



**AGRICULTURE, CONSERVATION, ENVIRONMENT AND LAND AFFAIRS  
PORTFOLIO COMMITTEE**

**NEGOTIATING MANDATE**

**ON**

**NATIONAL ENVIRONMENTAL MANAGEMENT AMENDMENT BILL [B29 -2003]  
SECTION 76**

18 August 2003

**1. INTRODUCTION**

The Chairperson of the Portfolio Committee on Agriculture, Conservation, Environmental and Land Affairs, Mr P I Malefane, tabled a report on the Committee's negotiating mandate on the National Environmental Management Amendment Bill [B29 - 2003], as follows:

**2. PROCESS FOLLOWED BY THE COMMITTEE**

The National Environmental Management Amendment Bill [B29 – 2003] was formally referred by the Speaker to the Agriculture, Conservation, Environment and Land Affairs Committee on Thursday, 31 July 2003.

The Agriculture, Conservation, Environment and Land Affairs Portfolio Committee held public hearings on issues arising from the Bill on Tuesday, 12 August 2003.

The committee deliberated and considered the principle of the National Environmental Management Amendment Bill 2003, a Section 76 Bill. Dr E.A. Conroy briefed the committee on the summary and analysis of the National

Environmental Management Amendment Bill at a committee meeting held on Monday, 11 August 2003.

**3. VIEWS OF THE MEC FOR AGRICULTURE, CONSERVATION, ENVIRONMENT AND LAND AFFAIRS**

On Monday, 11 August 2003 the committee received presentations on the Bill from the MEC and Chief Director, Ms J Yawitch from the Department of Agriculture, Conservation, Environment and Land Affairs (DACEL). Ms J Beaumont from the Department of Environmental Affairs and Tourism also gave a presentation on the Bill.

**4. OBJECTIVE OF THE BILL**

The National Environmental Management Bill seeks to:

- Provide for the delegation of powers by the Minister, Director-General and the MEC's for environmental affairs;
- To provide for the designation of environmental management inspectors by the Minister or the MEC; and,
- To provide for matters of compliance and enforcement.

**5. ISSUES RAISED DURING PUBLIC HEARING**

- 5.1 The first concern raised by DACEL in the early stages of drafting of the Bill is around the violation of the directive in terms of Section 28 of the Bill. The violation does not constitute a criminal offence. It therefore remains a key issue that the Bill does not address.
- 5.2 The second concern raised by DACEL on the Bill was that it is heavily biased towards dealing with enforcement aspects and there is virtually nothing in it that would facilitate the establishment of a proactive compliance regime that would possibly have the effect of minimising enforcement problems.
- 5.3 The implementation of the Bill has significant personnel and financial implications. It should be noted that the implementation of the Bill implies the establishment of new working hours, building of capacity and skills in relation to environmental enforcement. The Province accepts that this must happen, however, there needs to be a realistic assessment of financial implications and the Province would only be able to accept the new functions allocated to it if these are funded through an intergovernmental transfer.

**6. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE**

The committee supports the principle and propose a review of the aspects listed on item 5 regarding of the National Environmental Management Amendment Bill [B29-2003].



---

**P Malefane**  
**CHAIRPERSON: Agriculture, Conservation, Environment and Land Affairs**  
**Portfolio Committee**



**AGRICULTURE, CONSERVATION, ENVIRONMENT AND LAND AFFAIRS  
PORTFOLIO COMMITTEE**

**NEGOTIATING MANDATE**

**ON**

**NATIONAL ENVIRONMENTAL MANAGEMENT AMENDMENT BILL:  
BIODIVERSITY [B30 -2003] SECTION 76**

18 August 2003

**1. INTRODUCTION**

The Chairperson of the Portfolio Committee on Agriculture, Conservation, Environmental and Land Affairs, Mr P Malefane, tabled a report on the Committee's negotiating mandate on the National Environmental Management Bill: Biodiversity [B30 - 2003], as follows:

**2. PROCESS FOLLOWED BY THE COMMITTEE**

The National Environmental Management Bill: Biodiversity [B30 – 2003] was formally referred by the Speaker to the Agriculture, Conservation, Environment and Land Affairs Committee on Thursday, 31 July 2003.

