaring of beheer het wat enige betrekking het op die onderwerp van die verhoor, om op 'n datum, tyd en plek in die dagvaardiging gespesifiseer, voor die Appèlkomitee te verskyn om ondervra te word of om daardie dokument te verstrek, en die voorsitter kan enige aldus verstrekte dokument vir ondersoek behou; en

*(b)* 'n eed afneem van of 'n bevestiging aanvaar van enige persoon wat by die verhoor as getuie geroep word.

(5) Iemand wat ingevolge artikel 57A appèl aanteken, kan deur enigiemand verteenwoordig word.

(6) Indien 'n lid van die Appèlkomitee—

*(a)* tydens die ondersoek van die appèl of so gou voor die begin van die ondersoek sterf dat die vakature nie betyds gevul kan word nie;

*(b)* nie kan optree nie en iemand anders nie betyds aangestel kan word nie; of

*(c)* na die ondersoek begin het nie daarmee kan voortgaan nie,

kan die partye ooreenkom dat die ondersoek deur die oorblywende lede van die Appèlkomitee voortgesit word.

(7) Waar die lid van die Appèlkomitee wat oorlede is of wat onbevoeg geword het soos in subartikel (5) beoog, die voorsitter van die Appèlkomitee was, moet die Minister een van die oorblywende lede van die Appèlkomitee aanwys om as voorsitter op te tree tot die Minister 'n voorsitter aanstel.

(8) Enigiemand wat ingevolge artikel 57B en 57C(3) aangestel word, moet sigself as lid van die Appèlkomitee verskoon as hy of sy enige regstreekse of onregstreekse persoonlike belang by die uitkoms van die appèl het.

(9) Die Appèlkomitee moet 'n aanbeveling by die Minister doen oor hul besluit aangaande 'n appèl.

**Oorweging deur Minister van appèl**

**57E.** (1) Wanneer die Minister 'n aanbeveling ingevolge artikel 57D(9) ontvang, kan hy of sy—

*(a)* die aanbevelings van die Appèlkomitee vervang, bevestig of tersyde stel; en

*(b)* beveel dat die gedelegeerde beampte die besluit in verband daarmee uitvoer.

(2) Waar die Minister 'n appèl oorweeg, kan hy of sy—

*(a)* die besluit van die gedelegeerde beampte bevestig, tersyde stel of verander; en

*(b)* beveel dat die gedelegeerde beampte die besluit in verband daarmee uitvoer.

(3) The Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), applies.

(4) The decision of the Minister must be in writing and a copy thereof must be furnished to the delegated official, appellant and any other party that has an interest in the appeal.

(5) If the Minister—

*(a)* sets aside any decision or action by the delegated official, the prescribed fee paid by the appellant in respect of the appeal must be refunded to him or her; or

*(b)* varies any decision or action by the delegated official, the Minister may direct that the whole or any part of such fee, be refunded to the appellant.''.

**Amendment of section 58 of Act 84 of 1998**

**15.** Section 58 of the principal Act is hereby amended—

*(a)* by the substitution for subsection (6) of the following subsection:

''(6) A person who is guilty of a fifth category offence referred to in section 61 may **[not]** be sentenced to a fine not exceeding R10 million or imprisonment**[, but may be sentenced to a fine up to R50 000]** for a period of up to 10 years or to both such fine and imprisonment.''; and

*(b)* by the substitution in subsection (8) for paragraph *(b)* of the following paragraph:

''*(b)* for any offence in terms of this Act, may suspend or revoke a licence granted to the offender under section 7, 15 or 23.''.

**Substitution of section 61 of Act 84 of 1998**

**16.** The following section is hereby substituted for section 61 of the principal Act:

''**Offences relating to sustainable forest management**

**61.** Any person who fails to take the steps which he or she has been instructed to take in terms of **[section]** sections 4(8), 7(5), 8(3), 14(6) and 17(3) within the period or the extended period laid down, is guilty of a fifth category offence.''.

**Amendment of section 62 of Act 84 of 1998, as amended by section 12 of Act 12 of 2001 and section 7 of Act 35 of 2005**

**17.** Section 62 of the principal Act is hereby amended—

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

''(1) Any person who contravenes the prohibition of certain acts in relation to trees, indigenous vegetation or any other forest product in natural forests referred to in section 7(1) is guilty of a **[second]** first category offence.''; and

*(b)* by the substitution for subsection (3) of the following subsection:

''(3) Any person who contravenes a prohibition or any other provision in a notice declaring a controlled forest area under section 17(3) and (4) is guilty of a **[second]** first category offence.''.

**Amendment of section 63 of Act 84 of 1998, as amended by section 8 of Act 35 of 2005**

**18.** Section 63 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

''(5) Any person who contravenes a condition in a license, exemption or any other authorisation in terms of this Act, in respect of—

*(a)* **[in any]** a protected area, a natural forest or protected trees, is guilty of a second category offence; and

*(b)* **[in]** any other forest, is guilty of a third category offence.''.

