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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE 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.

No. 1539.

27 November 1998

Hierby word bekend gemaak dat die President sy goedkeuring geheg 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

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:

“(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 5

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 30
(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.

(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 35
(b) authorize such an officer or employee to perform any duty or function assigned to the designated officer by or under this Act.

(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

Act No. 106, 1998

NATIONAL PARKS AMENDMENT ACT, 1998

- (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.