

SPEECH BY MR RONNIE KASRILS, MP, MINISTER OF WATER AFFAIRS AND FORESTRY, DURING THE DISCUSSION OF THE NATIONAL FOREST AND FIRE LAWS AMENDMENT BILL IN THE NATIONAL COUNCIL OF PROVINCES, PARLIAMENT CAPE TOWN, ON WEDNESDAY 6 JUNE 2001

It is my pleasure to have the opportunity to address yourselves today and to introduce a Bill called the National Forest and Fire Laws Amendment Bill which proposes amendments to the National Forests Act of 1998 and the National Veld and Forest Fire Act, 1998. The National Forests Act, 1998 (Act No. 84 of 1998), and the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) were promulgated in 1998. For their effective implementation it has become necessary to make certain amendments to them as soon as practicable. The National Forest and Fire Laws Amendment Bill, 2001, is introduced for that purpose, and proposes amendments to both pieces of legislation.

The amendments are designed to ensure that the provisions of these 1998 pieces of forestry related legislation provide accuracy, legal certainty, and address clauses which may be open to misinterpretation or ambiguity if they are not amended. In addition it has become necessary to amend certain clauses in order to ensure that the restructuring of the control of forests is facilitated.

I intend to give a short background to the National Forests Act, 1998 and then to outline the proposed amendments to that Act. I will then provide the same information in respect of the National Veld and Forest Act, 1998.

To begin with the National Forests Act of 1998 then: This Act was promulgated in October 1998, and it was decided to put the Act into effect in stages. Between 1998 and the present all sections except section 18 have been put into effect. Section 18 requires regulation and will be put into effect in the near future.

The passing of this Act was of great significance as it represented a complete revision of forestry law as it existed before 1994, and introduced new approaches to forestry by the State. These included :

The reaping of the rewards of the commercial plantation forestry sector and the timber products industry was opened to all entrepreneurs;

Communities which live on land surrounding forests were given the opportunity to become stakeholders in the management of the forests;

A clear framework was provided for the restructuring of the State's role in forestry, including its role in the future management of those forests formerly managed by the erstwhile homelands;

The recognition that the Department of Water Affairs and Forestry needs to play the role of regulator in forestry, rather than its traditional role as an industry participant; and

The recognition of the constitutional right to legislation that secures the conservation and sustainable development of resources.

With respect to the proposed amendments to the National Forests Act of 1998, I will deal with these in the sequence in which they appear in the Act.

Firstly, changes are proposed to definitions : It is felt that the definitions of "State land" and "trust forest" require elaboration. The amendment of the definition of "State land" is proposed so as to allow for land transferred to communities to remain a State forest in terms of a joint management agreement. The amendment of the definition of "trust forest" recognizes that the boundaries of State forests have changed over time, and can more accurately be described in the manner prescribed in the amendment.

An amendment is proposed to Section 7 as in terms of the current provisions of the National Forests Act of 1998, a prohibition on the destruction of trees in natural forests is imposed, but there is no protection offered for the produce or products of trees. The Bill seeks to prevent people from dealing in produce or products of protected trees or species. In many cases it is the case that people are found in possession of planks and processed wood coming from natural forests. The possession of a protected tree or its produce becomes an offence in terms of the Bill, whereas previously the offence related only to cutting, disturbing, destroying or removing a protected tree. It is also proposed by means of the Bill to allow any person or organ of State to apply to protect a species of trees, rather than merely to protect a forest, tree, or group of trees. There is no logical reason why an application cannot be made for the protection of a species in view of the fact that I may declare a species to be protected in terms of another section of the Act, section 12 (1) (b).

The Act failed to take into account contracts between licensees and third parties, and amendments to the National Forests Act are proposed to govern these situations. Section 23 (2) prohibits anyone from engaging in any activity in a State forest without a licence. In this way a contractor referred to in a later section (section 24 (4) (b)) will need a licence to work in a State forest. It is felt that to impose a licence fee on a contractor would have undesirable results, namely :

The efficiency of the licence holders, which will include successful bidders in the restructuring process, would be undermined, with licences having to be obtained for every contractor they deal with;

The need for the issue of licences for every contractor will increase the Department's administrative costs and burden; and

An additional licence fee will have to be charged, when the original licensee has already paid the licence fee in respect of the activity concerned. It is not felt to be fair to charge a further licence fee from the contractor.

The issue of the granting of mining rights in State forests is addressed and the amendment proposed makes the granting of consent for mining subject to the stringent requirements of section 3 of the Act.

Amendments to section 28 deal with long term forestry supply contracts. Once-off sales are not dealt with in this section, or in fact, anywhere else in the Act and it is felt to be necessary to address this situation as the Department regularly sells forest produce and forest products in terms of its management of State forests.

In terms of section 50 I may, in terms of the Act, reserve State land for forestry. However, this land is currently under the control of different Ministers and other authorities. The amendment sets out more clearly which authorities must give consent to before I may reserve the land for forestry purposes.

