

National Environmental Management: Protected Areas Amendment Bill

COMPLETING THE ACT
(Section 75 provisions)



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

Context

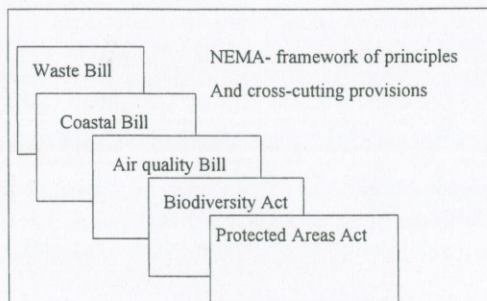
- South Africa boasts the 3rd highest level of biodiversity in the world
- Significant economic potential of natural resources
- Fastest rate of biodiversity loss in human history
- Post-1994 approach:
 - Biodiversity as a national asset
 - Sustainable use and management
 - Benefit sharing and community participation

Context

- Protected area legislation (including National Parks Act (1976)) outdated
- No overall framework for biodiversity management and conservation
- Fragmentation and uneven regulation
- No minimum standards or performance measures
- Weak compliance and enforcement

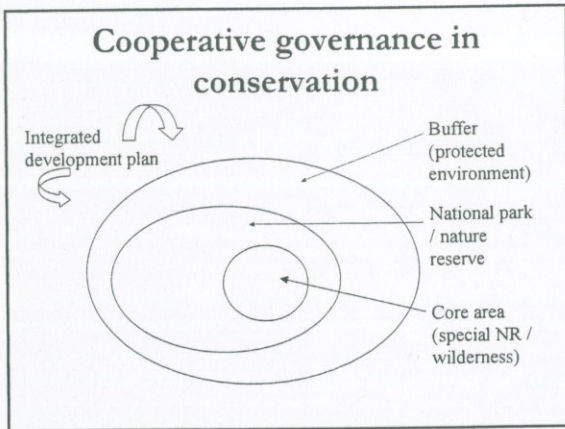
Policy framework

- Constitution (1996)
- NEMA (1998)
- White Paper on the conservation and sustainable use of SA's biodiversity (1997)
- Bioregional approach to conservation (2002)

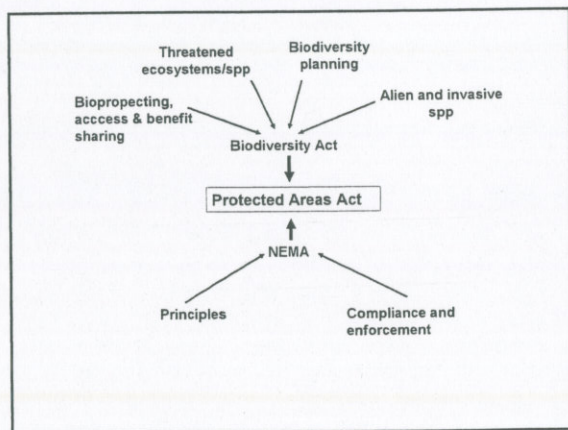


Approach

- Cooperative governance and integration
- Mainstream biodiversity and conservation within existing planning mechanisms
- Create national standards and performance framework
- Use and transform existing institutions
- Rationalise and strengthen legal instruments



- ### Legislation
- Biodiversity Act
 - Creates single national framework for regulation of biodiversity
 - Protected Areas Act
 - Creates interlocking system of protected areas
 - Regulates national parks
 - NEMA amendments (Chap 9)
 - Builds environmental compliance and enforcement capacity



- ### Process
- Intergovernmental consultation (CEC, MINMEC, Cabinet) - 2001-02
 - Publication and public comments
 - Dec 02-March 03
 - Workshops with civil society and government – 1st quarter 2003
 - NEDLAC process – Feb – July 2003
 - Special interest groups – SALGA, NGOs, professional associations

- ### Process
- Publication for input into Parliamentary process – May 2003
 - Public hearings (both sections) – Aug 2003
 - National Assembly (section 76) – Sep 2003
 - NCOP – Oct 2003
 - President's signature (section 76) – Feb 2004
 - Portfolio Committee (section 75) – Aug 2004

- ### Chapter 1
- Definitions
 - Objectives
 - State trustee of protected areas
 - Draws the link between Act and NEMA and the Biodiversity Act

Objectives of the Protected areas Act

- Provide for declaration and management of protected areas in SA
- Provide for cooperative governance in the declaration and management of protected areas
- Effect a national system of protected areas as part of a strategy to manage and conserve SA's biodiversity
- Provide for a representative network of protected areas
- Promote sustainable utilization
- Promote community participation

Chapter 2 –System of protected areas

- Kinds of protected areas
 - This Act (4 types plus wilderness areas)
 - World Heritage sites
 - Forest protected areas (3 types)
 - Mountain catchment areas
- Register

