



## NEGOTIATING MANDATE

To : Hon Tebogo Modise  
Chairperson - Select Committee on Land Reform,  
Environment, Mineral Resources and Energy

Name of Bill : National Forests Amendment Bill

Number of Bill : B 11 B - 2016

Vote of the Legislature : The North West Provincial Legislature votes in  
favour of the National Forests Amendment Bill  
with proposed amendments

**HON. K.E.B LENKOPANE**

13 October 2020

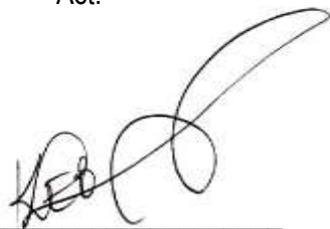
**Date**

Chairperson: Portfolio Committee for Economic Development, Tourism, Agriculture & Rural  
Development

## PROPOSED AMENDMENTS

1. Clause 1: Definitions: the definition of the word “natural forest” is supported as it is more of ecosystem approach, however, there is a strong proposal that guidelines be developed to inform decisions on natural forests as a diagnostic species associated with natural forest could occur in dense woodland. In this instance consideration will then need to be given to which non-diagnostic species occur in association with diagnostic species and their abundance.
2. The current definition of “woodland” pose some challenges that does not address what size area would individuals look at for the 5% cover if the tree covers occurs in clumps? What does the term “area” mean in this context? Could the area between clumps with no tree cover then be considered not to be woodland?  
It is therefore proposed that the definition of “woodland” include the following wording to resolve challenges: - ***that “woodland” to also encompasses any area defined as woodland vegetation type in the official national vegetation classification or a specialist botanical survey or report.***
3. Clause 2, section 2A: Consider delegation the powers to authorise access to the natural forest to Magosi through their formal structure “House of Traditional leaders”. This will enable Magosi to authorise harvesting or collection of natural trees for household use, and for traditional events and the ritual like funeral, koma (initiation school)
4. Section 3 provides that natural forests may not be destroyed save in exceptional circumstances, however there is no clarity on what is meant by “destruction of natural forests”. This creates a compliance and enforcement challenge as developers currently claim that section 3 does not apply to their project as “destruction of natural forests” means destroying more of a forest that what they are aiming to destroy. The term is therefore proposed to be defined as ***“destruction of natural forest” amounts to any action where one or more mature trees in a natural forest is felled or caused to die, and /or undergrowth is removed, for the purpose of change in land use.*** This will require anyone wishing to destroy natural forest for a new land use to apply for a section 7 licence and they would have to prove exceptional circumstances for the granting of the licence.
5. The term “new land use” in section 3 could also be understood as a land use regulated by town planning laws, allowing an argument that section 3 does not apply to some developments because they already have a zoning approval. It is therefore proposed that the term ***“new land use” be defined as “any human activity leading to the use of land which would require the removal of natural forest, which is not restricted to land use requiring land use approval or zoning ”***
6. Clause 4 of the Bill: subsection 8 (3): proposal that the wording “exceptional circumstances” be explained by developing a list of such circumstances.

7. The challenges relating to section 17(2) are not completely rectified by the proposed amendments, as reference is still made to a natural forest or a woodland protected under section 12 (1). This places a severe restriction on which woodlands would qualify for a controlled forest area, as such woodland would first have to be declared a protected woodland under section 12. The Minister should be able to intervene in any instance a woodland being deforested, irrespective of whether it has been declared under section 12(1). It is **therefore proposed that amendment should thus read “a natural forest or woodland which is threatened by deforestation .....**” and the reference to protection under section 12 (1) should be removed.
8. Clause 8 of the Bill: section 17 has a potential significant impact on land use capabilities and existing rights of citizens. It is therefore proposed that the provision should be made for some remedial action where existing land and resource rights of people are affected. **There should be a clear criteria that might lead for when this unilateral declaration can take place, especially the land under the administration tribal authorities as that is where the cultural and spiritual practices are being performed which are occurring mostly in the forest.**
9. Clause 16: section 58: it is proposed that harsher fines should be issued where a commercial forest alien species are not well managed and invasive plants spread from these areas, invading pockets of indigenous forests and grasslands. Commercial forests should not be allowed in highly productive quaternaries in catchments where significant percentages of water in the catchment are generated – these areas should be conserved and indigenous forests declared as a matter of priority.
10. It is further proposed that fines and penalties must have categories, because indigenous trees are a resource for survival for indigent citizens of the country. Previously disadvantaged citizens must receive a lower fine or must out rightly be exempted.
11. The Minister must consider the need to develop regulations for the authorisation of the removal of forest in protected areas and or protected environments. There must be a single process towards the authorization and imposing of penalties since protected forests are not in the protected areas Act.



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