The Agriculture, Conservation, Environment and Land Affairs Portfolio Committee held public hearings on issues arising from the Bill on Tuesday, 12 August 2003.

The committee deliberated and considered the principle of the National Environmental Management Bill: Biodiversity, a Section 76 Bill. Dr E A Conroy briefed the committee on the summary and analysis of the National Environmental Management Bill: Biodiversity at a committee meeting held on Monday, 11 August 2003.

### 3. VIEWS OF THE MEC FOR AGRICULTURE, CONSERVATION, ENVIRONMENT AND LAND AFFAIRS COMMITTEE

The committee received presentations from Chief Director, Ms J Yawitch from the Department of Agriculture, Conservation, Environment and Land Affairs and Dr G Willemse from the Department of Environmental Affairs and Tourism on the Bill on 11 August 2003.

### 4. OBJECTIVE OF THE BILL

The objectives of the Bill are:-

- (a) Within the framework of the National Environmental Management Act, 1998 to provide for-
  1. the management and conservation of biological diversity within the republic and of the components of such biological diversity;
  2. the use of indigenous biological resources in sustainable manner; and
  3. the fair and equitable sharing of benefits arising from bio-prospecting of genetic material derived from indigenous biological resources;
- (b) To give effect to ratified international agreements relating to biodiversity, which are binding on the Republic;
- (c) To provide for co-operative governance in biodiversity management and conservation; and
- (d) To provide for a South African National Biodiversity Institute to assist in achieving the objectives of the Act.

### 5. ISSUES RAISED DURING PUBLIC HEARINGS

- **Composition of Scientific Authority (Clause 59 (1))**

The Scientific Authority has a key role to play in the management of the wildlife trade. It is an institution that is required for compliance with CITES. The Bill is silent on the composition of the Scientific Authority. It is the Province's view that each Provincial Nature Conservation Authority should be recognised as a Scientific Authority. It is furthermore the Province's view that the Bill should define the composition of the National Scientific Authority and that each province that is identified as an issuing authority (Management Authority) to issue the permits specified in the Bill, should be represented on the Scientific Authority.

This would facilitate coherence in the implementation of the legislation and administrative efficiency, as well as ensuring that the scientific capacity based in the Provinces and that is used to assist in decision making around permits, is integrated into the envisaged national system being established.

It is further the Province's view that the definition of "issuing authority" should be amended to reflect that the "issuing authority" is recognised as a "Management Authority" as set out and in order to be consistent with the requirements of CITES where the permit authority is defined as a "Management Authority" and not an "issuing authority".

- **Composition of SANBI Board**

The role and mandate of SANBI is much wider than the current NBI. Many of the functions assigned to it in the Bill will impact on provinces and it would facilitate national integration and coordination to have provincial representative on the Board, particularly in view of the fact that Nature Conservation is a concurrent function.

- **Omissions of key elements of wildlife management from the Bill**

Clause 55 of the Bill provides for the listing of species that are threatened or in need of national protection and clause 56 requires that permits be issued prior to carrying out a "restricted activity" in relation to a threatened or protected species. These clauses establish the basis of the permitting system set out in Chapter 7. However, there are a host of activities related to the wildlife trade, including regulation of professional hunting, registering exemption farms, and regulation of non-threatened indigenous species that may not be covered by the Bill as it is presently. The effect this has will be that the issues dealt with in provincial ordinances will not be addressed in the national legislation and that provincial legislation will therefore remain necessary. The implication of this is that the present fragmented regulatory framework in regard to wildlife may remain and a key reason for the introduction of national legislation may not be achieved.

- **Appeals against Permitting Decisions**

Part 2 of Chapter 7 establishes an appeal process around permitting decisions. Clause 91 provides that all appeals must be directed to the Minister who then decides how it is to be managed. The Gauteng Province, feels strongly that the first line of appeal should be to the political head of the authority that issued the permit. This will streamline the process and ensure that only appeals that cannot be resolved at that level are taken to the Minister.

- **Functions allocated to municipalities in term of the Bill**

The Bill provides that municipalities may be identified as competent authorities for the purposes of Chapter 5 of the Bill and may also be identified as issuing authorities for the purposes of Chapter 7 of the Bill. The Gauteng Province has a concern that the functions in the Bill are not functions that are allocated to municipalities in terms of the Constitution and that this identification would therefore be an unfounded mandate for this sphere of government.