Chapter 2 – continued

Norms and standards – the Minister may

- Issue norms and standards
- Set indicators to measure compliance
- Require reporting on these indicators
(Done after consultation)

Chapter 3 –Declaration of protected areas

- Purposes of protected areas
- Declaration and withdrawal by Minister, MECs, depending on type
- consultative process

Purpose of protected areas (s17)

- to protect ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes in a system of protected areas;
- to preserve the ecological integrity in those areas;
- to conserve the biodiversity in those areas
- to protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa;
- to protect South Africa's threatened or rare species
- to protect an area which is vulnerable or ecologically sensitive;

Purpose of protected areas (continued)

- to assist in ensuring the sustained supply of environmental goods and services;
- to provide for the sustainable use of natural and biological resources;
- to create or augment destinations for nature based tourism;
- to manage the interrelationship between natural environmental biodiversity, human settlement and economic development; or
- to rehabilitate and restore degraded ecosystems and promote the recovery of endangered and vulnerable species.

Declaration of protected areas

- Special nature reserve
- National park (s20)
 - (wilderness area (s21))
- Nature reserve
 - (wilderness area)
- Protected environment

National parks declared (s20)

- to protect –
 - Area of national/international biodiversity importance or contains a viable, representative sample of SA's natural systems, scenic areas or cultural heritage sites
 - Ecological integrity of one or more systems
- To prevent exploitation or occupation inconsistent with the ecological integrity of the area
- To provide environmentally compatible - spiritual, scientific, educational, recreational and tourism opportunities
- To contribute to economic development where feasible

Chapter 4 – Management of PAs

- Assignment of management authorities
- Minister must assign management of a national park to SANParks or another suitable person, organisation or organ of state (s38)
- Need to develop a management plan
- Adherence to norms and standards critical
- Access and restrictions

Chapter 4 - continued

Under performance by management authority

- Written notification
- Time restricted directions

Failure to take required steps

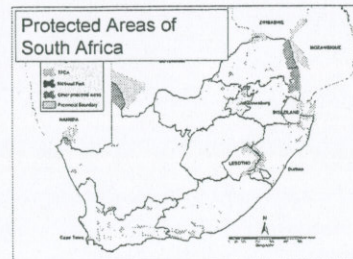
- Termination of management authority's mandate
- Assignment to another organ of state

Chapter 5 – South African National Parks

- Continued existence of SANParks (s54)
- Provisions for governance of SANParks
- Repeals the National Parks Act

South Africa has:
403 protected areas
6 638 658ha
5,4% land area

20 of these are national parks
(representing 53% of the total protected area)



SANParks -functions (s55)

- Manage national parks & other protected areas assigned to it
- Protect, conserve & control these areas
- Advise the Minister on
 - Conservation & management of biodiversity
 - Additions/exclusions to or from national parks
- Act as provisional managing authority

General powers (s56)

- Appoint staff
- Obtain services
- Acquire or dispose of property
- Operate bank accounts
- Invest in the fund
- Borrow money
- Charge fees for services, work or intellectual property
- Insure itself
- Perform legal acts
- Institute or defend legal action

Governing board

- Composition (s57)
 - Between nine and 12 members
 - DG: DEAT and CEO *ex officio*
- Minister appoints board (s59)
- Minister appoints chairperson (s60)
- Term of office (s 61)
- Quorum - majority of serving members
- Operating procedures of Board (s67-71)

Administration

- Board appoints CEO (s72)
- Board determines employment policy (s73)
 - CEO determines staff establishment within financial limits
 - CEO appoints staff
 - Secondments between SANParks and other organs of state may take place

Financial

- SANParks is a public entity in terms of PFMA (s74)
- Funding (s75)
- Investments (s76)
- Land acquisition fund continues under SANParks (s77)

Minister's supervisory powers (s78)

- Monitoring performance
- Determine norms and standards
- Issue directives
- Determine limits on fees charged
- Id land for national parks

Chapter 6

- Land acquisition process
- Recognition of landowner rights
- Restitution Act
- Other tenure legislation (lawful occupiers)
- Financing mechanisms

Chapters 7 & 8

- Regulations to be made by Minister and MECs
 - monitoring compliance with norms and standards and
 - enforcing them
- Offences and Penalties

Chapter 9

- Repeals (s90)
 - Sections of Environmental Conservation Act
 - National Parks Act
 - Lakes Area Development Act
- Transitional arrangements for protected areas
 - SANParks continues managing its present protected areas
- Savings

Issues raised (section 76)

- Mining in protected areas (s48)
- Community participation (s2(f), s34, s41(f), s50,
- Use of aircraft (flight height) (s47)

END
Thank you