



Committee Service

Our reference:
Ons verwysing:
Tshupo ya ronah:

FREE STATE LEGISLATURE

TOURISM, ENVIRONMENTAL AND ECONOMIC AFFAIRS COMMITTEE

Report on the voting mandate regarding National Environment Management Amendment Bill [B36B-2007]

1. Report on inter-provincial meeting

- a) The Committee received a report on inter provincial negotiating meeting held 23 September 08.

2. Consideration

The Portfolio Committee considered the report of the Selected Committee, and amendments agreed to on the Bill.

3. Resolution

The Committee resolved that:

- (a) Authority be conferred to the Free State Delegation, to vote for the adoption of the Bill as amended by the NCOP.

Mr. P. Matosa
Speaker: Free State Legislature
16 October 2008



ISISHAYAMTHETHO SAKWAZULU-NATAL

KWAZULU-NATAL WETGEWER

KWAZULU-NATAL PROVINCIAL LEGISLATURE

**TO: THE CHAIRPERSON,
SELECT COMMITTEE ON LAND &
ENVIRONMENTAL AFFAIRS**

FINAL MANDATE

PROVINCE : KWAZULU-NATAL
**BILL : NATIONAL ENVIRONMENTAL
MANAGEMENT AMENDMENT BILL
[B36B – 2007]**

PROVINCIAL PROCESS :

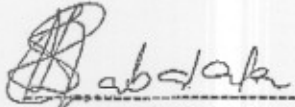
Provincial Portfolio Committee/s : Agriculture & Conservation Portfolio
Committee
Portfolio Committee
meeting date/s : Friday, the 17th of OCTOBER 2008
Provincial NCOP meeting date/s : Friday, the 17th of OCTOBER 2008
Consultation : Parliamentary Legal Advisors, Special &
Permanent Delegates

MANDATE OF THE KWAZULU-NATAL PROVINCIAL LEGISLATURE:

The Provincial Standing Committee on National Council of Provinces Matters met today, Friday, the 17th of OCTOBER 2008, to consider their final mandate on the National Environmental Management Amendment Bill [B36B-2007].

The Committee agreed to give a voting mandate on the Bill once the final version of the Bill which incorporates all the amendments has been received. At this stage the Committee supports the Bill with amendments.

PROVINCIAL ENDORSEMENT



Ms L F Shabalala

**CHAIRPERSON :
KWAZULU-NATAL STANDING COMMITTEE ON
NATIONAL COUNCIL OF PROVINCES MATTERS**

Friday, the 17th October 2008

DATE

OFFICE OF THE SPEAKER



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FINAL MANDATE

NATIONAL ENVIRONMENTAL MANAGEMENT: AMENDMENT BILL [B36B-2007]

The Portfolio Committee on Agriculture and Land Administration; Economic Development and Planning ("the Committee") considered the National Environmental Management Amendment Bill [B36B-2007] ("the Bill"). In its meeting of the 2nd September 2008 the Committee agreed on a negotiating mandate and the mandate was accordingly sent to the province's delegation in the National Council of Provinces ("the NCOP")

As a form of feedback to its negotiating mandate, the Committee received minutes of a meeting held on the 23rd September 2008 by the Select Committee on Land and Environmental Affairs ("The Select Committee"), and has noted the proposed amendments contained therein, as well as the responses to concerns raised by provinces from the National Department of Environmental Affairs and Tourism ("the DEAT").

The Committee met on the 09th October 2008 to consider the minutes of the Select Committee and DEAT's responses. After deliberations, the Committee supported the Bill with the proposed amendments.

The delegation representing the Province of Mpumalanga in the National Council of Provinces (NCOP) is conferred with authority and a mandate to vote in favour of the Bill, with the amendments proposed by the Select Committee.