(3) Die 'Promotion of Administrative Justice Act', 2000 (Wet No. 3 van 2000), is van toepassing.

(4) Die besluit van die Minister moet skriftelik wees en 'n afskrif daarvan moet aan die gedelegeerde beampte, appellant en enige ander party met 'n belang in die appèl voorsien word.

(5) Indien die Minister—

*(a)* enige besluit of aksie deur die gedelegeerde beampte tersyde stel, moet die voorgeskrewe gelde deur die appellant vir die appèl betaal, aan hom of haar terugbetaal word; of

*(b)* enige besluit of aksie deur die gedelegeerde beampte verander, kan die Minister gelas dat die geheel of enige gedeelte van daardie gelde aan die appellant terugbetaal word.''.

**Wysiging van artikel 58 van Wet 84 van 1998**

**15.** Artikel 58 van die Hoofwet word hierby gewysig—

*(a)* deur subartikel (6) deur die volgende subartikel te vervang:

''(6) Iemand wat skuldig is aan 'n kategorie 5-misdryf bedoel in artikel 61, mag **[nie]** tot 'n boete van hoogstens R10 miljoen of gevangenisstraf vir 'n tydperk van hoogstens 10 jaar of sowel die boete as daardie gevangenisstraf gevonnis word **[nie, maar kan gevonnis word tot 'n boete van tot R50 000]**.''; en

*(b)* deur in subartikel (8) paragraaf *(b)* deur die volgende paragraaf te vervang:

''*(b)* vir enige misdryf kragtens hierdie Wet, kan 'n lisensie wat ingevolge artikel 7, 15 of 23 aan die oortreder verleen is, opskort of intrek.''.

**Vervanging van artikel 61 van Wet 84 van 1998**

**16.** Artikel 61 van die Hoofwet word hierby deur die volgende artikel vervang:

''**Misdrywe rakende volhoubare bosbestuur**

**61.** Iemand wat versuim om die stappe te doen wat hy of sy beveel is om te doen ingevolge **[artikel]** artikels 4(8), 7(5), 8(3), 14(6) en 17(3) binne die tydperk of die verlengde tydperk wat bepaal is, is skuldig aan 'n kategorie 5-misdryf.''.

**Wysiging van artikel 62 van Wet 84 van 1998, soos gewysig deur artikel 12 van Wet 12 van 2001 en artikel 7 van Wet 35 van 2005**

**17.** Artikel 62 van die Hoofwet word hierby gewysig—

*(a)* deur subartikel (1) deur die volgende subartikel te vervang:

''(1) Iemand wat die verbod op sekere handelinge met betrekking tot bome, inheemse plantegroei of enige ander bosproduk in natuurlike bosse bedoel in artikel 7(1) oortree, is skuldig aan 'n kategorie **[2-misdryf]** 1-misdryf.''; en

*(b)* deur subartikel (3) deur die volgende subartikel te vervang:

''(3) Iemand wat 'n verbod of enige ander bepaling oortree in 'n kennisgewing wat 'n beheerde bosgebied verklaar kragtens artikel 17(3) en (4), is skuldig aan 'n kategorie **[2-misdryf]** 1-misdryf.''.

**Wysiging van artikel 63 van Wet 84 van 1998, soos gewysig deur artikel 8 van Wet 35 van 2005**

**18.** Artikel 63 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

''(5) Iemand wat 'n voorwaarde in 'n lisensie, vrystelling of enige ander magtiging ingevolge hierdie Wet oortree, ten opsigte van—

*(a)* **[in]** 'n beskermde gebied, natuurlike bos of beskermde bome, is skuldig aan 'n kategorie 2-misdryf; en

*(b)* **[in]** enige ander bos, is skuldig aan 'n kategorie 3-misdryf.''.

**Amendment of section 65 of Act 84 of 1998**

**19.** Section 65 of the principal Act is hereby amended—

*(a)* by the deletion of the word ''and'' at the end of paragraph *(a)*;

*(b)* by the substitution for the fullstop at the end of paragraph *(b)* of a semi-colon; and

*(c)* by the addition of the following paragraphs:

''*(c)* determine different levels of forest officers; and

*(d)* determine qualification criteria for forest officers.''.

**Short title and commencement**

**20.** This Act is called the National Forests Amendment Act, 2022, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

**Wysiging van artikel 65 van Wet 84 van 1998**

**19.** Artikel 65 van die Hoofwet word hierby gewysig—

*(a)* deur die woord ''en'' aan die einde van paragraaf *(a)* te skrap;

*(b)* deur die punt aan die einde van paragraaf *(b)* deur 'n kommapunt te vervang; en

*(c)* deur die volgende paragrawe by te voeg:

''*(c)* verskillende vlakke vir bosbeamptes bepaal; en

*(d)* kwalifikasiekriteria vir bosbeamptes bepaal.''.

**Kort titel en inwerkingtreding**

**20.** Hierdie Wet heet die Wysigingswet op Nasionale Bosse, 2022, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.

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