



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

No. 1916.

10 Julie 1992

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 128 van 1992: Wet op die Bestuur van Staatsbosse, 1992.

STATE PRESIDENT'S OFFICE

No. 1916.

10 July 1992

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 128 of 1992: Management of State Forests Act, 1992.

WET

Om voorsiening te maak vir die bestuur van en beheer oor Staatsbosse deur 'n maatskappy wat opgerig staan te word; en vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 2 Julie 1992.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (i) “Boswet” die Boswet, 1984 (Wet No. 122 van 1984); (v) 5
 - (ii) “Departement” die Departement van Waterwese en Bosbou; (iii)
 - (iii) “Direkteur-generaal” die Direkteur-generaal: Waterwese en Bosbou; (iv)
 - (iv) “Maatskappy” die maatskappy vermeld in artikel 2; (ii)
 - (v) “Maatskappywet” die Maatskappywet, 1973 (Wet No. 61 van 1973); (i) 10
 - (vi) “Minister” die Minister van Waterwese en Bosbou, (vi)
- en het enige ander woord of uitdrukking waaraan 'n betekenis in die Boswet toegeskryf is die betekenis aldus daaraan toegeskryf.

Inlywing van publieke maatskappy

2. (1) Die Minister bewerkstellig die inlywing ingevolge die Maatskappywet van 'n publieke maatskappy, naamlik die “Suid-Afrikaanse Bosboumaatskappy Beperk”, en die uitreiking aan die Maatskappy van 'n sertifikaat om met besigheid te begin. 15
- (2) Ondanks die bepalings van die Maatskappywet onderteken die Minister ten behoeve van die Staat die akte van oprigting en statute van die beoogde Maatskappy. 20
- (3) Ondanks die bepalings van die Maatskappywet het die Maatskappy by inlywing nie meer as een lid nie.
- (4) Die Minister moet aandeel in die aldus ingelyfde Maatskappy ten behoeve van die Staat opneem en oefen dan die Staat se regte as lid en aandeelhouer van die Maatskappy uit. 25
- (5) Die aandeel bedoel in subartikel (4) word slegs verkoop of op 'n ander wyse vervreem met die goedkeuring, by besluit, van die Parlement.
- (6) (a) Geen seëlregte is ingevolge die Wet op Seëlregte, 1968 (Wet No. 77 van 1968), betaalbaar nie ten opsigte van die uitreiking van aandeel in subartikel (4) vermeld. 30
- (b) Geen geld soos beoog in artikel 63 van die Maatskappywet of enige ander geld is aan die registrateur van maatskappye betaalbaar ten opsigte van die inlywing en uitreiking van 'n sertifikaat om met besigheid te begin ingevolge subartikel (1) nie. 35

Oogmerke van Maatskappy

3. Die oogmerke van die Maatskappy is die ontwikkeling op die lang termyn van die bosboubedryf volgens aanvaarde kommersiële bestuurspraktyk.

Ooreenkoms aangaande Staatsbosse

4. (1) Die Minister kan met die instemming van die Ministers van Staatsbesteding, van Finansies en van Openbare Werke, na gelang van die geval, by ooreenkoms aan die Maatskappy die bestuur, beheer en bedryf van enige 40

ACT

To provide for the management of and control over State forests by a company to be established; and for matters connected therewith.

(English text signed by the State President.)
(Assented to 2 July 1992.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context otherwise indicates—
- 5 (i) "Companies Act" means the Companies Act, 1973 (Act No. 61 of 1973); (v)
- (ii) "Company" means the company mentioned in section 2; (iv)
- (iii) "Department" means the Department of Water Affairs and Forestry; (ii)
- 10 (iv) "Director-General" means the Director-General: Water Affairs and Forestry; (iii)
- (v) "Forest Act" means the Forest Act, 1984 (Act No. 122 of 1984); (i)
- (vi) "Minister" means the Minister of Water Affairs and Forestry, (vi)
- and any other word or expression to which a meaning has been assigned in the
- 15 Forest Act bears the meaning so assigned thereto.

