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STAATSKOERANT

GOVERNMENT GAZETTE

FOR THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

No. 1903.

8 Julie 1992

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 115 van 1992: Tweede Wysigingswet op Omgewingsbewaring, 1992.

STATE PRESIDENT'S OFFICE

No. 1903.

8 July 1992

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

No. 115 of 1992: Environment Conservation Second Amendment Act, 1992.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Omgewingsbewing, 1989, ten einde Administrateurs se bevoegdhede betreffende beskermde natuuumgewings uit te brei; en weg te doen met 'n beperking ten opsigte van grond wat ingevolge die Wet op Fisiese Beplanning, 1967, as 'n natuurgebied voorbehou is, maar geag word ingevolge die Wet op Omgewingsbewing, 1989, tot 'n beskermde natuuumgewing verklaar te wees; om sekere werksaamhede wat ingevolge die Wet op Fisiese Beplanning, 1967, verrig is, geldig te verklaar; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 2 Julie 1992.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 16 van Wet 73 van 1989

1. Artikel 16 van die Wet op Omgewingsbewing, 1989, word hierby gewysig—

(a) deur na subartikel (1) die volgende subartikels in te voeg: 5

“(1A) 'n Administrateur kan, met die instemming van die Minister, by kennisgewing in die *Offisiële Koerant*—

(a) enige gebied uit 'n beskermde natuuumgewing wegneem en die beskrywing van die beskermde natuuumgewing dienoreenkomstig wysig; 10

(b) die verklaring van 'n beskermde natuuumgewing intrek; en

(c) die naam van 'n beskermde natuuumgewing verander.

(1B) Die bepalings van subartikel (1)(b) is *mutatis mutandis* van toepassing op die wegneem van 'n gebied uit 'n beskermde natuuumgewing en die intrekking van 'n verklaring tot 'n beskermde natuuumgewing: Met dien verstande dat die intrekking van die verklaring tot 'n beskermde natuuumgewing slegs kan geskied na oorleg met 'n plaaslike owerheid of owerheidsinstelling (as daar is) aan wie die beheer en bestuur van die betrokke gebied ingevolge subartikel (6)(a) opgedra is.”; 15 20

(b) deur na subartikel (2) die volgende subartikel in te voeg:

“(2A) Die Administrateur kan, met die instemming van die Minister, behoudens die bepalings van enige ander wet wat op grond betrekking het, en behoudens die voorbehoud by subartikel (2), enige voorskrif kragtens genoemde subartikel uitgevaardig, wysig of intrek.”; en 25

(c) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Elke eienaar van, en elke houer van 'n saaklike reg op, grond

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.

ACT

To amend the Environment Conservation Act, 1989, so as to extend the powers of Administrators with regard to protected natural environments; and to do away with a restriction in respect of land reserved in terms of the Physical Planning Act, 1967, as a nature area, but which is in terms of the Environment Conservation Act, 1989, deemed to be declared a protected natural environment; to validate certain functions performed in terms of the Physical Planning Act, 1967; and to provide for matters incidental thereto.

(Afrikaans text signed by the State President.)
(Assented to 2 July 1992.)

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

Amendment of section 16 of Act 73 of 1989

1. Section 16 of the Environment Conservation Act, 1989, is hereby
5 amended—

(a) by the insertion after subsection (1) of the following subsections:

“(1A) An Administrator may, with the concurrence of the Minister, by notice in the *Official Gazette*—

10 (a) exclude any area from a protected natural environment and amend the description of the protected natural environment accordingly;

(b) withdraw the declaration of any protected natural environment; and

(c) change the name of any protected natural environment.

(1B) The provisions of subsection (1)(b) shall *mutatis mutandis* apply to the exclusion of an area from a protected natural environment and the withdrawal of a declaration of a protected natural environment: Provided that the withdrawal of a declaration of a protected natural environment may only take place after consultation with any local authority or government institution (if any) to which the control and management of the area concerned had been assigned in terms of subsection (6)(a).”;

(b) by the insertion after subsection (2) of the following subsection:

25 “(2A) The Administrator may, with the concurrence of the Minister, subject to the provisions of any other law pertaining to land, and subject to the proviso to subsection (2), amend or repeal any direction issued under the said subsection.”; and

(c) by the substitution for subsection (3) of the following subsection:

“(3) Every owner of, and every holder of a real right in, land

geleë in 'n beskermde natuuumgewing ten opsigte waarvan voorskrifte ingevolge subartikel (2) uitgevaardig of ingevolge subartikel (2A) gewysig is en die opvolgers in regte van die eienaar en die houer van die saaklike reg, is aan die bepalings van daardie voorskrifte onderworpe.”.

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Wysiging van artikel 44 van Wet 73 van 1989

2. Artikel 44 van die Wet op Omgewingsbewing, 1989, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) By die inwerkingtreding van hierdie Wet word grond wat kragtens artikel 4(1)(b) van die Wet op Fisiese Beplanning, 1967 (Wet No. 88 van 1967), as 'n natuurgebied voorbehou is, ondanks die bepalings van subartikel (1) geag tot 'n beskermde natuuumgewing kragtens artikel 16(1) van hierdie Wet verklaar te wees [en hou die bepalings van artikel 4(2) van die Wet op Fisiese Beplanning, 1967, aan om op sodanige grond van toepassing te wees].”.

