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THE PRESIDENCY

No. 748

14 July 2009

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

No. 15 of 2009: National Environmental Management: Protected Areas Amendment Act, 2009.



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NATIONAL ENVIRONMENTAL MANAGEMENT
PROTECTED AREAS AMENDMENT ACT, 2009

[] 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 10 July 2009.)

To amend the National Environmental Management: Protected Areas Act, 2003, so as to provide for a comprehensive list in the Schedule of all national parks; to provide for the assignment of national parks, special nature reserves and heritage sites to the South African National Parks; to make provision for flight corridors and permission of the management authority to fly over a special nature reserve, national park or heritage site; to provide for specific areas to be available for training and testing of aircraft; and to provide for matters connected therewith.

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

Amendment of section 20 of Act 57 of 2003, as inserted by section 6 of Act 31 of 2004

1. Section 20 of the National Environmental Management: Protected Areas Act, 2003
(hereinafter referred to as the principal Act), is hereby amended by the addition of the following subsection:

“(6) (a) Each area defined in Schedule 2 shall be a national park under the name assigned to it in that Schedule.

(b) The Minister may by notice in the *Gazette* amend Schedule 2.”

Amendment of section 28 of Act 57 of 2003, as amended by section 8 of Act 31 of 2004

2. Section 28 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) The declaration of an area as a protected environment for the purposes of subsection (2)(f) lapses at the expiry of **[three years from the date of publication of]** the period stated in the notice contemplated in subsection (1), but the Minister or the MEC, as the case may be, may, by agreement reached with the owners of the land in question and by notice in the *Gazette*, extend that period **[for not more than one year].”**

Act No. 15, 2009

NATIONAL ENVIRONMENTAL MANAGEMENT
PROTECTED AREAS AMENDMENT ACT, 2009**Amendment of section 38 of Act 57 of 2003, as amended by section 14 of Act 31 of 2004**

3. Section 38 of the principal Act is hereby amended by the substitution in subsection (1) for paragraphs (a) and (aA) of the following paragraphs, respectively:

- “(a) **[must]** may assign the management of **[a special nature reserve or a nature reserve]** any kind of protected area listed in section 9 to a suitable person, organisation or organ of state; 5
- (aA) must assign the management of a national park to South African National Parks **[or another suitable person, organisation or organ of state]**; and”.

Amendment of section 47 of Act 57 of 2003, as amended by section 17 of Act 31 of 2004 10

4. Section 47 of the principal Act is hereby amended by—

- (a) the substitution for subsections (2) and (3) of the following subsections, respectively:

“(2) No person or organ of state, may land or take off in an aircraft in a special nature reserve, national park or world heritage site, except— 15

- (a) on or from a landing field designated by the management authority of that nature reserve, national park or world heritage site; and

(b) **[with the] on authority of the prior written permission of[, the management authority, which authority may stipulate the terms and [on] conditions [determined by, the management authority] upon which this must take place.** 20

(3) No person or organ of state may fly over or cause an aircraft to fly over a special nature reserve, national park or world heritage site at a level of less than 2500 feet above its highest point, except as may be necessary for the purpose of **[subsection] subsections (2) or (3A).**”;

- (b) the insertion after subsection (3) of the following subsection:

“(3A) (a) The management authority may provide for flight corridors over a special nature reserve, national park or world heritage site, as well as through the protected airspace identified under subsection (1) where this is necessary for a public purpose or in the public interest. 30

(b) No person or organ of state may fly or cause any person to fly an aircraft over a special nature reserve, national park or world heritage site and through the protected airspace identified under subsection (1)—

- (i) without the prior written permission of the management authority; 35
- (ii) without the prescribed fee having first been paid, if applicable; and
- (iii) unless and until the management authority has approved the flight plan for a flight and stipulated the terms and conditions upon which a flight is to take place. 40

(c) The Minister in agreement with the Minister of Defence may allow for specific areas within the identified protected airspace to be used for training and testing of aircraft.

