



NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT (ACT 57 OF 2003)

**Portfolio Committee Workshop on the legislation and
policy administered by the Department of Environment,
Forestry and Fisheries (20 August 2020)**



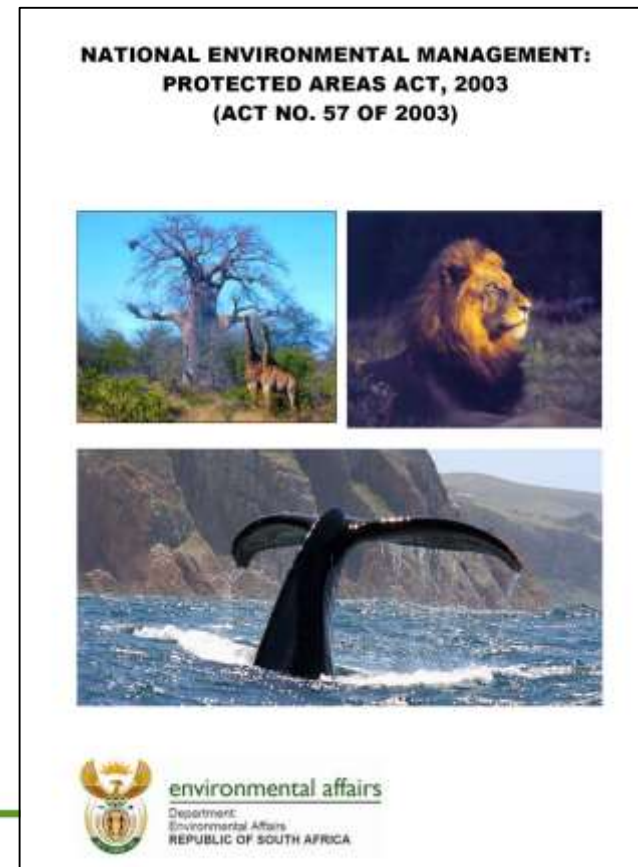
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REPUBLIC OF SOUTH AFRICA



PRESENTATION OUTLINE

- Why and what is a Protected Area?
- Introduction
- Legislative Framework
- Amendments to NEMPAA
- NEMPAA Contents
- NEMPAA Offences
- Regulations

