

BRIEFING OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, FORESTRY AND FISHERIES ON THE NATIONAL VELD AND FOREST FIRE AMENDMENT BILL

21 FEBRUARY 2017



**agriculture,
forestry & fisheries**

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

PRESENTATION OUTLINE

- 1. Introduction**
- 2. Problem Statement**
- 3. Objectives of the Bill**
- 4. Alignment of the Bill with Strategic Priorities of Government**
- 5. Proposed Amendments**
- 6. Departments / Stakeholders Consulted**
- 7. Concluding Remarks**



INTRODUCTION

- The purpose of the presentation is to brief the Portfolio Committee on the National Veld and Forest Fire Amendment Bill.
- The Principal Act was promulgated in 1998 and amended twice; in 2001 and 2005.
- The National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) aims to:
 - ✓ Prevent and combat veld, forest and mountain fires throughout the Republic.
 - ✓ Provides for prevention and mitigation of veldfire risk through the establishment of variety of institutions, methods and practices, in line with the provision of Section 20 of Disaster Management Act 57, of 2002.



PROBLEM STATEMENT

- Lack of provisions for appeal processes in the Act.
- Inadequate cooperative governance arrangements.
- Challenges in the interpretation and non-comprehensiveness of some terms in the Act.
- Non-alignment of certain provisions of the Act with the Constitution of the Republic



OBJECTIVES OF THE BILL

- The objectives of the Bill are to:
 - ✓ Amend and insert certain definitions;
 - ✓ Provide for facilitation of the formation of Fire Protection Associations by municipalities and traditional council;
 - ✓ Compel municipalities and other state organs that own / manage land to join Fire Protection Associations; and
 - ✓ Amend the title of the Act to National Veldfire Act.



HOW THE NVFFA BILL WILL ADDRESS STRATEGIC PRIORITIES OF GOVERNMENT

The DAFF acknowledges the following strategic priorities of government:

- Transformation;
- Job opportunities; and
- Food security.

TRANSFORMATION

- Through provision of appeal against decision taken under delegated powers and duties.
- Establishment of Fire Protection Associations promote inclusion of women and youth in decision making .



HOW THE NFA BILL WILL ADDRESS STRATEGIC PRIORITIES OF GOVERNMENT CONT....

JOB CREATION

- Facilitation of formation of Fire Protection Association gives rise to job creation as provided in terms of Chapter 2.
- Job opportunities to the Expanded Public Works Programme (EPWP) through the Working on Fire Programme.

FOOD SECURITY

- Prevention and mitigation of risk contribute to food security through increased compliance and enforcement.



PROPOSED AMENDMENTS

Section to be amended	Gaps/ challenges that will be addressed through the amendments	Amendments that will be made	What it will read like when amended	The benefit of the amendment
<p>Section 2(1)(xii) Definition of municipality</p>	<p>The Principal Act use Municipality as defined in terms of Local Government Transition Act, 1993 (Act No. 209 of 1993).</p>	<p><i>Section 2(1)(xii)</i> <i>“Municipality” means:</i> <i>Municipality at local level,</i> <i>At metropolitan or district level,</i> <i>As defined in Sec. 2 of the Local Government Municipal Systems Act No. 32 of 2000.</i></p>	<p>“Municipality” means: Municipality at local level, At metropolitan or district level, as defined in Sec. 2 of the Local Government Municipal Systems Act No. 32 of 2000.</p>	<p>To align the Act with other relevant legislation, in particular the Local Government Municipal Systems Act, 2000</p>



PROPOSED AMENDMENTS

Section to be amended	Gaps/ challenges that will be addressed through the amendments	Amendments that will be made	What it will read like when amended	The benefit of the amendment
Section 2(1)(?)- insertion of a new term	Define 'open air fire' (not defined in the principal Act).	<u>Section 2(1)(?)- Open air fire means any fire not within a building or structure, but does not include a fire in an area specifically designed and maintained for that purpose.</u>	Section 2(b) – Open air fire means any fire not within a building or structure, but does not include a fire in an area specifically designed and maintained for that purpose.	To clearly define the different terms in the Act for better enforcement and alignment to the other relevant legislation
Section 2(1)(?)- insertion of a new term	Define 'Public entity' (not defined in the principal Act).	<u>Section 2(1)(?)- Public entity means a public entity as defined in Section 1 of Public Finance Management Act 1999, Act no. 1 of 1999</u>	Section 2(c) – “Public Entity council” means a public entity as defined in Section 1 of Public Finance Management Act 1999, Act no. 1 of 1999	
Section 2(1)(?)- insertion of a new term	Define 'Traditional Council' (not defined in the principal Act)	<u>Section 2(1)(?)- “traditional council” means a tradition council as defined in Section 1 of the Traditional Leadership and Government Framework Act</u>	Section 2(e) – “traditional council” means a tradition council as defined in Section 1 of the Traditional Leadership and Government Framework Act	



