



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

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## THE PRESIDENCY

No. 131

11 February 2005

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

**No. 31 of 2004: National Environmental Management: Protected Areas Amendment Act, 2004.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

Act No. 31,2004 NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED  
AREAS AMENDMENT ACT, 2004

**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 7 February 2005.)

# ACT

**To amend the National Environmental Management: Protected Areas Act, 2003, to provide for the application of that Act in relation to national parks and marine protected areas; and to provide for matters connected therewith.**

**B**E..IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 57 of 2003**

1. Section 1 of the National Environmental Management: Protected Areas Act, 2003 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the insertion, after the definition of “biological resource”, of the following definitions:

“ **‘Board’** means the Board of South African National Parks referred to in section 57;

**‘Chief Executive Officer’** means the Chief Executive Officer of South African National Parks appointed in terms of section 72;” 10

(b) by the insertion, after the definition of “management authority”, of the following definition:

“ **‘marine protected area’** means an area declared as a marine protected area in terms of section 43 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);” 15

(c) by the insertion, after the definition of “national environmental management principles”, of the following definitions:

“ **‘national park’** means—

(a) an area which was a park in terms of the National Parks Act, 1976 (Act No. 57 of 1976), immediately before the repeal of that Act by section 90(1) of this Act, and includes a park established in terms of an agreement between a local community and the Minister which has been ratified by Parliament; or

**Act No. 31,2004 NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS AMENDMENT ACT, 2004**

- (b) an area declared or regarded as having been declared in terms of section 20 as a national park, and includes an area declared in terms of section 20 as part of an area referred to in paragraph (a) or (b) above;
- ‘National Parks Land Acquisition Fund’** means the fund established by section 12A of the National Parks Act, 1976 (Act No. 57 of 1976);”;
- (d) by the insertion in the definition of “national protected area”, after paragraph (a), of the following paragraph:  
“(b) a national park; or”;
- (e) by the substitution for the definition of “protected environment” of the following definition:  
“**‘protected environment’** means —  
(a) an area declared, or regarded as having been declared, in terms of section 28 as a protected environment; [**or**]  
(b) an area which before or after the commencement of this Act was or is declared or designated in terms of provincial legislation for a purpose for which that area could in terms of section 28(2) be declared as a protected environment; or  
(c) an area which was a lake area in terms of the Lake Areas Development Act, 1975 (Act No. 39 of 1975), immediately before the repeal of that Act by section 90(1) of this Act,  
and includes an area declared in terms of section 28(1) as part of an area referred to in paragraph (a) [**or**], (b) or (c) above;”;
- (f) by the insertion, after the definition of “subordinate legislation”, of the following definition:  
“**‘the Fund’** means the National Parks Land Acquisition Fund;”.

**Amendment of section 2 of Act 57 of 2003**

2. Section 2 of the principal Act is hereby amended —  
(a) by the deletion of “and” at the end of paragraph (e) and the addition of “and” at the end of paragraph (f); and  
(b) by the addition of the following paragraph:  
“(g) to provide for the continued existence of South African National Parks.”

**Amendment of section 9 of Act 57 of 2003**

3. Section 9 of the principal Act is hereby amended —  
(a) by the substitution for paragraph (a) of the following paragraph:  
“(a) special nature reserves, national parks, nature reserves (including wilderness areas) and protected environments;”;
- (b) by the insertion of the following paragraph after paragraph (b):  
“(c) marine protected areas;”.

**Insertion of section 14 in Act 57 of 2003**

4. The following section is hereby inserted in the principal Act after section 13:

**“Marine protected areas**

**14.** (1) Chapter I, this Chapter and section 48 apply to marine protected areas.

(2) The other provisions of this Act do not apply to marine protected areas, but if a marine protected area has been included in a special nature reserve, national park or nature reserve, such area must be managed and regulated as part of the special nature reserve, national park or nature reserve in terms of this Act.”.

**Act No. 31,2004 NATIONAL ENVIRONMENTAL MANAGEMENT PROTECTED  
AREAS AMENDMENT ACT, 2004**

**Amendment of section 15 of Act 57 of 2003**

5. Section 15 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The other provisions of this Act do not apply to specially protected forest areas, forest nature reserves or forest wilderness areas, but if any such area has been declared as or included in a special nature reserve, national park or nature reserve, such area must be managed as a, or as part of the, special nature reserve, national park or nature reserve in terms of this Act in accordance with an agreement concluded between the Minister and the Cabinet member responsible for forestry.”.