HON. YN PHOSA
SPEAKER: MPUMALANGA LEGISLATURE

10.10.08
DATE

REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE AND LAND ADMINISTRATION; ECONOMIC DEVELOPMENT AND PLANNING ON THE NATIONAL ENVIRONMENTAL MANAGEMENT AMENDMENT BILL [B36B-2007]

1. Introduction

The National Environmental Management Amendment Bill [B36B-2007] ("the Bill") was referred to the Portfolio Committee on Agriculture and Land Administration; Economic Development and Planning (the Committee) for consideration and with a responsibility to report back its recommendations to the House.

2. Objectives of the bill

The Bill seeks to amend the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("the Act") to refine the integrated environmental management system in order to improve the efficiency and effectiveness of the system. The Bill proposes new enabling provisions that make it possible for environmental management instruments, other than environmental management impact assessment to be introduced. The Bill proposes enabling provisions in order to allow a process conducted in terms of other regulatory system to be used as a basis for the granting of environmental authorisations in terms of the Act. The Bill also proposes that one integrated environmental authorisation may be issued where different Acts regulate the same activity or where multiple authorisations require a similar process.

3. Method of work

The Speaker referred the Bill to the Committee for consideration and report back to the House. The Committee was briefed by Hon VV Windvoël on behalf of Hon A Watson, the permanent delegate representing the Province of Mpumalanga in the National Council of Provinces ("NCOP") on 22 August 2008. The Committee then decided to hold public hearings in the three districts of the Province on 27th August 2008.

Officials from the Provincial Department of Agriculture and Land Administration ("DALA") and the National Department of Environmental Affairs and Tourism ("DEAT") also attended the briefing.

Consequently, the Bill was sent to the following stakeholders:

- Manganese Metal Company (Nelspruit);
- Barberton Mines;
- Environmental Education Centres in Barberton and Pilgrim's Rest;
- Constituency Offices; and
- Municipality Offices.

The Honourable Members and officials from the Department of Agriculture and Land Administration were deployed to the public hearings that were arranged as follows:

DATE	DISTRICT	VENUE	ATTENDANCE
27/08/2008	Ehlanzeni Region	Emjindini Community Hall; Umjindi Municipality	58
27/08/2008	Gert Sibande region	Chrissiesmeer (KwaChibikulu) Public Hall; Msukaligwa Municipality	103
27/08/2008	Nkangala Region	Simon Gondwe Arts and Culture Centre, Delmas Municipality	155

The Committee received and considered written inputs/comments from the following stakeholders, some of whom attended the public hearings:

- Provincial Department of Agriculture and Land Administration;
- NinhamShand Environmental and Engineering Consultants;
- Umjindi Environmental Committee;
- Wildlife and Environment Society of South Africa (WESSA);
- Federation for a Sustainable Environment (FSE);
- Environment Escarpment Protection Group (EEPOG);
- Mpumalanga Lakes District Protection Group (MLDPG);
- Barberton Mines;
- Schoemanskloof Conservancy;
- Alkmaar Land owner's Association; and
- Crocodile River Major Irrigation Board.

The Committee met on the 2nd³ September 2008 to consider the Draft Report on the public hearings and to agree on a negotiating mandate. The negotiating mandate was sent to the NCOP. As a form of feedback, the Committee received minutes of the Select Committee on Land and Environmental Affairs ("the Select Committee") for its meeting held on the 23rd September 2008 as well as the responses of the National Department of Environmental Affairs and Tourism ("DEAT")

The Committee met on the 9th October 2008 to consider the minutes of the Select Committee, the responses to the concerns raised by Mpumalanga Province and to agree on the final mandate for the Bill. During deliberations, the Committee noted the proposed amendments contained in the minutes of the Select Committee.

4. General Comments by the public

The following were the general comments made by those present at each public hearing:

- Umjindi – Those who attended were largely in favour of the Bill but raised concerns about the way in which the public hearing was arranged, not providing much time for public education and consultation.
- KwaChibikulu (Chrissiesmeer) – This hearing was attended mostly by representatives from the nearby Ermelo Crisis Committee and the Wonderfontein Community, who raised issues related to mining activities. Concerns were also raised at this hearing about the lack of public education on the Bill. The majority of those present at this hearing were not in support of the Bill.
- Delmas – The people present at this hearing were very favourable towards the way in which the public hearing was conducted and expressed their support of the Bill. They understood the Bill as explained by the Members of the Committee deployed there.