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Section to be amended	Gaps/ challenges that will be addressed through the amendments	Amendments that will be made	What it will read like when amended	The benefit of the amendment
Section 2(1)(?)- insertion of a new term	Traditional Leadership and Framework Act	<u>Section 2(1)(?)- “Traditional Leadership and Framework Act” means the Traditional Leadership and Government Framework Act 2003, Act no. 41 of 2003.</u>	Section 2(1)(?)- “Traditional Leadership and Framework Act” means the Traditional Leadership and Government Framework Act 2003, Act no. 41 of 2003.	To clearly define the different terms in the Act for better enforcement and alignment to the other relevant legislation
Section 2(1)(xviii)- the Act or this Act	Definition of the Act or this Act	<u>Section 2(1)(?)- the Act or this Act means the National Veldfire Act 1998, Act no. 101 of 1998,</u>	Section 2(1)(?)- the Act or this Act means the National Veldfire Act 1998, Act no. 101 of 1998	To define the Act as affected by the amendment of the short title
Section 2(1)(xix) veldfire	Definition of veldfire (in the principal Act was too narrow and did not cover all vegetation)	<u>Section 2(1)(?)- “Veldfire” means “any vegetation fire on rural land”.</u>	Section 2(1)(?)- “Veldfire” means “any vegetation fire on rural land	To clearly define the veldfire to be inclusive of all types of vegetation (including cultivated lands and other biomes)



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Section 3- insertion of (d) in sub-section 3(3)	Formation of Fire Protection Associations (Principal Act did not make provision for municipalities and traditional councils to facilitate the formation of FPAs in the area under their jurisdiction)	<p><u>Section 3(3)(d) Provided that the municipality concerned, and the Traditional Council as defined in Sec. 3 of the Traditional Leadership and Governance Framework Act, 2003, concerned, if any, may facilitate the process contemplated in this Sec.”.</u></p>	<p>Sub(3) If no fire protection association has been registered within one year after the Act comes into effect in an area where the Minister is of the opinion that a fire protection association should be formed, he or she must convene a meeting of owners in the area to-</p> <ul style="list-style-type: none"> (a) Explain the provision of this Chapter; (b) See if there is support for the forming of fire protection association; (c) Identify what assistance the Department can provide in the formation, registration and management of fire protection associations, if there is such a support; and <p>“(3A) The municipality concerned, and in a communal land, a traditional council established in that area in terms of Section 3 of the Traditional Leadership and Governance Framework Act , if any, may facilitate the fire protection association process as contemplated in subsection (3)(a)(b)(c), if the Minister is still of the opinion that a fire protection association is required.”</p>	To provide effect to the roles and responsibilities of municipalities and Traditional Council.



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Section 4(8) registration of fire protection associations	Public entities, State owned enterprises and organs of State were not complying with the current provision	Section 4(8) The owner in respect of the State land, <u>State owned enterprise, Public entity or an organ of State</u> must <u>within a year after the commencement of the National Veld and Forest Fire Amendment Act, 2015</u> join a <u>registered fire protection association</u> in the area in which the land <u>is situated</u> .	Section 4(8) The owner in respect of the State land, State owned enterprise, Public entity or an organ of State must within a year after the commencement of the National Veld and Forest Fire Amendment Act, 2015 join a registered fire protection association in the area in which the land is situated.	To strengthen compliance and enforcement measures



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Section to be amended	Gaps/ challenges that will be addressed through the amendments	Amendments that will be made	What it will read like when amended	The benefit of the amendment
Section 10(2) insertion of sub-sections (a),(b) and (c)	The principal act did not provide for exemption to allow for use of fire as management tool during high to extreme veldfire danger rating conditions.	When the Minister has published a warning in terms of sub (1)(b), no person may light, use or maintain a fire in the open air in the region where the fire danger is high or extreme <u>unless the Minister, on good cause shown, exempts in writing, a landowner or a group of landowners from the said warning, subject to any conditions that the Minister may impose. (b) The Minister must, before granting any exemption, consult the fire protection association of the area, if any, and the Chief Fire Officer.</u>	Section 10 “(2)(a) – When the Minister has published a warning in terms of sub (1)(b), no person may light, use or maintain a fire in the open air in the region where the fire danger is high or extreme unless the Minister, on good cause shown, exempts in writing, a landowner or a group of landowners from the said warning, subject to any conditions that the Minister may impose. (b) The Minister must, before granting any exemption, consult the fire protection association of the area, if any, and the Chief Fire Officer.”	Landowners, including farmers and conservation agencies, to use fire as a management tool.