- **Financial, personnel and other implications of chapter on Alien and Invasive Species**

Chapter 5 sets out a system for the management of alien and invasive species in the country. This system is a much-needed element in South Africa law. However, Part 2 of Chapter 5, dealing with invasive species establishes procedures for the management of invasive species that may have substantial capacity implications for government. This should be quantified and factored into the analysis of the financial implications of implementing the Bill.

## **6. FINANCIAL IMPLICATIONS OF THE BILL FOR THE PROVINCE**

The memorandum accompanying the Bill estimates the financial implication of implementing the Bill to be an amount of R20 million for DEAT. No assessment is made of the implications at provincial level. There are specific sections of the Bill that contain measures that will entail an increase in financial and personnel resources required at a provincial level. In particular, the measures in Chapter 5 may result in new functions being carried out by provincial government

**7. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE**

The Committee supports the principle and propose a review of the aspects listed on item 5 regarding the National Environmental Management Bill: Biodiversity [B30 – 2003].



---

**P I Malefane**

**CHAIRPERSON: Agriculture, Conservation, Environment and Land Affairs  
Portfolio Committee**





**PUBLIC TRANSPORT, ROADS & WORKS PORTFOLIO COMMITTEE**

**NEGOTIATING MANDATE**

**ON**

**NATIONAL ROAD TRAFFIC AMENDMENT BILL [B31B -2003]  
(SECTION 76)**

18 August 2003

**1. INTRODUCTION**

The Chairperson of the Portfolio Committee on Public Transport, Roads & Works, Mr CG Tsotetsi, tabled a report on the Committee's negotiating mandate on the National Roads Traffic Amendment Bill [B31B - 2003], as follows:

**2. PROCESS FOLLOWED BY THE COMMITTEE**

The National Road Traffic Amendment Bill [B31B – 2003] was formally referred by the Speaker to the Public Transport, Roads & Works Committee on Monday, 14 July 2003.

The committee deliberated and considered the principle of the National Road Traffic Amendment Bill, a Section 76 Bill. Dr E A Conroy briefed the committee on the summary and the background of the National Road Traffic Amendment Bill at a committee meeting held on Thursday, 14 August 2003.

**3. VIEWS OF THE MEC FOR PUBLIC TRANSPORT, ROADS & WORKS**

The committee received inputs on implications for the Province on the Bill from the MEC Mosunkutu; Head of Department, Mr J van der Merwe; Ms J Monare and Mr MJ Sishuba from the Department of Public Transport, Roads & Works on Thursday, 14 August 2003.

#### **4. OBJECTIVE OF THE BILL**

The National Road Traffic Amendment Bill seeks to amend the National Road Traffic Act, 1996 so as;

- To provide for the period within which certain driving licences remain valid and
- To empower the Minister to set different periods within which different categories of persons must substitute their driving licences and;
- To provide for matters connected therewith.

#### **5. FINANCIAL IMPLICATIONS OF THE BILL FOR THE PROVINCE**

There are no direct financial implications of the Bill for the Province.

#### **6. PRINCIPLE OF THE BILL**

The Portfolio Committee of Public Transport, Roads & Works supports the principle of the Bill.

#### **7. COMMENTS**

The committee proposes that subsection 6(b) be substituted with the following:

“(b) In respect of any notice issued in terms of paragraph (a), in the case of any person who was unable to apply for such driving licence within a determined time frame due to him or her having been –

- (i) admitted to any medical facility or detained in any institution in terms of an order issued or sentence imposed by a court of law,
- (ii) posted by the Government on a foreign mission or assignment;
- (iii) employed under a contract outside the borders of the Republic; or,
- (iv) prevented from applying by any such other circumstances or factors as may be determined by the Minister in consultation with the MEC's, by notice in the Gazette, either generally or subject to such conditions as the Minister in consultation may deem fit”.

#### **8. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE**

The committee supports the principle and detail of the National Road Traffic Amendment Bill [B31B-2003].



CG Tsotetsi

**CHAIRPERSON: Public Transport, Roads & Works Portfolio Committee**