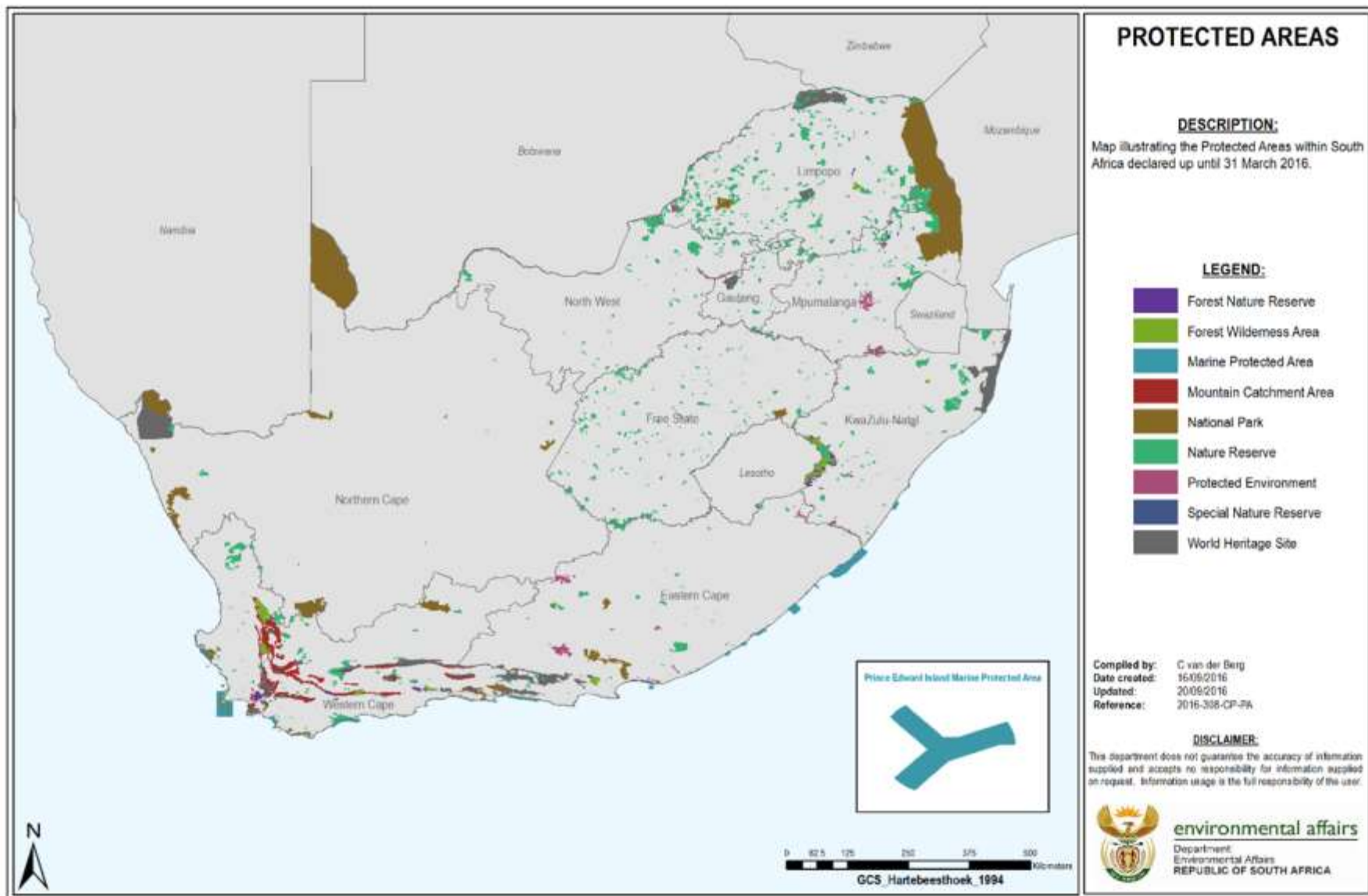


WHY PROTECTED AREAS?

- South Africa is the third most biodiverse country, and also one of the 17 mega-diverse countries in the world.
- Biodiversity provides an important basis for economic growth and social development ~ *recognized National Asset*.
- Thus, the need to keep biodiversity and ecosystem functions intact is important to ensure the ongoing provision of ecosystem services on which socio-economic development is based.

What is a Protected Area?

*A clearly defined geographical area, which **is declared and managed** in terms of the NEMPAA, and includes the kinds of protected areas referred to in terms of section 9 of the Act.*



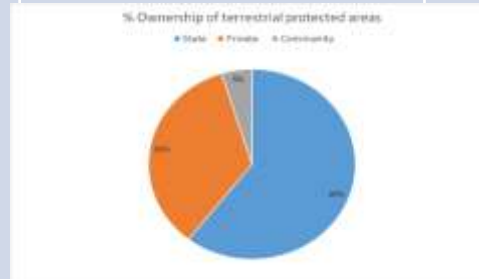
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Protected Areas Real Estate Portfolio

CATEGORY	OWNERSHIP	AREA SIZE (Ha)	% AREA SHARE
<ul style="list-style-type: none"> Special nature reserves, National parks, nature reserves (including wilderness areas) and protected environments, World heritage sites; Specially protected forest areas, forest nature reserves and forest wilderness areas and Mountain catchment areas. 	State Owned (National, Provincial, Communal & Local Authorities)	6.4 Million hectares	65%
<ul style="list-style-type: none"> 22 National Parks, Communal and Privately Owned contractual agreements 	SANPARKS	4 million hectares	57%
<ul style="list-style-type: none"> 483 sites across all the provinces 	PROVINCIAL AUTHORITIES	1.93 million hectares	30%
	Private		35%

