

NATIONAL FORESTS ACT, 1998 LEGISLATIVE TRAINING WORKSHOP



PORTFOLIO COMMITTEE ON ENVIRONMENT FORESTRY AND FISHERIES – AUGUST 2020



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PRESENTATION OUTLINE

- Acronyms
- Introduction
- Primary regulatory mechanisms
- Legislative Framework
- Compliance measures
- Enforcement measures
- Cooperative governance



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ACROYNMS

1. NFA- National Forests Act. 84 of 1998
2. PC- Portfolio Committee
3. NFAC- National Forests Advisory Council
4. SAPS- South African Police Services
5. AOG- Admission of Guilt Fines
6. NEMA-National Environmental Management Act 107 of 1998
7. SEMA-Specific Environmental Management Act



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ACROYNMS.....

8. NPA- National Prosecuting Authority.
9. ECPTA- Eastern Cape Parks and Tourism Agency (ECPTA)
10. SAFCOL- South African Forestry Companies Limited
11. CARA- Conservation of Agricultural Resources Act 43 of 1983
12. COGTA- Cooperative Governance and Traditional Affairs
13. EIA- Environmental Impact Assessment.



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INTRODUCTION

- The National Forests Act (NFA) was promulgated in 1998,
- Since its promulgation it has been amended twice 2001 and 2005.
- Purpose of this Act is to:
 - i. Promote the sustainable management and development of forests for the benefit of all;
 - ii. Provide special measures for the protection of certain forests and trees;
 - iii. Promote the sustainable use of forests; and
 - iv. Promote greater participation in all aspects of forestry.



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PRIMARY REGULATORY MECHANISMS

- The National Forests Act is also well known as the Balancing Act



- The Act Makes provisions for 7 Legal mechanisms for regulating use:

(1) Licenses : Issued in terms of S7,15 and 23;



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PRIMARY REGULATORY MECHANISMS –USE...CONT

(2) Access : S19 allows access in State forest for:



Recreation

Education



Cultural & Spiritual



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PRIMARY REGULATORY MECHANISMS-USECont

(3) Exemption: S7, 15 and 24(6) subject to conditions;



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PRIMARY REGULATORY MECHANISMS –USE...CONT

(4) Servitudes;

(5) Leases: State forest can be leased to companies such as Mondi, Sappi, SAFCOL;

(6) Agreements to sell forest products; and

(7) Community Forestry Agreement in terms of S29



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PRIMARY REGULATORY MECHANISMS - PROTECTION

The Act makes provisions for 5 legal mechanisms for protection:

- (1) Declaration of a State Forest;
- (2) Protected area: (section 8) the protected area may be a:
 - Forest nature reserve; and
 - Forest wilderness area
- (3) Natural Forests: S7, prohibit cutting, damaging, destruction or removal of trees in natural forests without a license or exemption;
- (4) Protection of trees S15 e.g. Marula, Baobab, Yellow wood (list of 47 species declared as protected trees; and
- (5) Controlled Forest Area S17, to stop and to remedy deforestation



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LEGISLATIVE FRAMEWORK

- The Constitution of the Republic of South Africa recognized that everyone has a right to have the environment protected for the benefit of present and future generations;
- Natural forests and woodlands form an important part of the environment and need to be conserved and developed according to the principle of sustainable management;
- Plantation forests play an important role in the economy;
- Plantation forests have an impact on the environment and need to be managed appropriately;



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LEGISLATIVE FRAMEWORK.....CONT...

- The State's role in forestry needs to change; and
- The economic, social and environmental benefits of forests have been distributed unfairly in the past.
- White Paper on Sustainable Development was then developed in order to define the role of Government in dealing with the forest sector, and to address relationships between people and forest resources.
- Following the White Paper on Sustainable Development Parliament enacted the National Forests Act.



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IMPLEMENTATION PROGRESS

- Over the past 22 years progress has increased, the following are some of the milestones:
- Declaration of 16000ha of forest nature reserves and another 500 ha are in progress
- Amendment of the legislation, that really assisted many poor people and vulnerable groups located in rural areas of the country.
- Training and appointment of Forest officers (104) to ensure effective compliance and enforcement of the legislation.



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IMPLEMENTATION PROGRESS

- Establishment of case law e.g. Long beach Home Owners assoc v DAFF, and State v Ntlantsana.
- Approval of Admission of guilt fines at various magisterial districts.
- Training of the prosecutors and magistrates on the provisions of the Act.



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IMPLEMENTATION CHALLENGES

- Resources (capacity in terms of officials (the rate the department is losing officials is higher than the rate of appointment and budget)).
- Lack of dedicated unit to deal with compliance and enforcement
- Lack of prioritisation of environmental crimes
- Inadequate judicial /court process leading to lost cases, dismissed cases, fines instead of imprisonment even for repeating offenders e.g. *Catha edulis*.
- Political pressure to legalise illegal activities



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MEASURES OF COMPLIANCE

Awareness raising:

- Develop promotional materials such as posters at various sizes e.g. A1 and pocket sizes for Protected trees.
- Developed training manuals for the NFA foundation course structured for specific audiences e.g. staff, judiciary, and clients.

Departmental events:

- Arbor Month which is held annually in September to educate communities about planting trees.

Competitions

- Greenest municipality competition where various municipality compete on the total of trees planted annually.



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MEASURES OF ENFORCEMENT

Negotiations

- For minor offences and first time offenders.

Warnings

- Developed a departmental warning form book for insignificant offences.

Admission of Guilt Fines

- Spot fines/ J 534, also developed departmentally guided by approved fines per magisterial district.

Prosecution

- Often the last resort.



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COOPERATIVE GOVERNANCE.

Various entities of government work closely with the department in administering the Act, e.g.

- SAPS, for handling cases
- NPA for prosecution e.g. AOG
- Environmental agencies e.g. Ezemvelo KZN, ECPTA and Cape Nature,
- Department of Public Works and Land affairs as owners of land where forest occur, and where licenses are issued.
- Department of Treasury for guidance in relation to tariffs for products and services in State forests.



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COOPERATIVE GOVERNANCE....

- Department of Water Affairs and Sanitation for permits related to water use licenses.
- Provincial Agriculture for CARA licenses.
- COGTA for traditional leaders in enforcement etc
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- Environment Branch of the Department for EIA related activities.



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Thank You



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