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- (d) The provision of any flight corridor in paragraph (a) or area in paragraph (c) is subject to an environmental authorization in terms of section 24 of the National Environmental Management Act.”
- (c) the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 5
- “Subsections (2), [and] (3) and (3A) do not apply—”; and
- (d) the insertion after subsection (4) of the following subsection: 10
- “(4A) Any person who or organ of state that is affected by a decision of a management authority in terms of subsection (2), (3) or (3A) may appeal to the Minister against such decision.”.

Amendment of section 54 in Act 57 of 2003, as amended by section 21 of Act 31 of 2004

5. Section 54 of the principal Act is hereby amended by the addition of the following subsections:

- “(3) The South African National Parks may not be wound up or dissolved except by or in terms of an Act of Parliament and by a resolution of a majority of at least two-thirds of all its members. 15
- (4) Upon winding-up or dissolution of the South African National Parks, its remaining assets or the proceeds of those assets, after satisfaction of its liabilities, must be transferred to the State or to an equivalent Schedule 3A Public Entity contemplated in the Public Finance Management Act, 1999 (Act No. 1 of 1999), which has the same objectives as the South African National Parks and which itself is exempt from income tax in terms of section 10 (1)(cA) of the Income Tax Act, 1962 (Act No. 58 of 1962).”.

Amendment of section 55 of Act 57 of 2003, as amended by section 21 of Act 31 of 2004

6. Section 55 of the principal Act is hereby amended by—

- (a) the substitution in subsection (1) for paragraph (a) of the following paragraph: 30
- “(a) manage [the] all existing national parks and [other protected areas] any kind of protected area listed in section 9, assigned to it by the Minister in terms of Chapter 4 and section 92, in accordance with this Act and any specific environmental management Act referred to in the National Environmental Management Act;”;
- (b) the insertion after paragraph (a) of the following paragraphs: 35
- “(aA) manage world heritage sites assigned to it by the Minister, in accordance with all national cultural heritage legislation as may be applicable to and required for proper management and protection of such world heritage sites, provided that the South African National Parks’ authority to enforce such legislation are provided for in a written instrument of delegation issued by the Minister to this effect under and in terms of such legislation; 40
- (aB) manage any other protected areas, which are not protected areas referred to in subsection 55(1)(a), and as may be assigned to it by the Minister, in accordance with the provisions of all national environmental legislation as may be applicable to and required for the proper management and protection of such other protected areas, provided that the South African National Parks’ authority 45

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- to enforce such legislation are provided for in a written instrument of delegation issued by the Minister to this effect under and in terms of such legislation;
- (aC) participate in such further international, regional and national environmental, conservation and cultural heritage initiatives identified by the Minister from time to time, and then only on such terms and conditions as the Minister shall in writing provide.”; 5
- (c) the substitution in subsection (2) for the words preceding paragraph (a) of the following words: 10
“South African National Parks may in managing national parks, or any other kind of protected area assigned to it by the Minister—”; and
- (d) the insertion in subsection (2) after paragraph (f) of the following paragraph: 15
“(fA) make, set penalties for, and enforce traffic rules in such national parks, special nature reserves, protected environments, world heritage sites or other protected areas assigned to it by the Minister.”.

Amendment of section 75 of Act 57 of 2003, as inserted by section 21 of Act 31 of 2004

7. Section 75 of the principal Act is hereby amended by the substitution in section 75 20
for paragraph (g) of the following paragraph:

“(g) fines received or recovered in respect of offences committed [**within national parks**] under this Act; and”.

Substitution of Schedule to Act 57 of 2003, as substituted by section 28 of Act 31 of 2004

8. The Schedules contained in the Schedule to this Act are hereby substituted for the Schedule to the principal Act. 25

Short title and commencement

7. This Act is called the National Environmental Management: Protected Areas Amendment Act, 2009, and comes into effect on a date fixed by the President by 30
proclamation in the *Gazette*.