5. Summary of submissions on the Bill

From the inputs and comments made during the public hearings; and the written submissions, the Committee noted that:

- Provincial Department of Agriculture

They are content with the intention of the Bill but they further raised points of clarification with regards to:

- a) Cross referencing of Definitions that the NEMA, 1998 is inserting some definitions applicable to the Mineral and Petroleum Resource Development Act (MPRDA) 2002.

To this they propose that NEMA should have a broader definition for readability rather than depend on MPRDA, which regulates only mining.

RESPONSE: Not responded to, but the Committee is satisfied that it will not defeat the intention and purpose of the Bill.

- b) Financial Security Pollutions in terms of NEMA, 1998

The department feels that section 24(5)(d) of the Bill falls short of addressing pollution and degradation that had occurred as a result of unforeseen circumstances. They feel that this undermines the principle outlined in section 2 of NEMA, 1998.

They propose that the Bill should provide for a competent authority to require the applicant to set up a Remediation Account for post - operation remediation of contaminated land.

RESPONSE: DEAT was of the view that the submission of the Committee and discussions contained in the Committee report does reveal a problem to be corrected in terms of Section 24C. The proposed insertion is: "24C(2A) The Minister of Minerals and Energy must be identified as the competent authority in terms of subsection (1) where the activity constitutes prospecting, mining, exploration or production area". The proposed insertion will rectify any uncertainties about the division of powers between the Minister of Minerals and Energy

and the Minister of Environmental Affairs and Tourism regarding Environmental Authorisations for mining activities during the initial implementation phase.

c) Section 24G (1)

The Department is of the view that there is no provision made in the Bill for the Minister of Minerals and Energy to implement Section 24(G).

The Committee noted the concern of DALA that the entire issue of environmental legal enforcement could be problematic during the transitional period since only designated Environmental Management Inspectors (EMI's) may enforce NEMA and specific Environmental Management Acts. Hence there will be no EMI's to monitor and enforce legal compliance to environmental mandates for mining during the transition period unless provided for in the amendment bill.

The Department therefore suggests that the DME will have to immediately appoint and/or train staff as EMI's to ensure that the provisions under the Bill are implemented.

RESPONSE: The proposed amendment to Section 24(G)(1) empowers the Minister of Minerals and Energy to implement Section 24(G)(1). This recommendation from the Committee was noted and the Committee was given assurance that the necessary legal framework for such designation will be enabled through the enactment of the Bill.

d) Section 24(5)(a)

During the transition period, the Minister of Minerals and Energy will be responsible for the issuing of environmental authorisations yet he may not in terms of S24(5) make Regulations in this regard or S24(5)(a) make procedures for applying for, and monitoring compliance with regard to these authorisations. It is suggested that the Minister of Minerals and Energy should receive these powers in concurrence with the Minister of Environmental Affairs and Tourism to ensure environmental management powers are not eroded during this transitional period.

RESPONSE: Giving the Minister of Minerals and Energy powers to regulate the process for Environmental Authorisations (EAs) for mining will not help to achieve the goal of a single EIA system regulated by NEMA and the Minister of DEAT. The role of DME is to implement these regulations.

e) Editorials

The DALA proposes the following technical corrections:

-Section 24(9): remove the word "customary", which gives an impression that other applicable categories or forms of international laws are excluded.

RESPONSE: The removal of the word "customary" would result in the principal Act being amended and not the Bill.

Furthermore, the inclusion of "customary" in this section does not restrict the ambit of the application of the Act but only the areas where only the Minister may make regulations.

- Section 24(Q)(b) replace the word [an] for **and** between "...every holder **an** every holder..."

RESPONSE: The correction of this editorial was agreed to and inserted in the Bill.

- Legal Resources Centre (LRC)

The LRC supports the Bill but feels it needs to be corrected, as in its current form it is taking away certain protections which were provisions of the NEMA 1998. Sections 23 and 24 have been eroded. This does not support the constitutional duty of the state to take reasonable measures to prevent pollution and promote sustainable development. Therefore, the most vulnerable sectors of society are likely to be adversely affected.