Incorporation of public company

2. (1) The Minister shall effect the incorporation in terms of the Companies Act of a public company, namely the "South African Forestry Company Limited", and the issue to the Company of a certificate to commence business.
- 20 (2) Notwithstanding the provisions of the Companies Act the Minister shall sign the memorandum of association and articles of association of the proposed Company on behalf of the State.
- (3) Notwithstanding the provisions of the Companies Act the Company shall have at incorporation not more than one member.
- 25 (4) The Minister shall take up shares in the Company so incorporated on behalf of the State, and then exercise the State's rights as member and shareholder of the Company.
- (5) The shares contemplated in subsection (4) shall only be sold or otherwise disposed of with the approval, by resolution, of Parliament.
- 30 (6) (a) No stamp duties in terms of the Stamp Duties Act, 1968 (Act No. 77 of 1968), shall be payable in respect of the issue of shares mentioned in subsection (4).
- (b) No fee as contemplated in section 63 of the Companies Act or any other fee shall be payable to the registrar of companies in respect of the incorporation
- 35 and the issue of a certificate to commence business in terms of subsection (1).

Objects of Company

3. The objects of the Company are the development in the long term of the forestry industry according to accepted commercial management practice.

Agreement regarding State forests

- 40 4. (1) The Minister may with the concurrence of the Ministers of State Expenditure, of Finance and of Public Works, as the case may be, by agreement entrust to the Company, on the conditions he deems fit, the management, control

Staatsbos, of enige deel daarvan, wat in die geheel of gedeeltelik vir kommersiële doeleindes benut word of benut kan word, asook enige bevoegdheid by die een of ander wet aan die Direkteur-generaal verleen, op die voorwaardes wat hy goedvind, opdra.

- (2) Die ooreenkoms in subartikel (1) beoog, kan ook behels— 5
 - (a) die vervreemding aan die Maatskappy van enige bates van die Staat;
 - (b) die verlening van enige reg van 'n tydelike of 'n permanente aard soos beoog in artikel 11 van die Boswet;
 - (c) die oprigting en bedryf van fasiliteite vir toerisme- en ontspannings-doeleindes; 10
 - (d) die verwydering van bosprodukte vir navorsingsdoeleindes;
 - (e) die bestuur, beheer en bedryf van 'n gebied vir die bewaring van fauna en flora;
 - (f) die voortsetting van die Staat se kontraktuele verpligtinge vir die lewering van bosprodukte; 15
 - (g) personeelaangeleenthede; of
 - (h) enige ander aangeleentheid wat die Minister vir die funksionering van die Maatskappy dienstig ag.
- (3) Vanaf die datum van genoemde ooreenkoms—
 - (a) gaan alle laste, regte of verpligtinge, hetsy kontraktueel of andersins 20 deur die Staat verkry of opgeloopt in verband met 'n aangeleentheid wat by daardie ooreenkoms aan die Maatskappy opgedra word, oor op die Maatskappy; en
 - (b) word 'n Staatsbos waarvan die bestuur, beheer en bedryf kragtens subartikel (1) aan die Maatskappy opgedra word, geag ooreenkomstig 25 die bepalings van artikel 10(2) van die Boswet aan demarkering onttrek te gewees het.
- (4) By die toepassing van artikel 3 van die Boswet word die Maatskappy geag 'n persoon te wees wat deur die eienaar van 'n Staatsbos ten opsigte waarvan die bestuur, beheer en bedryf kragtens subartikel (1) van hierdie artikel aan die Maatskappy opgedra is, in beheer van die Staatsbos gestel is asof daardie Staatsbos 'n private bos was. 30
- (5) Die werking van hierdie Wet verleen nie die oordrag van eiendomsreg van Staatsgrond aan die Maatskappy nie.

Personeel

35

5. (1) Die Minister kan, behoudens die bepalings van die Staatsdienswet, 1984 (Wet No. 111 van 1984), die dienste van enige persoon wat 'n beamppte of 'n werknemer is ingevolge daardie Wet, tot die beskikking van die Maatskappy stel.

