

# National Forests Act 84 of 1998 (NFA)

Topic: Environmental, Trees and Forests

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## IN A CALABASH

### Introduction

**Trees are important to our lives. They provide social, economic and environmental benefits and alter the environment by moderating climate, improving air quality, conserving water, and harbouring wildlife.**

**Trees are often destroyed as a result of development, carelessness and people being neglectful about the environment.**

### Objectives of the Act

The National Forests Act (NFA) was brought into operation in order to protect and conserve trees growing in South Africa.

The purpose of the NFA is to preserve trees and forests and to promote the sustainable management and development of forests for the benefit of all South Africans.

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### Application of the Act and its implication to Tourism

The NFA applies to all persons living in or touring South Africa, in particular those who enter a state forest or a protected area or those who have a protected tree or champion tree growing on their premises.

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### Summary of the provisions of the Act

#### Prohibition of destruction of natural forests

The NFA prohibits the destruction of indigenous trees in any natural forest without a license.

It is an offense to cut, disturb, damage or destroy any indigenous tree in a natural forest or possess, collect, remove, transport, export, purchase, sell, donate or in any other

manner acquire or dispose of any tree or any forest product derived from such a tree, except in terms of a license or an exemption published by the Minister in the *Gazette* on the advice of the Council.

### **Protected forest areas**

The NFA gives the Minister the right to declare certain forests as protected forest areas.

In this regard, the Minister may–

- declare a state forest or a part of it;
- purchase or expropriate land and declare it; or
- at the request or with the consent of the registered owner of land outside a state forest, declare it as a protected area in the category of a forest nature reserve, a forest wilderness area or any other type of protected area which is recognised in international law or practice.

The Minister may only declare such an area if he or she is of the opinion that it is not already adequately protected in terms of other legislation.

No person may cut, disturb, damage or destroy any forest produce in, or remove or receive any forest produce from, a protected area, except–

- in terms of the rules made for the proper management of the area;
- in the course of the management of the protected area by the responsible organ of State or person;
- in terms of a right of servitude;
- in terms of the authority of a license;
- in terms of an exemption; or
- with the consent of the registered owner or by reason of another right which allows the person concerned to do so, in the case of a protected area on land outside a state forest.

The decision to declare a protected area may not be revoked, a protected area which is state forest may not be sold and a servitude over a protected area may not be granted without the Minister following the same procedure as that required for declaring the protected area and without the approval by resolution of Parliament.

### **Protection of trees**

The NFA allows the Minister to declare a tree, a group of trees, woodland or a species of trees as protected.

### **Registration against title deeds**

Where the Minister has declared a forest to be a natural forest or a particular tree or group of trees or woodland to be protected, he or she may request the registrar of deeds for the area to make an appropriate note.

### **Emergency procedure for protecting trees**

If the Minister is of the opinion that any tree sought to be protected may be damaged or destroyed before a declaration could come into effect, the Minister may declare any tree

or group of trees to be temporarily protected by publishing a notice in two newspapers circulating in, and airing it on two radio stations broadcasting to, the vicinity, in the case of a particular tree or group of trees or woodland, or the entire country, in the case of a species.

The Minister may act without consulting or hearing any person if the urgency of the situation justifies this.

The prohibition will apply to a tree or group of trees temporarily protected in terms of the Act.

The temporary protection lapses when the Minister does a correct notification and public consultation and decides not to protect the trees, in which event he or she must publish a notice confirming this or when the Minister fails to act within 12 months of the day the emergency notice became effective.

### **Measures to control and remedy deforestation**

If the Minister is of the opinion that urgent steps are required to prevent the deforestation or to rehabilitate a natural forest or woodland which is threatened with deforestation, he or she may declare such a forest as a controlled forest area.

### **Use of state forests**

The NFA sets out and regulates how one can use a state forest. This use ranges from recreational to commercial and community use.

Everyone has a right to have access to state forests for the purpose of recreation, education, culture or spiritual fulfilment. However, this right may be restricted.