The provisions relating to the manner in which regulations framed in terms of the Act come into effect are felt to be slightly confusing, and it is proposed to amend the relevant clauses by introducing a simpler and clearer procedure, which states clearly that the regulations come into effect on the second publication in the Gazette.

A further amendment is proposed to section 55 which deals with Tariffs and Charges. In terms of the Act, tariffs may be levied for forest products or forest produce sold by the Department. Further tariffs are now being introduced, namely those for forest produce or forest products sold by the Department.

An amendment was proposed to section 77 (2) (b), but the proposed amendment was withdrawn at a Committee meeting of the National Council of Provinces and at the Portfolio Committee of the National Assembly, and is not under debate at this stage.

As I noted initially, the Bill proposes amendments to both the National Forests Act of 1998 and the National Veld and Forest Fire Act, also of 1998. I will now give a short background to this Act and outline the proposed amendments to the National Veld and Forest Fires Act of 1998.

The National Veld and Forest Fire Act, 1998 was promulgated in November 1998. Chapters 2 and 3 have not yet been brought into effect, because chapter 2 requires regulation and chapter 3 compels myself as the responsible Minister to put in place a National Fire Danger Rating System, which clearly requires a great deal of scientific and technical research to ensure that the system is best suited for South African circumstances and conditions. Both the regulation of chapter 2 and the development of the National Fire Danger Rating System are currently being dealt with by the Department, and will be finalized as soon as possible. It is hoped to bring chapter 2 into effect during the second half of this year, after the passage of the Bill.

The National Veld and Forest Fires Act, 1998 was significant legislation as former enactment's were inadequate for the prevention and combating of these fires and did not treat all persons in a democratic manner. Fire Control Committees provided for in this legislation were not representative, and currently few still exist and are effective. In addition, modern approaches to fire danger rating systems were not provided for.

The Act seeks to remedy these shortcomings by recognizing that the only way that fires can be effectively prevented and combated is through the involvement of all interested parties. It provides for the creation of new committees, named Fire Protection Associations, which are voluntary bodies of all landowners on a defined area, the formation and activities of which are based upon democratic principles.

The proposed amendments to this Act are as follows :

The Act provides for co-operation between Fire Protection Associations but this is only specified in cases where fires cross the boundaries of those associations. This is too limiting and the Bill now provides for co-operation between Fire Protection Associations at all times.

In terms of the Act a Fire Protection Association must appoint a Fire Protection Officer who will *inter alia*, perform the function of chief executive officer of the Fire Protection Association and take control of any fire fighting in the area for which the Fire Protection Association has been formed if the veldfire is a threat to life or property and if he or she is reasonably able to do so. Fire fighting is a specialized activity and municipal fire officers can render a valuable service in the event of forest fires. The Act as it stands makes it compulsory for the chief fire officer of a municipality situate within the area of a Fire Protection Association to be the Fire Protection Officer. To require the chief fire officer of a municipality to perform duties over and above his or her employment duties clearly has no justification in law and an amendment to the Act is therefore necessary. The amendment will mean that the Fire Protection Officer will be appointed from the members of the Fire Protection Association, and may be the Chief Fire Officer of the relevant municipality, but only if he or she volunteers to perform these duties.

As stated previously the introduction of a National Fire Danger Rating System is provided for in the Act, and factors which the system must take into account are specified. It has, however, become clear that any such system cannot, in the interests of practicality take all factors into account, and an amendment is therefore necessary which states in essence that where reasonably possible certain factors must be taken into account.

As in the case of the National Forests Act, 1998, the Bill streamlines the procedure for the promulgation of regulations under the National Veld and Forest Fires Act.

No expenditure on the part of the State is foreseen.

The Department of Water Affairs and Forestry and the State Law Advisers are of the opinion that the procedure provided for in Section 76 of the Constitution of the Republic of South Africa, 1996 (Act No. 106 of 1996), should be followed with regard to this Bill. This is an amendment Bill to legislation which falls within the functional areas listed in Schedule 4 of the Constitution, namely “administration of indigenous forests”, “environment” and “nature conservation”.

Madam Chair, members of the NCOP in conclusion it is my understanding that this Bill has been presented to the Select Committee of this House previously and that on 28 May 2001, Provinces were given a Final negotiating Mandate to support the Bill. I wish to thank all provinces for their confidence in the Bill and request you pass the Bill.

Finally, I would like to take advantage of this opportunity to address you all by letting you know that my Department is embarking on a fire awareness campaign, and that we will shortly be unveiling the new motif for the campaign. Many of you will remember the shy deer, nicknamed “Bokkie” who was synonymous with fire prevention. She was a product from the middle of last century, and has been “updated” to fit into this century, will be renamed with a name more appropriate to our continent, and will be the motif for the campaign. I look forward to introducing her to you and the public in the near future.

Thank you honourable members.