(2) Indien die Maatskappy aan 'n beamppte of werknemer soos beoog in subartikel (1) of aan enige ander beamppte of werknemer soos omskryf in die Staatsdienswet, 1984, wat die Minister goedkeur, 'n diensbetrekking aanbied, word sodanige persoon by aanname daarvan op die voorwaardes aangestel en in diens gehou wat die Maatskappy bepaal, op voorwaarde dat— 40

- (a) geen persoon se salaris of salarisskaal by sodanige aanstelling verlaag word nie; 45
- (b) vakansieverlof, sowel as die geldelike voordele wat daaraan gekoppel word, wat tot 'n persoon se krediet by die Staat staan, tot sy gelyke krediet by die Maatskappy staan;
- (c) aan 'n persoon nie as gevolg van sodanige aanstelling 'n minder gunstige aftree-ouderdom toegeken word nie as dié wat hy in diens van die Staat gehad het. 50

(3) (a) 'n Beamppte of werknemer soos beoog in subartikel (2) wat 'n lid is van die Regeringsdienspensioneringsfonds of die Pensioenfonds vir Tydelike Werknemers wat deur die Departement van Finansies geadministreer word, en wat deur die Maatskappy in diens geneem word, moet voor 'n datum deur die Minister na oorleg met die Maatskappy bepaal, 'n keuse uitoefen om— 55

- (i) 'n lid van sodanige fonds te bly, en vanaf die datum van die uitoefening van so 'n keuse word so 'n beamppte of werknemer, ondanks die bepalings van 'n ander wet, geag 'n rustende lid van die betrokke fonds te wees soos beoog in artikel 15 van die Algemene Pensioenwet, 1979 60

and operation of any State forest or any portion thereof which is utilized or which can be utilized as a whole or partially for commercial purposes, as well as any power conferred on the Director-General by any law.

- (2) The agreement contemplated in subsection (1) may further comprise—
- 5 (a) the alienation to the Company of any assets of the State;
 - (b) the granting of any right of a temporary or permanent nature as contemplated in section 11 of the Forest Act;
 - (c) the establishment and operation of facilities for tourism and recreational purposes;
 - 10 (d) the removal of forest produce for research purposes;
 - (e) the management, control and operation of an area for the conservation of fauna and flora;
 - (f) the continuation of the State's contractual obligations for the supply of forest produce;
 - 15 (g) staff matters; or
 - (h) any other matter which the Minister considers expedient for the functioning of the Company.
- (3) As from the date of the said agreement—
- 20 (a) all liabilities, rights or obligations, whether contractually or otherwise obtained or accumulated by the State in connection with a matter entrusted to the Company by the said agreement, pass to the Company; and
 - (b) any State forest of which the management, control and operation are entrusted to the Company in terms of subsection (1) is deemed to have
 - 25 been withdrawn from demarcation in accordance with the provisions of section 10(2) of the Forest Act.
- (4) For the purposes of section 3 of the Forest Act the Company is deemed to be a person who has, by the owner of a State forest of which the management, control and operation in terms of subsection (1) of this section were entrusted to
- 30 the Company, been placed in control of the State forest as if that State forest were a private forest.
- (5) The operation of this Act does not grant the transfer of ownership of State land to the Company.

Staff

- 35 5. (1) The Minister may, subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), make the services of any person who is an officer or employee in terms of that Act, available to the Company.

- (2) Should the Company offer an appointment to an officer or employee as contemplated in subsection (1) or to any other officer or employee as defined in
- 40 the Public Service Act, 1984, approved by the Minister, such person shall on the acceptance thereof be appointed on the conditions determined by the Company and employed as so determined on the condition that—

- (a) no person's salary or salary scale shall be reduced by such appointment;
- 45 (b) vacation leave, as well as all monetary benefits attached thereto, standing to a person's credit with the State, shall to the same extent stand to his credit with the Company;
- (c) a less favourable retirement age than that which he had in the employ of the State shall not be granted to a person as a result of such appointment.

- 50 (3) (a) An officer or employee as contemplated in subsection (2) who is a member of the Government Service Pension Fund or the Temporary Employees Pension Fund administered by the Department of Finance and who is employed by the Company, shall before a date determined by the Minister, after consultation with the Company, exercise an option to—

- 55 (i) remain a member of such fund, and from the date of exercising such an option such an officer or employee shall, notwithstanding the provisions of any other law, be deemed to be a dormant member of the fund concerned as contemplated in section 15 of the General Pensions Act,

(Wet No. 29 van 1979), en 'n lid te word van 'n eie pensioenfonds soos bedoel in paragraaf (b); of

(ii) 'n lid te word van 'n eie pensioenfonds soos bedoel in paragraaf (b).