For the purposes of regulating the use of a state forest, the owner must prepare a map showing the designated areas and a set of written rules to regulate access, which may provide for payment to the owner of a reasonable fee for the map, the use of facilities and the provision of any services and reasonable restrictions on access. This includes and is not limited to—

- limitations on the number of people allowed in the forest at any one time;
- restrictions on the mode of transport in a forest;
- restrictions to prevent fires;
- provision for closure of forests for specific periods;
- restrictions to prevent harm to any person or property;
- restrictions in a plantation to ensure that its proper management for commercial purposes is not frustrated;
- restrictions in a protected area to ensure that the purposes for which the area was declared are not frustrated; and
- different restrictions for different forest types.

The owner must make the map and rules available to any person exercising the right of access to the forest.

### **Grazing or herding of animals**

Any person, organ of State or organisation may apply to the Minister for a license to graze or herd animals in a state forest.

### **Use of land for cultivation purposes**

Any person, organ of State or organisation may apply to the Minister for a license to clear, plough or cultivate land in a state forest for the growing of crops.

### **Hunting and fishing**

Any person, organ of State or organisation may apply to the Minister for a license to hunt, catch or kill any game, bird, insect, freshwater fish or other animal in a state forest. Such application must describe the purpose for the activity being applied for.

No license will be granted unless the applicant has complied with the requirements of the National Environmental Management: Biodiversity Act (Biodiversity Act) and any other applicable legislation dealing with the protection and preservation of species and habitats.

### **Use of state forest for recreational, educational, cultural or spiritual purposes**

Any person, organ of State or organisation may apply to the Minister for a license to use state forest land for recreational, educational, cultural or spiritual purposes.

### **Licenses for activities in respect of indigenous trees in natural forests or their products**

Any person, organ of State or organisation may apply to the Minister for a license stating the purpose for engaging in the activity in respect of indigenous trees in natural forests or their products applied for and name and quantity of the trees.

### **Licenses for activities in respect of protected trees or forest products derived from protected trees**

Any person, organ of State or organisation may apply to the Minister for a license, which application must state the purpose for engaging in the activity in respect of protected trees or forest products derived from protected trees applied for and the name and quantity of the trees.

### **Protection of forests, trees or group of trees**

Any person, organ of State or organisation may apply to the Minister to protect a forest, tree or group of trees.

An application to protect a forest, tree or group of trees must–



- identify the forest or trees to be protected;
- identify the land or area where the forest or trees to be protected occur;
- attach a map showing the location; and
- provide the reasons for applying for protection.

### **Setting aside of protected areas on private land**

A registered owner of land outside a state forest may request or give consent to the Minister to declare such land or any part of it as a protected area.

The application to declare land or any part of it as a protected area must–



- clearly identify the area;
- set out in detail the nature of the fauna and flora in the area;
- fully set out the reasons why the protection is needed;
- identify the nature of any rights that other persons have over the land;
- be accompanied by a map of the area;
- state who will benefit from the protection and in what way; and
- contain any further relevant information.

The owner may request financial or other assistance for the management of the protected area. Such request must detail the following:

- state the nature, extent and duration of the assistance;
- set out how the assistance will be utilised;
- fully explain how the assistance will benefit the area, the public or the environment; and
- give all other relevant information.

The consent by the owner must be in writing and may include suggestions on the proper management of the area.



### **WHAT HAPPENS IF YOU DO NOT COMPLY?**

There are a number of offences under the NFA which give rise to different fines and penalties.

Any person who fails to protect and observe the regulations pertaining to trees or biodiversity in natural forests will be guilty of an offence.

Penalties will vary depending on the severity of the offence.



### RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT

- Prohibition of destruction of natural forests;
- No one may destroy or damage indigenous trees in any natural forest without a license;
- No removal or cutting of protected trees without a license or exemption;
- Anyone entering a state forest must pay to the owner a reasonable fee for the map, the use of facilities and the provision of any services and comply with any reasonable restrictions on access;
- No grazing or herding of animals in state forest without a license or exemption;
- No person may clear, plough or cultivate land in a state forest for the growing of crops without a license or exemption;
- No person may hunt, catch or kill any game, bird, insect, freshwater fish or other animal in a state forest without a license or exemption; and
- No person may use state forest land for recreational, educational, cultural or spiritual purposes without a license or exemption.

### FURTHER INFORMATION

**Regulator**

Department of Agriculture, Forestry and Fisheries

**Website**

[www.daff.gov.za](http://www.daff.gov.za)