

**ECONOMIC DEVELOPMENT, ENVIRONMENT, AGRICULTURE AND RURAL DEVELOPMENT PORTFOLIO COMMITTEE**

### NEGOTIATING MANDATE

### ON THE:

**NATIONAL FORESTS AMENDMENT BILL**

**[B 11B-2016] (s76)**

**08 October 2020**

1. **INTRODUCTION**

The Chairperson of the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee, Hon. Lindi Lasindwa, tabled the Committee’s report on the Negotiating Mandate on the National Forests Amendment Bill [B11 B-2016] (s76).

1. **PROCESS FOLLOWED**

The Speaker, Hon. Ntombi Mekgwe formally referred the National Forest Amendment Bill [B11B-2016] (s76) on the 2ND December 2018 to the Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development, in terms of GPL Rules 245 (1) read with 246 (1) and 247 and 248 for consideration and reporting.

On the 18th August 2020, the Permanent Delegate from the National Council of Provinces (NCOP), Honourable W Ngwenya gave a briefing to the Committee on the Bill. This was followed by a presentation by the National Department of Environment, Forestry and Fisherieson the detail of the National Forests Amendment Bill [B 11B-2016] (s76). After that, the Gauteng Department of Agriculture and Rural Development (GDARD) made a presentation on the views of the Executive with regard to the National Forests Amendment Bill [B 11B-2016] (s76).

In the same meeting, a legal opinion on the Bill was presented by the NCOP & Legal Services Unit from the Gauteng Provincial Legislature and a socio economic impact analysis was provided by the research unit. In fulfilling its constitutional mandate, the Committee published adverts in the following newspapers;

* Sowetan – Monday, 14th September 2020
* City press - Sunday, 13th September 2020
* Pretoria Moot Rekord – Tuesday, 8th September 2020
* Alberton Record – Wednesday, 16th September 2020
* Roodeport Record – Friday, 18th September 2020
* Sandton Chronicles – 18th September 2020
* Rosebank , Killarney Gazette – week ending 18th September 2020
* Fourways Review – week ending 18th September 2020

This was to enable the Committee to request members of the public and stakeholders to make comments on the Bill. Subsequent to that, the Committee convened a virtual public hearing on Saturday, 19 September 2020 and Tuesday, 22 September 2020 respectively. The Portfolio Committee deliberated and adopted the report on the Negotiating Mandate of the National Forests Amendment Bill [B 11B-2016] (s76) in a meeting that convened on Thursday, 8 October 2020.

1. **PRINCIPLES AND DETAILS OF THE BILL**

To amend the National Forests Act, 1998, so as to provide for clear definitions of natural forests and woodlands; to provide for public trusteeship of the nation’s forestry resources; to increase the promotion and enforcement of sustainable forest management; to increase the measures provided for in the Act to control and remedy deforestation; to provide for appeals against decisions taken under delegated powers and duties; to reinforce offences and penalties; and to provide for matter connected therewith.

1. **OBJECTIVES OF THE BILL**

The objects of the Bill are to—

* Provide clear definitions of terms;
* Increase promotion and enforcement of sustainable forest management;
* Increase in measures to control and remedy deforestation;
* Provide for appeal procedures;
* Promote equity by inclusion of participation into the National Forests Advisory
* Council by vulnerable and previously disadvantaged groups (especially women and youth).
1. **OVERVIEW OF THE PUBLIC HEARINGS**

Public hearings were attended by stakeholders who engaged on all matters related to the Bill . Various sentiments were echoed and the Bill was supported with amendments.

* The stakeholders particularly Traditional Healers were concerned about obtaining licences for the trees that are protected by the Bill and how they get hold of the minister to issue them with permits to use those protected trees .
1. **SUMMARY OF STAKEHOLDERS SUBMISSIONS MADE DURING THE PUBLIC HEARING**
	1. **SUBMISSIONS FROM MAGALIESBURG BIOSPHERE**
* The implementation and enforcement of the Forestry act seems to be very species focused. Each and every EMI we have engaged with at provincial and national level have said similar to the following – “a site inspection will be arranged to see if protected trees are affected, if so to lay a charge with the SAPS”.
* This implies that an entire woodland (barring the protected species) can be chopped down without EMI assistance to lay a charge. This is clearly not sustainable for an ecosystem, and ultimately for the protected species, which needs a healthy ecosystem to thrive.
* There needs to be clarity on whether :
* Transgressions regarding all indigenous trees in formally protected areas (Under the NEMPAA) woodland and natural forest – can be dealt with by EMIs.
* Natural forests or indigenous trees in woodlands outside of formally protected areas can be protected by the intervention of EMIs when transgressions are reported.
* We are currently dealing with a case where felling in an indigenous forest in a protected area was reported at a local police station and the SAPS refused to open a case, stating it was considered a petty crime.
* An EMI may come out for inspection, but if no protected trees are found to be harmed, it seems the EMI will walk away, unable to provide further assistance. This does not bode well for our protected areas and forests/ woodlands, that are being destroyed daily in the Magaliesberg Biosphere.
* We wish to see more clearly defined roles, responsibilities and powers that EMIs have at their disposal in this regard.
* We wish to see EMIs made accountable to divulge the content of notices they issue.
* We wish to see EMIs stationed over a wider regional distribution, so they can be effective and attend to issues more timeously – and follow up on specific issues.