(b) Die Maatskappy kan enige pensioenfonds of -fondse kragtens die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956), vir sy werknemers instel: Met dien verstande dat die vordering van 'n werknemer teen so 'n nuwe pensioenfonds op die datum waarop hy by die fonds aansluit, nie kleiner is nie as die vordering wat daardie werknemer op vermelde datum gehad het ten opsigte van diens verrig as lid van 'n pensioenfonds geadministreer deur die Departement van Finansies waarvan hy 'n lid was op die datum onmiddellik voor die datum waarop hy by die nuwe pensioenfonds aangesluit het.

(c) In die geval waar 'n werknemer aansoek doen om lidmaatskap van, en sy pensioenvoordele oorgeplaas word na, 'n pensioenfonds in paragraaf (b) bedoel—

(i) staak sy lidmaatskap van die pensioenfonds vanwaar sy voordele oorgeplaas word en het hy geen verdere vorderingsreg teen sodanige pensioenfonds nie;

(ii) betaal die pensioenfonds vanwaar die werknemer se voordele oorgeplaas word, aan die pensioenfonds waarvan hy 'n lid word 'n bedrag gelyk aan die befondsingspersentasie van eersgenoemde fonds, vermenigvuldig met die aktuariële verpligting van daardie fonds ten opsigte van die werknemer soos op die datum van die oorplasing, plus rente verdien teen die bankkoers vanaf die datum van die oorplasing tot die datum van betaling daarvan;

(iii) dra die pensioenfonds vanwaar die werknemer se voordele oorgeplaas word, enige vordering wat dit teen die werknemer mag hê, oor aan die betrokke pensioenfonds waarvan hy 'n lid word; en

(iv) betaal die Staat ten opsigte van daardie werknemer indien hy 'n lid word van 'n pensioenfonds bedoel in paragraaf (b) en ingestel kragtens die Wet op Pensioenfondse, 1956, aan sodanige pensioenfonds 'n bedrag gelyk aan die verskil tussen die aktuariële verpligting van die pensioenfonds vanwaar die werknemer se voordele oorgeplaas word en die bedrag betaal ingevolge subparagraaf (ii), plus rente bereken teen die bankkoers vanaf die datum van die oorplasing tot die datum van betaling.

(d) Die bepalinge van paragraaf (c) is *mutatis mutandis* van toepassing indien 'n werknemer wat kragtens paragraaf (a)(i) gekies het om 'n rustende lid te wees, op 'n later stadium kragtens artikel 15A van die Algemene Pensioenwet, 1979 (Wet No. 29 van 1979), verkies dat sy opgelope pensioenvoordele na 'n ander pensioenfonds oorgeplaas word.

(e) By die toepassing van hierdie artikel—

(i) is die aktuariële verpligting van 'n pensioenfonds ten opsigte van 'n bepaalde lid of groep lede van die fonds, die aktuariële verpligting soos bepaal deur 'n aktuaris in opdrag van die Minister van Finansies met betrekking tot die betrokke lid of groep lede van die fonds;

(ii) is die befondsingspersentasie van 'n pensioenfonds die markwaarde van die bates van die fonds uitgedruk as 'n persentasie van die totale aktuariële verpligting van die fonds, nadat sodanige bates en verpligting verminder is met die bedrag van die verpligting van die fonds teenoor al sy pensioentrekkers, soos bepaal ten tyde van die mees onlangse aktuariële waardering van die fonds of enige hersiening daarvan gedoen in opdrag van die Minister van Finansies; en

(iii) is die bankkoers die koers soos van tyd tot tyd kragtens artikel 10(2) van die Wet op die Suid-Afrikaanse Reserwebank, 1989 (Wet No. 90 van 1989), bepaal.

(4) Pensioengewende diens verrig of teruggekoop deur 'n persoon in diens van die Staat word geag pensioengewende diens te wees wat deur hom verrig is in diens van die Maatskappy.

