

REPUBLIC OF SOUTH AFRICA

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# NATIONAL VELD AND FOREST FIRE AMENDMENT BILL

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*(As introduced in the National Assembly (proposed section 75); explanatory  
summary of Bill and prior notice of its introduction published in Government Gazette  
No. 45449 of 9 November 2021)  
(The English text is the official text of the Bill)*

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(MINISTER OF FORESTRY, FISHERIES AND ENVIRONMENT)

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

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

**To amend the National Veld and Forest Fire Act, 1998, so as to amend and insert certain definitions; to provide for the facilitation of the formation of fire protection associations by a municipality or a traditional council; to compel a municipality, state-owned enterprise, public entity or other organ of state which owns land to join the fire protection associations; to extend the powers of entry, search, seizure and arrest to peace officers and traditional leaders; to amend the title of the Act to the National Veldfire Act; and to provide for matter connected therewith.**

### Amendment of section 2 of Act 101 of 1998

(a) by the insertion after the definition of “chief fire officer” of the following definition:

(b) by the insertion after the definition of “fire danger” of the following 10 definition:

(c) by the substitution for the definition of “municipality” of the following 15 definition:

(d) by the insertion after the definition of “prescribe” of the following definition:  
“**‘public entity’** means a public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);”;

(e) by the substitution for the definition of “ ‘the Act’ or ‘this Act’ ” of the following definition:

“ ‘the Act’ or ‘this Act’ means the National [Veld and Forest Fire] Veldfire Act, 1998, and includes the regulations made under the Act;” 25

- (f) by the insertion after the definition of “ ‘the Act’ or ‘this Act’ ” of the following definitions:
- “ ‘**traditional council**’ means a traditional council as defined in section 1 of the Traditional Leadership and Governance Framework Act;  
 “ ‘**Traditional Leadership and Governance Framework Act**’ means the Traditional Leadership and Governance Framework Act, 2003 (Act No 41 of 2003);” and
- (g) by the substitution for the definition of “veldfire” of the following definition:
- “ ‘**veldfire**’ means **[a veld, forest or mountain]** any vegetation fire that occurs outside a city, town, its adjoining industrial or residential area.”.

#### **Amendment of section 3 of Act 101 of 1998**

2. Section 3 of the principal Act is hereby amended by the insertion after subsection (3) of the following subsection:

- “(3A) The municipality concerned, and in the case of a communal land, a traditional council established in that area in terms of section 3 of the Traditional Leadership and Governance Framework Act, if any, may facilitate the formation of a fire protection association process as contemplated in subsection (3), if the Minister is of the opinion that a fire protection association is required.”.

#### **Amendment of section 4 of Act 101 of 1998**

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

- (a) by the substitution in subsection (7) for the words following paragraph (b) of the following words:
- “the municipality **[or]** and designated service must become a member of the fire protection association.”; and
- (b) by the substitution for subsection (8) of the following subsection:
- “(8) The owner in respect of State land, a state-owned enterprise, a public entity or an organ of state must, within a year after the commencement of the National Veld and Forest Fire Amendment Act, 2021, join [any] a registered fire protection association [registered] in the area in which the land [lies] is situated.”.

#### **Amendment of section 10 of Act 101 of 1998, as amended by section 10 of Act 35 of 2005**

4. Section 10 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) (a) When the Minister has published a warning in terms of subsection (1)(b), no person may light, use or maintain a fire in the open air in the region where the fire danger is high or extreme, unless the Minister, on good cause shown, exempts in writing, a landowner or group of landowners from the said warning, subject to any conditions that the Minister may impose.
- (b) The Minister must, before granting any exemption, consult the fire protection association of the area, if any, and the chief fire officer.”.

#### **Amendment of section 11 of Act 101 of 1998**

5. Section 11 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

- “(a) the South African Weather **[Bureau]** Service, established in terms of the South African Weather Service Act, 2001 (Act No. 8 of 2001), if the Director-General of the Department **[of Environmental Affairs and Tourism]** responsible for the administration of the said Act agrees;”.