The other concern is that section 24(4)(b) of the Bill gives the Minister some discretionary powers than the mandatory requirements which was provided for by the current Act.

- Escarpment Empowerment Protection Group (EEPOG)

They feel that members of the public were not given enough time to understand the Bill prior to the public hearings. They argue that the notice for the public hearings was too short to begin with and thus appeal for time extension for a much fairer consultation and publicised series of interaction on the Bill.

- Wildlife and Environment Society of South Africa (WESSA); Umjindi Environmental Committee; WESSA Lowveld, Mr Antony A Ferrar

They support the intention of the Bill but raise concerns particularly on section 24 of the Bill, which they feel needs to be re-looked at.

- Mr CN Rippon, Geologist, Sheba Mine

He feels that nothing has been done correctly in inviting stakeholders to the public hearing at Barberton; he actually thought the meeting was called by DALA. He raises some shortcomings which occurred and thus appeals for another round of public hearings where they could participate, having gone through the Bill.

The following editorial was also noted at the Barberton hearing: the proposed bill does not reflect a clear definition for the terms **'competent authority'** and **'environmental assessment practitioner'**

- NINHAM (NS) SHAND Consulting services; and Mr Koos Pretorius; (Attended the Barberton and Chrissiesmeer hearings respectively). They feel there were shortcomings with the public

hearings on the Bill in that planning was not properly done. Thus they appeal for another time at a more populated central venue to interact on the Bill. There is nothing suggesting that they are opposed to the Bill.

- Barberton Mines (PTY) Limited and others

They do not have major concerns on the Bill as long as it does not invalidate the current EMPR, approved by the Department of Mineral and Energy. They raise a process matter in so far as the preparations for the public hearings were done; that it did not give enough time or was not preceded by workshops with the affected parties so that they could have a meaningful participation. Nothing suggests that they are opposed to the Bill.

5. Committee Observations

Having considered the DEAT responses to the concerns of the provinces on the Bill, as requested by the Select Committee on Land and Environmental Affairs, the Committee is of the view that the concerns of the Mpumalanga Province as raised in this report have been adequately addressed.

The Committee therefore supports the National Environmental Management Amendment Bill [B36B-2007] with amendments as proposed by the Select Committee on Land and Environmental Affairs.

6. Recommendations

During the deliberations on the Bill, the Committee made the following observations and recommendations:

- a. The proposed bill does not reflect a clear definition for the terms '**competent authority**' and '**environmental assessment practitioner**'

Responded to.

- b. Section 24(9)(b): remove the word "**customary**", which gives an impression that other applicable categories or forms of international laws are excluded.
Responded to.
- c. Section 24(Q)(b): replace the word [an] for "**and**" between "every holder **an** every holder"
Responded to. Amendment accepted.
- d. Section 24(5)(a) and (b): the Minister of Minerals and Energy should receive powers in concurrence with the Minister of Environmental Affairs and Tourism to ensure that environmental management powers are not eroded during the transitional period.
Responded to.
- e. Section 24(G)(1): the Department of Minerals and Energy will have to immediately appoint and/or train staff as EMI's to ensure that the provisions under the Bill are implemented.
Responded to.

The Committee examined the Bill [B36B-2007] and supports the Bill with the proposed amendments.

The Chairperson would like to thank the Honourable Members of the Committee and all stakeholders for participating in the process of considering the Bill.

The Committee recommends that the delegation representing the Province of Mpumalanga in the National Council of Provinces (NCOP) be conferred with authority and a mandate to vote in favour of the Bill.



Hon. SW Lubisi
Chairperson: Portfolio Committee on
Agriculture & Land Administration;
Economic Development & Planning

10.10.2008
Date



RECEIVED
2008-10-19

NORTH WEST PROVINCIAL LEGISLATURE

Legislature Building
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2725

FINAL MANDATE

**(Report by the North West Portfolio Committee on Agriculture, Conservation
& Environment on the National Environmental Management Amendment Bill
[B36B-2007])**

16 October 2008

TERMS OF REFERENCE

The above mentioned Bill was referred to the Portfolio Committee for consideration as a matter of priority.