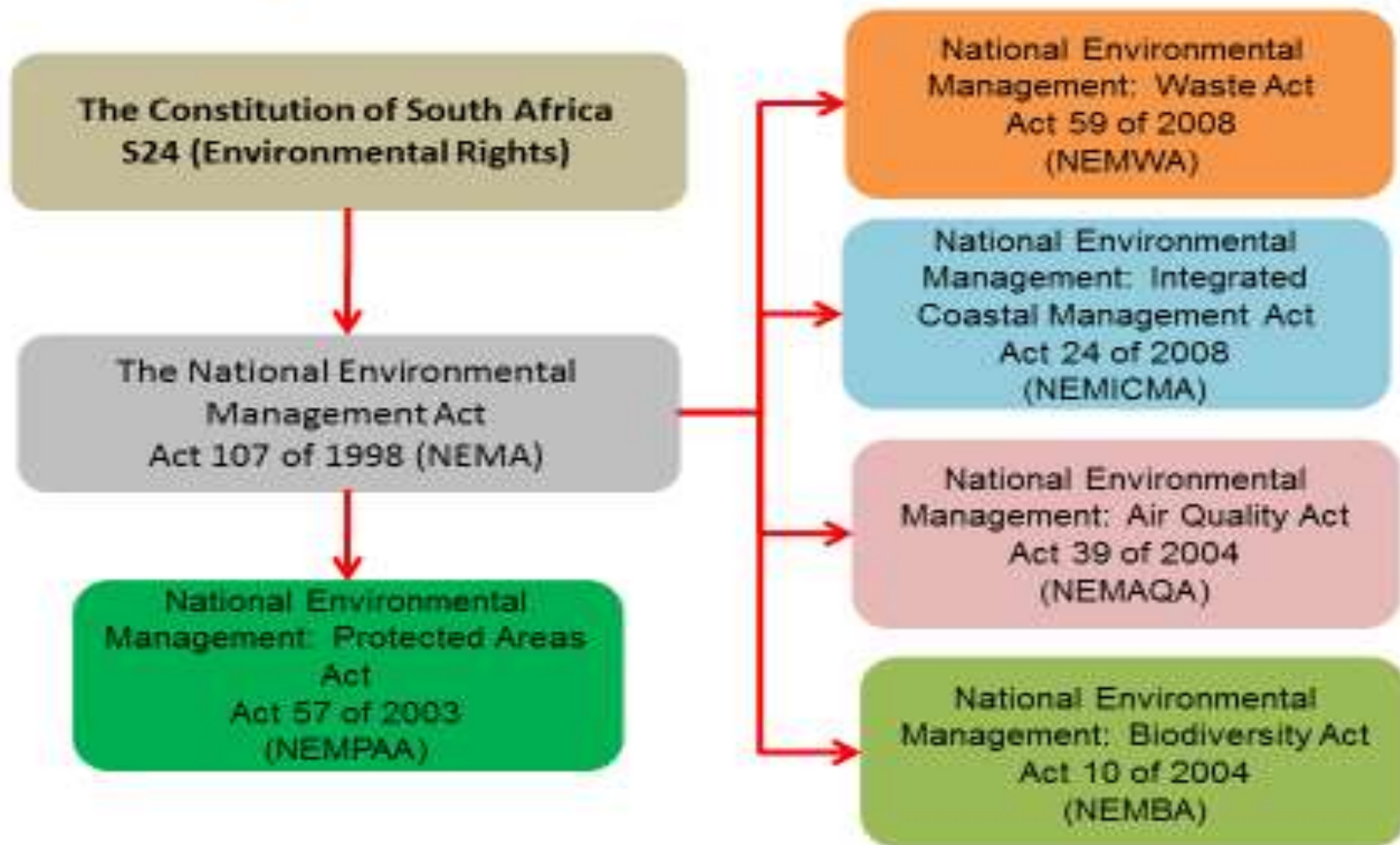


INTRODUCTION

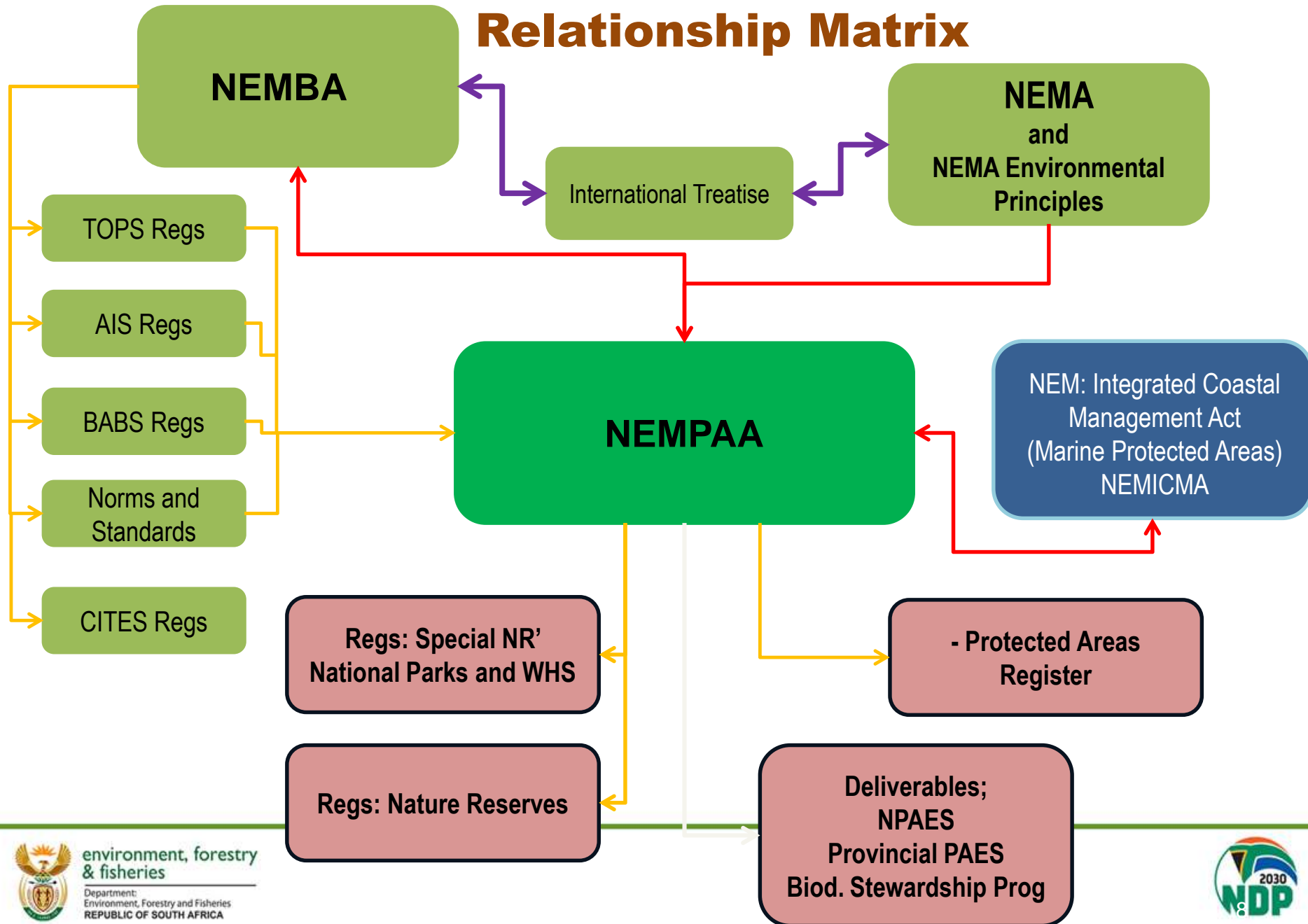
- Prior to the commencement of the Protected Areas Act there was a **fragmentation in laws** that provided for the declaration and management of protected areas. Prescribing different criteria and procedures for the declaration and management of protected areas, and administered by various government departments.
- In order to prescribe a national framework for the declaration and management of protected areas; The NEMPAA was Born. To:
 - *provide for **cooperative governance** with regard to declaration and management of protected areas;*
 - *Effect a national system of protected areas as part of a **strategy to manage Biodiversity***
 - *Promote a **representative network** of protected areas, which are effectively managed*
 - *Promote **sustainable use** of protected areas for the benefit of all (bring about co-existence with other land uses); and*
 - *promote the **participation of local communities.***
 - *Provide for the **continued existence** of SANParks.*



Legislative Framework



Protected Areas Act Relationship Matrix



AMENDMENTS

1. NEMPAA was amended thrice since its inception in 2003:

- Act No 31 of 2004: The National Environment Management: Protected Areas Amendment Act, 2004 (SANParks)
- Act No 15 of 2009: The National Environment Management: Protected Areas Amendment Act, 2009 (General)
- Act No 21 of 2014: The National Environment Management: Protected Areas Amendment Act, 2014 (MPA's)

2. The DEFF, currently in the process of amending the NEMPAA to address some of the challenges experienced during implementation.