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Section to be amended	Gaps/ challenges that will be addressed through the amendments	Amendments that will be made	What it will read like when amended	The benefit of the amendment
Sec.11(a) Delegation of powers	The principal Act refers to: (1) the South African Weather Bureau (former title of the current service) ; and (2) is too specific in terms naming the responsible Department.	Sec.11 – The Minister may delegate any of his or her powers or duties in terms of this Chapter 3 to: (a) the South African Weather Services if the Director-General of that relevant Department agrees.	Sec.11 – The Minister may delegate any of his or her powers or duties in terms of this Chapter 3 to: (a) the South African Weather Service, established in terms of the South African Weather Service Act, 2001 (Act No. 8 of 2001) , if the Director-General of the Department responsible for the administration Act agrees.	(1) Correct reference or title of SAWS is used; and (2) DAFF does not have to amend the Act should the functional responsibility of the SAWS move to an alternative Department or the current Department changes name.



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Section to be amended	Gaps/ challenges that will be addressed through the amendments	Amendments that will be made	What it will read like when amended	The benefit of the amendment
Sec26. Imp lementation of this Chapter	The Principal Act did not provide for Traditional Leaders to enforce the Act.	<p>Sec26(1) A fire protection officer has the power to enforce the Act in terms of section 6(6)</p> <p>2) (a) A forest officer, a police officer, <u>a peace officer , a traditional leader as defined in Section 1 of the Traditional Leadership and Governance Framework Act</u> and an officer appointed in terms of section 5 or 6 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987), have the power to enforce the Act, <u>provided they have been trained to be competent by an accredited institution to exercise powers to enter, search, arrest and cease without a warrant.</u></p> <p>(b) A reference to a fire protection officer in section 27, 28 and 29 includes the officers <u>and the traditional leader</u> referred to in paragraph (a).</p> <p>(3) A fire protection officer <u>and any officer or traditional leader contemplated in subsection (2)(a)</u>, exercising powers under this Act must carry with him or her, and produce on request, the prescribed proof of his or her identity</p>	<p>Sec26(1) A fire protection officer has the power to enforce the Act in terms of section 6(6)</p> <p>2) (a) A forest officer, a police officer, a peace officer , a traditional leader as defined in Section 1 of the Traditional Leadership and Governance Framework Act and an officer appointed in terms of section 5 or 6 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987), have the power to enforce the Act, provided they have been trained to be competent by an accredited institution to exercise powers to enter, search, arrest and cease without a warrant.</p> <p>(b) A reference to a fire protection officer in section 27, 28 and 29 includes the officers and the traditional leader referred to in paragraph (a).</p> <p>(3) A fire protection officer and any officer or traditional leader contemplated in subsection (2)(a), exercising powers under this Act must carry with him or her, and produce on request, the prescribed proof of his or her identity</p>	To provide reinforcement of offences and penalties



PROPOSED AMENDMENTS

Section to be amended	Gaps/ challenges that will be addressed through the amendments	Amendments that will be made	What it will read like when amended	The benefit of the amendment
Sec. 32A inserted	The principal Act did not provide for appeal	Section 32A-Insertion of this section	The section takes normal appeals procedure	To comply with the constitution
Section 37- short title	Amendment of the short title of the Act: the National Veld and Forest Fire Act.	The Act shall be called the <u>National Veldfire Act</u> .	National Veldfire Act 1998, Act no 101 of 1998.	To effect the amendment of the term veldfire



DEPARTMENTS / STAKEHOLDERS CONSULTED

Consultations have been conducted with stakeholders that include amongst others:

- ✓ Eskom
- ✓ Government Departments
- ✓ SANRAL
- ✓ Forestry Industry – Forestry South Africa (FSA); Lessees (MTO Pty Ltd, Siyaqhubeka, Amathole Forestry Company and Singisi Forest Products)
- ✓ Tourism and Parks Boards / Conservation Agencies e.g. South African National Parks, South African Biodiversity Institute (SANBI)



DEPARTMENTS / STAKEHOLDERS CONSULTED CONT...

- ✓ Government Departments
- ✓ SANRAL
- ✓ Forestry Industry – Forestry South Africa (FSA); Lessees (MTO Pty Ltd, Siyaqhubeka, Amathole Forestry Company and Singisi Forest Products)
- ✓ Tourism and Parks Boards / Conservation Agencies e.g. South African National Parks, South African Biodiversity Institute (SANBI)



CONCLUDING REMARKS

- The Amendment Bill during its review has been aligned to the Constitution and other relevant legislation to ensure effective enforcement.
- It further enforces that the State must actively participate in the different aspects of Integrated Fire Management
- Department has set aside resources for the enforcement of the Bill and will rely on collaboration with other government institutions for enforcement.
- It is requested that the Portfolio Committee consider endorsing the Amendment Bill for further processing.



THANK YOU



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