(5) By die toepassing van die bepalinge van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), word geen verandering van werkgewer geag plaas te gevind het by die diensaanvaarding by die Maatskappy deur beamptes en werknemers ingevolge subartikel (2) nie, en word die posisie van beamptes en werknemers met betrekking tot infasering van belasting gehef op voordele of bates verkry weens diens of ampsbekleding soos beoog in Bylae 7 by die Inkomstebelastingwet, 1962, geag onveranderd te bly.

1979 (Act No. 29 of 1979), and become a member of an own pension fund as referred to in paragraph (b); or

- (ii) become a member of an own pension fund as referred to in paragraph (b).

5 (b) The Company may, under the Pension Funds Act, 1956 (Act No. 24 of 1956), establish any pension fund or funds for its employees: Provided that the claim of an employee against such new pension fund on the date on which he becomes a member of the fund, shall not be smaller than the claim which such employee had on the said date in respect of service performed as a member of
10 a pension fund administered by the Department of Finance of which he was a member on the date immediately preceding the date on which he joined the new pension fund.

(c) In the case where an employee applies for membership of, and his pension benefits are transferred to, a pension fund referred to in paragraph (b)—

- 15 (i) his membership of the pension fund from which his benefits are transferred shall terminate and he shall have no further claim against such pension fund;
- (ii) the pension fund from which an employee's benefits are transferred shall pay to the pension fund of which he becomes a member, an
20 amount equal to the financing percentage of the first-mentioned fund, multiplied by the actuarial liability of that fund in respect of such employee as on the date of the transfer, plus interest calculated at the bank rate from the date of the transfer to the date of payment thereof;
- (iii) the pension fund from which an employee's benefits are transferred
25 shall cede any claim which it may have against the employee to the pension fund of which he becomes a member; and
- (iv) the State shall, in respect of that employee on his becoming a member of a pension fund referred to in paragraph (b) and established in terms of the Pension Funds Act, 1956, pay to such pension fund an amount
30 equal to the difference between the actuarial liability of the pension fund from which the employee's benefits are transferred and the amount paid in terms of subparagraph (ii), plus interest calculated at the bank rate from the date of the transfer to the date of payment.

(d) The provisions of paragraph (c) shall *mutatis mutandis* apply if an
35 employee who under paragraph (a)(i) elected to be a dormant member, at a later stage under section 15A of the General Pensions Act, 1979 (Act No. 29 of 1979), elects to have his accrued pension benefits transferred to another pension fund.

(e) For the purposes of this section—

- 40 (i) the actuarial liability of a pension fund in respect of a specific member or group of members of the fund, means the actuarial liability, as determined by an actuary instructed by the Minister of Finance, with regard to the said member or group of members of the fund;
- (ii) the financing percentage of a pension fund means the market value of the assets of the fund expressed as a percentage of the total actuarial
45 liability of the fund, after such assets and liabilities have been reduced by the amount of the liability of the fund towards all its pensioners, as determined at the time of the most recent actuarial assessment of the fund or any reappraisal thereof done on the instructions of the Minister of Finance; and
- 50 (iii) bank rate means the rate determined from time to time under section 10(2) of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989).

(4) Pensionable service rendered or bought back by a person in the employ of the State is deemed to be pensionable service rendered by him in the employ of
55 the Company.

(5) For the purposes of the provisions of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer shall be deemed to have taken place when employment is taken up at the Company by officers and employees in terms of subsection (2), and the position of officers and employees in respect of
60 phasing-in of tax levied on benefits or advantages derived by reason of employment or the holding of any office as contemplated in Schedule 7 to the Income Tax Act, 1962, shall be deemed to remain unchanged.

(6) Die Minister kan aan 'n beamppte van die Departement 'n bevoegdheid by hierdie artikel aan hom verleen, deleger op die voorwaardes wat hy goedvind.

Kort titel en inwerkingtreding

6. Hierdie Wet heet die Wet op die Bestuur van Staatsbosse, 1992, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* 5 bepaal.

(6) The Minister may delegate, on the conditions he deems fit, to an officer of the Department a power granted to him by this section.

Short title and commencement

6. This Act shall be called the Management of State Forests Act, 1992, and
5 shall come into operation on a date determined by the State President by proclamation in the *Gazette*.