**Published List of protected trees**

* Section 15 -Protection of a specific species without protecting the habitat within which it occurs does not secure habitat for recruitment or sustainability of that species. Clauses that cover the protection of a certain quantity of habitat surrounding protected species may be necessary.
* The forestry act should speak to Primary woodland (in bushveld and grassland biosphere especially in sensitive environments or those identified as threatened ecosystems as determined by NEMBA.
* 17 (13) Emergency declaration of a forest by a minister area needs to be done speedily to avoid irreparable damage. There should be guidelines published on how to initiate this process speedily. This declaration should be extended to woodlands deemed to be threatened ecosystems in terms of the NEMBA.
* The timber industry is regulated, but the informal wood- for –fuel industry is not, despite massive commercial operations and the indiscriminate pillaging on state and private land of indigenous wood.
	1. **TRADITIONAL HEALERS ORGANISATION (THO) SUBMISSION**
* The THO notes with disappointment and resentment the introduction of a bill meant to only promote and reinforce: we propose that the bill to protect, promote, develop and facilitate equitable sharing of economic resources derived from all commercial activity that involve natural forests (communities who reside in areas endowed with natural forests and woodlands must adequately benefit indigenous peoples by allocating certain lands in rural communities for pastoralisation (kudlisa tinkomo, emadlelo). such would encourage and promote rural life and development .

* What at all levels needs to be guarded against is a situation where members, traditional health practitioners, are subjected to a process of continuous application and payments for permits in order to “harvest” plants for medical purposes. When and where does “consumption” start and where does “commercialisation” begin and end.When are pastoral rights of indigenous peoples livestock respected by government. This, it seems, is a matter that must must be addressed, to also protect users and custodians and not be seen as culprits and cash-cows of the state and government. Section 7, of this Natural Forest bill, is designed to protect multi-national, white monopoly capital at the expense of poor, indigenous peoples who have for many years lived off the land with their livestock.

* We need to have a section that will talk about establishing a National Forest and Woodlands fund where monies derived from the commercial activity of multi-national companies will be invested back in to indigenous peoples development however, such a fund must be protected by indigenous communities as well and they must have the right to participate in how the funds must be allocated for indigenous peoples development and sustenance.

* This bill has given more powers to Minister of DEFF to even prescribe on what must be done at provincial and local levels on natural forests and woodlands, this can be dangers for both indigenous peoples and may delay the development and growth of local businesses, designed to exploit these resources for community substance and social impact. We need to find a balance and not invest in only the carrot and stick when creating laws involving natural resources where indigenous peoples reside.

**Sec 2 ( c) Natural Forest – What does “:crown” in this context**

* The THO wants to see a balance between protection, promotion, development and the facilitation of economic activities derived from these natural resources where it is equitably shared with indigenous peoples. We SHOULD not have another Marikana, Skukuza and Rooibos incident where poor negotiations for indigenous peoples beneficiations are led by government and indigenous people are continuously left poor and unemployed yet living adjacent to these natural resources.
* 1(a) We in support of this clause
* **3. Section 7: Prohibitions –**
1. Will create problems for the poor and indigenous peoples if they are not allocated lands for pastoral purposes as they may constantly be arrested for cattles crazing in

“protected” lands.

1. The blind protection of white monopoly capital by the state and government works against indigenous peoples who have for centuries of years been captains of environmental management(since they cannot afford the money needed by the Minister a lot of our poor, women and youth and indigenous peoples will be jailed and made to fend for money to fine instead of money to provide for food.

 **Sec (8)**

* where will indigenous peoples graze their cattle and goats, which of these lands will be allocated for pastoral purposes
* Insert a clause, “pastoral land will be demarcated for pastoral and the harvesting of traditional medicines by the local indigenous peoples and community”.
* Why would a license be issued by a Minister for a land in a provincial and local jurisdiction

Insert “a responsible member of the provincial executive mandated to handle matters of the environment as contained in this bill”

* Now that communities will not be allowed to even fetch firewood and harvest traditional medicines for patients care, will government be able to provide vouchers for a living allowance for all indigenous peoples and communities to procure stoves, pay for electricity and supply for subsidized traditional medicines packages?
* Section 18: With the prevalence of corruption in high offices and led by our politicians, how will the indigenous peoples and communities know if the Minister is protecting these resources for personal gain or in the interest of the public.
* The NEMBA act makes similar promises and the creation of a fund and yet, no one has ever publicly accounted to us as custodians and the country on how much money is derived for the commercialization of natural resources for bioprospecting
* 8 Sec 18 (b) this intervention may happen long after the damage is done
* Sec 23: Agree
* Sec 34: Agree
* Sec 35: Please clarify “except for attending committees “
* Definitions must be clear on what a “council and committee is in this context”
* Sec 35: and 12 Sec 36 : clarify definitions
* Sec 47: contradicts 8 Sec 13, 5 Sec 14: On the control by the Minister if it is in the province and district (Would this include land in the hands and ownership of government).
* S 57 (b) and (c) Insert: Must be a person from the community with competence on the subject
* 57 ( c ) Any vacancy in the office of the appeal committee must be filled by the Minister, we again feel that the minister’s role may be exaggerated at provincial and district levels
* Sec 58 (6) (a) let us emphasize on both a fine and imprisonment to minimize the exploitation of national assets by big multi nationals;
* Sec 58 (6) What is the period laid down and is this fair for custodians of the environment who are indigenous peoples and communities and much light for multi-nationals;
* Sec 62 (1) (a) clarity is sought as to what is to be guilty of.