NEMPAA

ARRANGEMENT OF SECTIONS

- Chapter 1: Interpretation, Objectives and Application
- Chapter 2: System of Protected Areas
- Chapter 3: Declaration of Protected Areas
- Chapter 4: Management of Protected Areas
- Chapter 5: South African National Parks
- Chapter 6: Acquisition of rights in or to land
- Chapter 7: Administration of the Act
- Chapter 8: Offences and Penalties
- Chapter 9: Miscellaneous

CHAPTER 1

INTERPRETATION, OBJECTIVES AND APPLICATION

- Provides the Act's definitions and objectives.
- Its Application (includes Prince Edwards Islands and Maritime Waters incl. the continental shelf of the Republic).
- Proclaims the State to be the trustee of Protected Areas in South Africa
- Affirms the State's obligation to implement NEMPAA, in partnership with the people of South Africa.
- Declares that NEMPAA must be read, interpreted and applied in conjunction with NEMA and NEMBA.
- Conflicts with other legislation

CHAPTER 2

SYSTEM OF PROTECTED AREAS IN SOUTH AFRICA

- Defines the kinds of protected areas in SA
- Provides for the maintenance of a register, by the Minister- the Register of Protected Areas, *which contains a list of all PAs*

link : https://egis.environment.gov.za/protected_areas_register

- Provides for the Minister to prescribe norms and standards for the achievement of the objectives of the Act.
- Includes a savings clause for PA's, declared or reserved as such before NEMPAA took effect to be PA's in terms of NEMPAA.

Challenge: To ensure these areas (declared in terms of old-order legislation) are in compliance with the requirements of the NEMPAA.

- The application of NEMPAA to other Protected Areas administered in terms of other legislation.

SYSTEM OF PROTECTED AREAS IN SOUTH AFRICA

Kinds of Protected Areas:

1.Special nature reserves, national parks, national reserves and protected environments

2.World Heritage Sites

3.Marine Protected Areas

4.Specially protected forest areas, forest nature reserves and forest wilderness areas- *declared in terms of National Forest Act*

5.Mountain Catchment Areas- *declared in terms of Mountain Catchment Areas Act*

CHAPTER 3

DECLARATION OF PROTECTED AREAS

- Purpose for the declaration of Protected Areas
- Prescribes the processes by which a PA may be declared as well as the processes relating to withdrawal of such declaration

Minister may by notice in the Gazette declare a:


- 1.Special Nature Reserve _ **Section 18**
- 2.National Park _ **Section 20**
- 3.Marine Protected Area _ **Section 22A**

Minister or the MEC may by notice in the Gazette declare a:

- 1.Nature Reserve _ **Section 23**
- 2.Protected Environment _ **Section 28**

CHAPTER 3

DECLARATION OF PROTECTED AREAS

- Prescribes the mechanisms and processes for consultation.
 - The NEMPAA requires for the following to be consulted during the declaration of Protected Areas:
 - All **national organs of state** affected by the declaration (i.e DMRE, DWS etc)
 - MEC of the **Province** concerned (for PAs declared by the Minister)
 - **Local Government** (within which the area concerned is situated)
 - **Land owner/ lawful occupier** of land; and the
 - **Public**
-  *A **Joint Planning Task Team** was also established to foster co-operative governance between the afore-mentioned organs of state to better align their spatial planning priorities and decision-making; and to provide a platform for sharing and co-ordination of information relating to mining, protected areas and other areas of possible overlap.*
- The Registrar of Deeds must be notified of all declarations, withdrawals or alterations.

CHAPTER 4

MANAGEMENT OF PROTECTED AREAS

- Assignment of **Management Authorities** and for termination of such a mandate.
- the Preparation of **Management Plans** (and prescribes what the MP must contain).
- Provides for the **Co-Management** of Protected Area.
- Prescribes the Management Criteria and **Performance Indicators** for monitoring performance with regards to the management of PA.



*The **METT-SA** implemented back in 2009/2010 to assess and evaluate PA management performance across the country against a standardised set of indicators;*

- Chapter 4 also details **restrictions and prohibitions** to mining, restricted access to PA's, flight restrictions, as well as restrictions ITO development, etc.

RESTRICTIONS- CHAPTER 4 CONT...


Access to Special Nature Reserves

Access to, residing in or performing any activity in a Special Nature Reserve not allowed.

 The provision not applying to persons described in S45(2) and those granted exemption in terms of S45(3).

Access to National Park, Nature Reserve and World Heritage Site

Access to and residing in National Park, Nature Reserve and WHS only allowed when there is a written permission from the Management Authority.

 The provision not applying to persons described in S45(2) and those granted exemption in terms of S45(3).

Use of Aircraft in SNR, NP and WHS

Includes the airspace above these sites to a height of 2500 ft above the highest point. No use of aircraft below this space without the prior written permission of the management authority.