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Geldigverklaring van voorbehoud van natuurgebiede, verandering van grense en uitgereikte permitte, en wysiging van voorwaardes en verandering van gebiede

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3. Ondanks die herroeping van die Wet op Fisiese Beplanning, 1967 (Wet No. 88 van 1967), en ondanks die bepalings van artikel 13B van genoemde Wet of die bepalings van enige ander wet, maar behoudens die bepalings van artikel 44(2) van die Wet op Omgewingsbewing, 1989 (Wet No. 73 van 1989)—

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- (a) word elke gebied wat sedert 7 Julie 1967 kragtens artikel 4(1)(b) van die Wet op Fisiese Beplanning, 1967, as 'n natuurgebied voorbehou heet te wees, geag wettig voorbehou te gewees het;
- (b) word elke verandering van die grense van 'n natuurgebied beoog by paragraaf (a) wat sedert 7 Julie 1967 aangebring heet te wees, geag wettig aangebring te gewees het;
- (c) word elke permit, of dokument wat voorgee om 'n permit te wees, wat sedert 7 Julie 1967 kragtens artikel 4(2) van die Wet op Fisiese Beplanning, 1967, ten opsigte van die verrigting van 'n handeling binne 'n natuurgebied bedoel in paragraaf (a), uitgereik is of uitgereik heet te wees, geag wettig uitgereik te gewees het;
- (d) word elke permit, of dokument wat voorgee om 'n permit te wees, wat sedert 7 Julie 1967 kragtens artikel 8 van die Wet op Fisiese Beplanning, 1967, uitgereik is of uitgereik heet te wees, geag wettig uitgereik te gewees het en word elke wysiging van 'n voorwaarde van so 'n permit geag 'n wettige wysiging te gewees het;
- (e) kan 'n Administrateur, met die instemming van die Minister, ondanks die bepalings van die Wet op Omgewingsbewing, 1989 (Wet No. 73 van 1989), enige voorwaarde, of beskrywing van 'n gebied, in 'n permit in paragraaf (d) bedoel, na goeëddunke wysig om terugwerkend van krag te wees vanaf 'n datum wat hy bepaal.

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Kort titel

4. Hierdie Wet heet die Tweede Wysigingswet op Omgewingsbewing, 1992.

ENVIRONMENT CONSERVATION SECOND AMENDMENT ACT, 1992 Act No. 115, 1992

5 situated within a protected natural environment in respect of which directions have been issued in terms of subsection (2) or amended in terms of subsection (2A), and the successors in title of such owner and the holder of the real right, shall be subject to the provisions of such directions.”.

Amendment of section 44 of Act 73 of 1989

2. Section 44 of the Environment Conservation Act, 1989, is hereby amended by the substitution for subsection (2) of the following subsection:

10 “(2) At the commencement of this Act, land reserved as a nature area in terms of section 4(1)(b) of the Physical Planning Act, 1967 (Act No. 88 of 1967), shall, notwithstanding the provisions of subsection (1), be deemed to be declared a protected natural environment in terms of section 16(1) of this Act [and the provisions of section 4(2) of the Physical Planning Act, 1967, shall continue to apply to such land].”.

15 Validation of reservation of nature areas, alteration of boundaries and issued permits, and amendment of conditions and alteration of areas

3. Notwithstanding the repeal of the Physical Planning Act, 1967 (Act No. 88 of 1967), and notwithstanding the provisions of section 13B of the said Act or the provisions of any other law, but subject to the provisions of section 44(2) of the
20 Environment Conservation Act, 1989 (Act No. 73 of 1989)—

- (a) every area which since 7 July 1967 purports to have been reserved as a nature area under section 4(1)(b) of the Physical Planning Act, 1967, shall be deemed to have been lawfully reserved;
- 25 (b) every alteration of the boundaries of a nature area contemplated by paragraph (a) which purports to have been made since 7 July 1967, shall be deemed to have been lawfully made;
- (c) every permit, or document purporting to be a permit, issued or purporting to have been issued since 7 July 1967 under section 4(2) of the Physical Planning Act, 1967, in respect of the performance of any
30 act within a nature area referred to in paragraph (a), shall be deemed to have been lawfully issued;
- (d) every permit, or document purporting to be a permit, issued or purporting to have been issued since 7 July 1967 under section 8 of the Physical Planning Act, 1967, shall be deemed to have been lawfully
35 issued and every amendment of a condition of such permit shall be deemed to have been a lawful amendment;
- (e) an Administrator may, with the concurrence of the Minister, notwithstanding the provisions of the Environment Conservation Act, 1989 (Act No. 73 of 1989), at his discretion amend any condition, or
40 description of an area, in any permit referred to in paragraph (d), to have retrospective effect as from a date determined by him.

Short title

4. This Act shall be called the Environment Conservation Second Amendment Act, 1992.