**Insertion of Part 2 in Chapter 3 of Act 57 of 2003**

6. The following Part is hereby inserted in Chapter 3 of the principal Act after section 19:

**“Part 2**

***National parks***

**Declaration of national parks**

**20.** (1) The Minister may by notice in the *Gazette* —

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| <p>(a) declare an area specified in the notice—</p> <p style="padding-left: 20px;">(i) as a national park; or</p> <p style="padding-left: 20px;">(ii) as part of an existing national park; and</p> <p>(b) assign a name to the national park.</p> <p>(2) A declaration under subsection (1) (a) may only be issued to—</p> <p>(a) protect—</p> <p style="padding-left: 20px;">(i) the area if the area is of national or international biodiversity importance or is or contains a viable, representative sample of South Africa’s natural systems, scenic areas or cultural heritage sites; or</p> <p style="padding-left: 20px;">(ii) the ecological integrity of one or more ecosystems in the area;</p> <p>(b) prevent exploitation or occupation inconsistent with the protection of the ecological integrity of the area;</p> <p>(c) provide spiritual, scientific, educational, recreational and tourism opportunities which are environmentally compatible; and</p> <p>(d) contribute to economic development, where feasible.</p> <p>(3) A notice under subsection (1)(a) may be issued in respect of land if the owner has consented to the declaration by way of a written agreement with the Minister or South African National Parks.</p> <p>(4) The Minister must notify the relevant MEC of any declaration of an area in terms of subsection (1).</p> <p>(5) An area which was a national park when this section took effect must for purposes of this section be regarded as having been declared as such in terms of this section.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> |
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Act No. 31,2004 NATIONAL ENVIRONMENTAL MANAGEMENT PROTECTED  
AREAS AMENDMENT ACT. 2004

**Withdrawal of declaration or exclusion of part of national park**

**21.** (1) A declaration under section 20 may only be withdrawn—

- (a) by resolution of the National Assembly; or  
(b) in terms of subsection (2).

(2) If the Minister or South African National Parks, as the case may be, or the other party to an agreement referred to in section 20(3), withdraws from the agreement, the Minister must withdraw the declaration in terms of which the land in question was declared a national park or part of an existing national park.

**Designation of national park as wilderness area**

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**22.** (1) The Minister may by notice in the *Gazette* designate any national park, or part thereof, as a wilderness area.

(2) A designation under subsection (1) may only be issued—

- (a) to protect and maintain the natural character of the environment, biodiversity, associated natural and cultural resources and the provision of environmental goods and services;  
(b) to provide outstanding opportunities for solitude;  
(c) to control access which, if allowed, may only be by non-mechanised means.

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(3) Before designating a national park as a wilderness area, the Minister must consult the management authority of the park.”

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**Amendment of section 23 of Act 57 of 2003**

**7.** Section 23 of the principal Act is hereby amended—

(a) by the insertion in subsection (2) of the following paragraph:

“(a) to supplement the system of national parks in South Africa;”;

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(b) by the substitution for subsection (4) of the following subsection:

“(4) No area which is or forms part of a special nature reserve or national park may be declared as a nature reserve or as part of an existing nature reserve.”.

**Amendment of section 28 of Act 57 of 2003**

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**8.** Section 28 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) to regulate the area as a buffer zone for the protection of a special nature reserve, national park, world heritage site or nature reserve;”;

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(b) by the substitution for paragraph (d) of subsection (2) of the following paragraph:

“(d) to protect a specific ecosystem outside of a special nature reserve, national park, world heritage site or nature reserve;”;

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(c) by the substitution for paragraph (f) of subsection (2) of the following paragraph:

“(f) to control change in land use in the area if the area is earmarked for declaration as, or inclusion in, a national park or nature reserve.”;

(d) by the substitution for subsection (4) of the following subsection:

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“(4) No area which is or forms part of a special nature reserve, national park or nature reserve may be declared as a protected environment or as part of an existing protected environment.”; and