#### **Amendment of section 26 of Act 101 of 1998**

6. Section 26 of the principal Act is hereby amended by the substitution for subsections (2) and (3) of the following subsections:

“(2) (a) A forest officer, a police officer, a peace officer, a traditional leader as defined in section 1 of the Traditional Leadership and Governance Framework Act and an officer appointed in terms of section 5 or 6 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987), have the power to enforce the Act **[in terms of this Chapter]**: Provided that they have been trained to be competent by an accredited institution to exercise powers to enter, search, arrest and seize in terms of this Act. 5

(b) A reference to a fire protection officer in sections 27, 28 and 29 includes the officers and the traditional leader referred to in paragraph (a).

(3) A fire protection officer and any officer or traditional leader contemplated in subsection (2)(a), exercising powers under this Act must carry with him or her, and produce on request, the prescribed proof of his or her identity **[and appointment as a fire protection officer]**.”. 10

#### **Insertion of section 32A in Act 101 of 1998**

7. The following section is hereby inserted in the principal Act after section 32:

#### **“Appeals”** 15

**32A.** (1) Any affected person may appeal to the Minister against a decision or action taken by any person or entity acting under a power delegated in terms of this Act.

(2) An appeal under subsection (1) must be noted and shall be dealt with in the manner and in accordance with the procedure prescribed by the Minister in the regulations. 20

(3) The Minister shall consider any matter submitted to him or her on appeal, after giving every person with an interest in the matter an opportunity to state his or her case.”. 25

#### **Substitution of section 37 of Act 101 of 1998** 25

8. The following section is hereby substituted for section 37 of the principal Act:

#### **“Short title**

**37.** This Act is called the National **[Veld and Forest Fire]** Veldfire Act, 1998.”.

#### **Short title and commencement** 30

9. This Act is called the National Veld and Forest Fire Amendment Act, 2021, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

## **MEMORANDUM ON THE OBJECTS OF THE NATIONAL VELD AND FOREST FIRE AMENDMENT BILL, 2021**

### **1. BACKGROUND AND PURPOSE**

- 1.1 The Department of Forestry, Fisheries and Environment (“the Department”) is responsible for the administration of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) (“the Act”). The Act promotes the prevention and combating of wildfires in the veld, mountains and in forested areas.
- 1.2 The Department, as the custodian of this legislation, is also responsible to facilitate the amendment process in order to ensure that the Act remains responsive and relevant in the field of integrated veldfire management and prevention.
- 1.3 Although this legislation was promulgated in 1998, several other pieces of national legislation, such as the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), and the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004), were promulgated after the Act.
- 1.4 Furthermore, advancements of science, technology and research in relevant fields have necessitated cooperative governance in the management of natural resources.
- 1.5 It is the responsibility of the Department to create a comprehensive regulatory framework through policies and legislation to improve and maintain a sustainable agriculture and forestry environment. It is therefore of critical importance to ensure that, where necessary, amendments should be effected to ensure that there are no legislative policy vacuums that hinder sustainable forest management and threaten food security by wildfires.
- 1.6 Veld and forest fires contribute to economic, social and environmental degradation in South Africa. They threaten and undermine government’s agenda of food security in the country and result in job losses, displacement of people, habitat and biodiversity loss.
- 1.7 The regional forestry officials and the external stakeholders that interact with this legislation have requested the Department to consider amending certain provisions to make it more responsive to the operational realities and challenges on the ground. The amendments that have been proposed are based on experience gained from the implementation and administration of the Act, both by forestry officials as well as external stakeholders that implement the legislation.

### **2. OBJECTS OF BILL**

The main object of the Bill is to effect amendments to the Act in order to—

- improve the administration of the Act;
- deal with a number of important technical enhancements;
- align the legislation with the post-1996 Constitutional framework; and
- ensure that the Act remains responsive and relevant in the field of combating and preventing veld and forest fires.