RESTRICTIONS- CHAPTER 4 CONT...

➤ No person may conduct commercial **prospecting, mining or related activities** in:

- a special nature reserve (SNR)
- national park (NP)
- world heritage site (WHS)
- marine protected area (MPA)
- Specially protected forest areas, forest nature reserves and forest wilderness areas.



in a protected environment without the written permission of the Minister and the Cabinet member responsible Mineral Resources.

Challenge: To outline the procedure, for an application for mining within a PE.

➤ No person may conduct **restricted activities in a marine protected area** (section 48A of the Act)

RESTRICTIONS- CHAPTER 4 CONT...

Commercial and Community Activities

- The management authority may allow for commercial activities in park or for sustainable use of biological resources. Such activities may not negatively affect the survival of any species or significantly disrupt the integrity of the ecological systems.
- No development, construction or farming may be permitted in a NP, NR or WHS without the prior written approval of the management authority.

Developments and other activities in Protected Environment

- Minister or MEC may restrict or regulate development and activities that may be inappropriate in a PE (by notice in the Gazette).
- ✓ Activities in Protected Areas are regulated or restricted to the extent prescribed by **internal rules** developed by MA in terms of S52.

CHAPTER 5

SOUTH AFRICAN NATIONAL PARKS

- Provides for the continued existence, governance and functions of **South African National Parks**, which was established by section 5 of the National Parks Act, 1976 (Act No. 57 of 1976).
 - Functions of SANParks and the General powers conferred thereto.
*Incl. the power by SANParks to make, set penalties for, and set **traffic rules** in such SNR, NP, PE or WHS*
- Prescribes the composition of the Governing Board, the membership thereof and the appointment of such members
- Prescribes the operating procedures of the Board; including delegations of power.
- Broadly defines the management of matters pertaining to HR and Finances



CHAPTER 6 & 7

LAND ACQUISITION AND REGULATIONS

CHAPTER 6

- prescribes mechanisms for acquiring land and/or the rights to land; including purchase, lease, exchange or, in extreme circumstances, expropriation

CHAPTER 7

- Provides for the promulgation of Regulations by the Minister or the MEC and prescribes the manner in which and the circumstances under which such regulations may be presented

CHAPTER 8 & 9

OFFENCES, PENALTIES AND MISCELLANEOUS

CHAPTER 8

- Details the offences and the penalties relating to specific contraventions of the Act (a person may be fined to an amount not exceeding R5 Million or 5 years for the first conviction and R10 Million or imprisonment of 10 years for subsequent convictions.)

CHAPTER 9

- Reflects those miscellaneous matters not presented in other chapters and includes the matter of interim uninterrupted management arrangements; specifically the organ of state which, prior to the date upon which the Act took effect, was the management authority for a PA remains the MA for that PA until the management is assigned to it or to another MA.

NEMPAA OFFENCES



Unlike many other statutes and regulations, NEMPAA has relatively few regulative components to which offences are attached



NEMPAA OFFENCES

A person is guilty of an offence if that person; if Contravenes or fails to comply with;

- **S45(1)** Access to, residing in or performing any activity in a Special Nature Reserve
- **S46 (1)** Access to and residing in National Park, Nature Reserve and WHS
- **S47(2)** landing or taking off in an aircraft in a SNR, NP and WHS except on or from designated landing field and on prior written permission of the MA.
- **S47(3) and (3A)** flying over or cause an aircraft to flyover at a level less than 2500ft above highest point in a SNR, NP or WHS; except by prior written approval of the MA.
- **S48** prospecting, mining, exploration, production or related activities in Special NR's, NP's and NR's; and in PE without a written permission.

NEMPAA OFFENCES- CONT....

A person is guilty of an offence if that person; if Contravenes or fails to comply with;

- **S48A conducting activities not allowed in MPA.**
- **S50(5)** development, construction or farming in NP's, WHS's and NR's without approval.
- **S51** Contravention of a notice: that restricts or regulates development and activities that may be inappropriate in a PE
- **S55(2)(fA)** not complying to Traffic Rules made by SANParks for PAs.
- **S89(1)(c)** Hinders or interferes with a management authority or a member of staff in the performance of official duties
- **S89(1)(d)** falsely professes to be a member or a staff member of a management authority or the interpreter or assistant to such officer.