**The Objects of the Bill**

* They do not encourage the protection of these national forests and also in developing business from the trade thereof with equitable beneficiation succinctly;.
* The bill must encourage communities to cultivate trees in their homesteads and villages to promote sustainable livelihoods and mitigate climate change;
* It speaks about promoting equity and yet does not discuss equitable beneficiation of proceeds derived from the commercialization of these national forests and woodlands and in does not promote the participation of indigenous peoples and communities on to the council?;
* Clause 13: Clarity is sought on this provision as to how many meetings will be held a year, and what is meant by Council meetings from 2 weeks to a month’;

* 1. **ORAL SUBMISSIONS**

On the **19th September** only three oral questions were asked from David Plaatjie in Sedibeng;

* How will the Local parks that are vandalized be reserved, the Department will ensure that the local parks be reserved however, that will be done in consultations with municipalities which have competency on those parks
* The public also needed to know campaigns /programmes available from Gauteng Agriculture Department to cultivate environmental awareness campaigns in schools
* How to recycle/reduce and re-use plant materials in local communities

On the **22nd September**

Cebisa Mabena - Mothong Heritage Project

* Public was also concerned if black professionals that are appointed, considered indigenous knowledge practitioners.
* Financial implications for rehabilitating of forests, how much and does local government assist with maintaining specifically in Magalies Mountain in Mamelodi where there's no Inspectors/protectors and police on the area.
* Why are traditional healers that use this plants for Muti not accommodated when there’s environmental consultations.

**7. POSITION BY THE GAUTENG DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT**

In line with the GPL Rule 248 (1)(b) the Committee sought the views of the relevant Member of the Executive on the Bill. The Gauteng Department of Agriculture and Rural Development supports the National Forests Amendment Bill [B 11B-2016] (s76).

* The GDARD is generally in support of the proposed amendments.
* It will eliminate many of the current interpretation issues.
* Compliance will be easier.
* NFA alignment with the Constitution and other legislation improved.
* Better protection of SA’s natural infrastructure, which is often taken for granted, and unfortunately, all too often, have been destroyed through “development” and replaced with inferior man -made infrastructure.
* Section 24 of the Constitution thus will be served better.
1. **SOCIO-ECONOMIC FINANCIAL IMPLICATIONS**

Communities whose livelihoods depend on forests and related ecosystems which they inhabit will benefit from the conservation of these resources. Prohibiting the destruction of trees in natural forests will ensure that groups that depend on these such as traditional healers, cultural and religious groups, wood cutters, all get benefit from the preservation of trees in these ecosystems. The declaration of a forest area as protected will ensure that forests that would otherwise have been deforested, are rehabilitated so that they become sustainable again (Parliament of the RSA (Part 1), 2020). The insistence on the composition of the National Forests Advisory Council to ensure that it comprises members of vulnerable groups, will ensure the representation of the youth and women in the council. Community forestry was specifically meant to address the participation of the formally disadvantaged groups in the forest value chain.

The continued existence of forests will ensure that forest companies and the work force they employ which is largely drawn from rural communities where these forests are established, will be able to earn income from these. The Bill seeks to provide for public trusteeship in the nation’s forest resources which will ensure a bigger pool of beneficiaries of trusteeship remuneration. Woodcutters that depend on selling firewood for their livelihoods will be able to continue earning some income from the wood drawn from forests.

1. **COMMITTEE’S RECOMMENDATIONS**

 **THE PORTFOLIO COMMITTEE RECOMMENDS AS FOLLOWS-**

* The Department must ensure that these forestry resources, together with the land and related ecosystems which they inhabit, are protected, conserved, developed, regulated, managed, controlled and utilised in a sustainable and equitable manner, for the benefit of all persons and in accordance with the constitutional and developmental mandate of government.
* The Department must ensure that unnecessary deforestation is prohibited
* The Department must also make sure that steps be taken by the Minister in the case of non-compliance with a notice issued by the Minister directing an owner to take steps in order to prevent deforestation and ensure rehabilitation of natural forests and woodlands.
* The Department must also be responsible for the creation of a comprehensive regulatory framework through policies and legislation to improve sustainable forest management in the country.
1. **NEGOTIATING POSITION ADOPTED BY THE COMMITTEE**

The Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development supports the principles of the Bill and details of the National Forests Amendment Bill [B 11B-2016] (s76) subject to the recommendations as stated above being taken into consideration.