BRIEFING

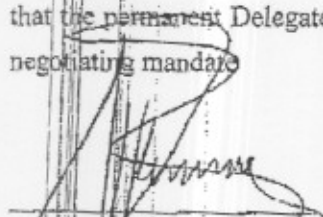
On the 14 of August 2008 Hon. Moutsha, NCOP permanent delegate briefed the members of the Portfolio Committee on Agriculture, Conservation and Environment on the National Environmental Management Amendment Bill (B36B-2007). Present at the briefing session were representatives from the Provincial Department of Agriculture, Conservation and Environment, as well as a legal advisor from the Legislature.

CONSIDERATION

In keeping with the Constitutional Prescripts as contained under section 118(1) of the constitution of the republic, the Portfolio Committee held public hearings at Ganyesa, Traditional hall, on the 18th of August 2008, Lichtenburg, Boikhutso Hall 19 August 2008, Potchetstroom 20 August, and Rustenburg 21 August 2008

RESOLUTION

The portfolio Committee having considered the inputs and views of the public resolved that the permanent Delegates support the Amendments Bill with the inputs made on the negotiating mandate


Hon. T. Mofokeng
Speaker, North West Provincial Legislature



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Date: 2008-09-22

The Chairperson
National Council of Provinces
Hon MJ Mahlangu

FINAL MANDATE FOR THE NATIONAL ENVIRONMENTAL MANAGEMENT AMENDMENT BILL [B36B - 2007]

INTRODUCTION

The Chairperson of the Portfolio Committee on Economic Affairs & Tourism, Hon JT Beukes, tabled the Committee's final mandate on the *National Environmental Management Amendment Bill [B36B - 2007]* as adopted by the Portfolio Committee on 01 September 2008.

PROCESS FOLLOWED

The Speaker of the Northern Cape Provincial Legislature, on receipt, referred the *National Environmental Management Amendment Bill [B36B - 2007]* to the Portfolio Committee on Economic Affairs & Tourism on 05 August 2008.

The Portfolio Committee received a briefing on the Bill on 14 August 2008 from Mr V Beukes from the National Department of Economic Affairs & Tourism.

Public Hearings on the Bill in Hondeklipbaai; Port Nolloth and Kuruman on 22 August 2008.

On 01 September 2008, the Portfolio Committee on Economic Affairs & Tourism deliberated and considered the *National Environmental Laws Amendment Bill [B36B - 2007]*.

PUBLIC INPUTS ON THE BILL

The public supported the bill.

LEGAL TECHNICAL INPUTS ON THE BILL

None

PORTFOLIO COMMITTEE POSITION ON THE BILL

After due deliberation, the Portfolio Committee on Economic Affairs & Tourism supports the Bill with amendments.

PORTFOLIO COMMITTEE POSITION AT THE NEGOTIATING STAGE

The Portfolio Committee on Economic Affairs & Tourism supports the Bill.

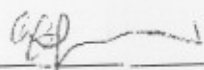
The negotiating mandate was tabled on 01 September 2008 in the House. The Committee recommended to the House to mandate the Permanent Delegates to participate in deliberations at the negotiating stage and to support the Bill, taking note of the concerns raised by the Committee as well as those of the public.

COMMITTEE POSITION AFTER CONSIDERATION OF NEGOTIATING MANDATE BY THE NCOP SELECT COMMITTEE

The Portfolio Committee's Negotiating Mandate indicated that the Northern Cape will support the *National Environmental Management Amendment Bill [B36B - 2007]*.

FINAL VOTING MANDATE

In terms of Section 65 of the Constitution, the Portfolio Committee on Economic Affairs & Tourism recommends that the House confer authority on the Head of its delegation to the NCOP to vote in support of the *National Environmental Management Amendment Bill [B36B - 2007]* with amendments.



HON C SEOPOSENGWE
SPEAKER