REGULATIONS



INTRODUCTION

- in terms of Sections 86 and 87 of NEMPAA, the Minister or MEC (for provincial or local PAs) may make regulations
- Regulations made in terms of S51 of NEMPAA, for each Protected Environment.
- However, will focus on regulations developed in terms of S86 of NEMPAA:
 1. Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites, 2005 - GN 1061 of 28 October 2005.
 2. Regulations for the Proper Administration of Nature Reserves, 2012 - GN 99 of 8 February 2012

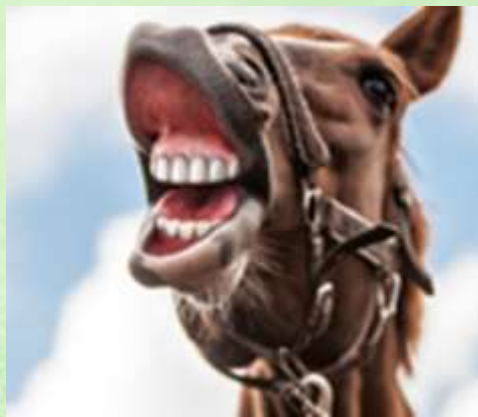
Regulations Restricted Activities	SNR, NP & WHs	NR
Activities which may have an adverse effect on the protected area (Introduction of specimen, disturbing specimens, removing wood, harm animals, damage plants, hunting, etc)	4 45	33
Authorised Activities (SNR, etc) Specified activities (NR) (Conducting tours, filming, research, etc)	20	34
Research and monitoring	34	35
Interference with soil or substrate (Removal of soil, rocks, minerals, wood, fossils, etc)	39	36
Use of biological resources in nature reserves (MA may allow sustainable uses of resources, subject to permits, etc)	5 - 7	16 – 18 37
Bio-prospecting (MA may permit bioprospecting [BABS])	60	38
Buildings and improvements (Must have permission to to construct any building, structure, road, fence, etc)	46	39

Restricted Activities	SNR, NP & WHs	NR
French drains, pit latrines and other sewerage disposal systems (Need MA permission to construct a pit latrine, etc)	47	40
Holiday resort, caravan park, camping or picnic site (Need MA permission to construct a pit latrine, etc)	48	41
Land and airspace (How PA notices must be displayed, matters relating to internal rules, rock climbing, parachuting, flying model aircraft, off road driving)	24 30	42
Water areas (Contain both restrictions and prohibitions) (Swimming, launch and use boats, water skiing, prohibits interference with life saving devices)	25 - 29	28 - 32 43
Removal and dumping in water areas (Dumping, throwing sand and stones into water area, dredging, pumping, removing sand)	42	44
Pets in protected areas	49	45
Firearms and dangerous weapons	44	46
General restrictions (Not only restrictions in NP, does contain a few prohibitions)	43	47

Restricted Activities	SNR, NP & WHs	NR
Entry to and Exit of Protected Area (Payment of prescribed fees, entry at designated places)	8 - 11	20 - 23
Using a vehicle or vessel in a safe manner (May not use vehicle or vessel in unsafe or reckless manner)	12	24
Staying overnight (Need permission to stay overnight in PA)	13	25
Times of entry, exit and travel (May only enter, leave or be in PA during specific times)	14	26
Types of vehicles (MA may restrict entry by specific types, sizes, etc of vehicles)	16	27
Permits for vessels	17	28
Operating rules for vehicles and vessels	18	43
General Restrictions (MA permission required to use loudspeakers, construct marquee or booth, organize public gathering or demonstration, offer shows, conduct business)	22	47



Prohibited Activities	SNR, NP & WHs	NR
Relating to vehicles (Vehicles must conform to specific dimensions, may not stop, park in manner that causes nuisance, obstruct road, drive in area other than designated areas or roads)	15 16	48
Relating to use of water areas (No propellers above water, no painting of vessels, may not obstruct or hinder other water users, skiing at night, may not use boat closer than 50m from swimmers, landing boat other than at designated places)	18, 27	49
Relating to development (Development must conform to PA zonation plan)	19	50
Littering & pollution	40	51
Pollution of water	41	52
General (NP 43 – discussed under “restrictions” – contains both restrictions and prohibitions) NR 53 – unlawfully occupy or inhabit land or building, play radio or device which disturbs other users, behave indecently or disorderly, throw object which may endanger people or animals/plants)	43	53



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Thank You



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