

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

NO. R. 5650

6 January 2025

NATIONAL FORESTS ACT, 1998 (ACT NO. 84 OF 1998) AS AMENDED**AMENDMENTS TO THE REGULATIONS UNDER THE NATIONAL FORESTS ACT, 1998 (ACT NO. 84 OF 1998)**

I, Dion Travers George, the Minister of Forestry, Fisheries, and the Environment, in terms of sections 53(2)(a) and (j), read with section 54 of the National Forests Act, 1998 (Act No. 84 of 1998), hereby amend the Regulations under the National Forests Act, 1998 (Act No. 84 of 1998), published under Government Notice No. R.466, in Government Gazette No. 32185 of 29 April 2009, as set out in the Schedule hereto.

**DION TRAVERS GEORGE****MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

SCHEDULE

Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates—

“the Act” means the National Forests Act, 1998 (Act No. 84 of 1998); and

“the Regulations” means the Regulations under the National Forests Act, 1998 (Act No. 84 of 1998) published under Government Notice R.466, in *Government Gazette* 32185 of on 29 April 2009.

Amendment of the Table of Contents of the Regulations

2. The Table of Contents of the Regulations is hereby amended—

(a) by the insertion after item 24 of the following item:

“24A. Issuing of written notice”;

(b) by the insertion after item 25 of the following items”

“CHAPTER 11

ADMINISTRATION AND PROCESSING OF APPEALS

- 25A. Application
- 25B. Establishment of the Appeals Committee
- 25C. Submission of appeal
- 25D. Responding to an appeal
- 25E. Additional Information
- 25F. Decision on appeal
- 25G. Processing of appeal
- 25H. Extension or Condonation of timeframes
- 25I. Complex appeals
- 25J. Delivery of documents
- 25K. Reckoning of days”.

Amendment of regulation 1 of the Regulations

3. Regulation 1 of the Regulations is hereby amended by the insertion after the definition of “access”, of the following definitions:

“**Appeal Administrator**” means the holder of an office in the Department, as defined in the Act, that administers an appeal on behalf of the Appeal Authority;

“**Appeal Authority**” means the Minister, as defined in the Act;

“Appeals Committee” ‘means the committee constituted in terms of section 57A(2) of the Act;

“Appellant” means any person who is aggrieved by an administrative decision or action of the delegated authority taken in terms of the Act and who has submitted an appeal in terms of section 57A of the Act;”.

Insertion of regulation 24A.

4. The following regulation is inserted after regulation 24:

“24A. Issuing of written notice

- (1) The Minister may issue a written notice in terms of section 7(5) of the Act to direct any person suspected of contravening section 7(1)(a) of the Act, using the form set out in **Annexure A** to these Regulations, to stop an illegal activity in terms of the Act.
- (2) Before issuing a written notice in terms of subregulation (1), the Minister must give the person to whom the written notice is intended, using the form set out in **Annexure B** to these Regulations, advance written notice of:
 - (a) his or her intention to issue such written notice;
 - (b) a reasonable opportunity to make written representations to the Minister as to why he or she should not issue the written notice as intended; and
 - (c) suspension of any identified or potential illegal activities that may be occurring at the time, while written response is being compiled or considered.
- (3) If the Minister has reason to believe that giving an advance notice, in accordance with subregulation (2) of the intention to issue a written notice, will cause a delay which may result in significant and sudden harm to the natural forest habitat, the Minister may issue a written notice, without compliance with subregulation (2).
- (4) The written notice issued in terms of subregulation (3) must explain the Minister's reasons for not complying with subregulation (2).”.

Insertion of regulations 25A to 25K.

5. The following regulations are inserted after regulation 25:

“CHAPTER 11

ADMINISTRATION AND PROCESSING OF APPEALS

25A. Application

- (1) This chapter applies to an appeal against a decision taken in terms of the Act.
- (2) No appeal is available against a decision taken by the Appeal Authority.

25B. Establishment of the Appeals Committee**25Ba. Appointment of Appeals Committee**

- (1) Whenever it is necessary to appoint the Committee:
 - (a) the Minister must by notice in the *Government Gazette* and by means of a notice published in at least two nationally distributed newspapers, invite nominations, specifying a period within which the nominations must be submitted;
 - (b) The Director-General must compile a shortlist of suitable candidates from the nominations and submit the shortlist to the Minister within one month of receiving the nominations; and
 - (c) the Minister must within one month of receiving the nominations for appointments, appoint the members of the Committee who will be acting on an *ad hoc* basis, taking into account section 57B of the Act, after considering the short list, provided that she is satisfied with the recommendations.
- (2) The Minister may appoint—
 - (a) a replacement for any member who vacates or is removed from his or her office.
- (3) The replacement serves for the balance of the term of the person he or she replaces.

25Bb. Conditions of appointment of Committee members

- (1) A member of the Committee holds office for a period that does not exceed—
 - (a) three (3) years in the case of the chairperson of the Committee; and
 - (b) three (3) years in the case of other members.
- (2) At the expiry of his or her term of office, any member of the Committee is eligible for re-appointment for another final term not exceeding three (3) years.

25C. Submission of appeal

- (1) The Department must be notified in writing of an intention to submit an appeal prior to an appeal being formally submitted.
- (2) An appellant must, within twenty (20) days from the date the notification of decision was received, submit an appeal to the Appeal Administrator using the form set out in **Annexure C** to these Regulations.
- (3) An appellant must simultaneously provide a copy of the appeal to:
 - (a) the applicant, where the appellant is not the applicant;
 - (b) where applicable, to any interested and affected party, in terms of the application in question, or where the appellant is the applicant; and

- (c) to any affected organs of state.
- (4) A notification of decision will be deemed to have been received on the date communicated if addressed via electronic mail and within five (5) days of registered mail.
- (5) An appeal submitted in terms of sub regulation (1) must—
 - (a) be in writing;
 - (b) be in the form obtainable from the Appeal Administrator;
 - (c) include a statement setting out the grounds of appeal; and
 - (d) include the supporting documentation, which is referred to in the appeal.

25D. Responding to an appeal

The applicant, where the applicant is not the appellant, the decision-maker, interested and affected parties and organ(s) of state, must submit their responses, to the Appeal Authority and to the appellant within ten (10) days from the date of receipt of the appeal submission or within ten (10) days from the lapsing of the twenty (20) day period referred to in regulation 25C, or whichever is the later date.

25E. Additional Information

The Appeal Authority may at any time during the appeal process, request any party participating in the appeal process, to submit additional information or arrange a meeting with relevant parties. Failure to provide the requested information will result in a finding based on the available information.

25F. Decision on appeal

- (1) The Appeal Administrator or the Appeals Committee, must make recommendations to the Appeal Authority within thirty (30) days of receiving a response to an appeal.
- (2) Where the Appeal Authority has referred the appeal to an Appeals Committee, the Appeals Committee must submit their recommendations to the Appeal Administrator within ten (10) days of receipt of the instruction. The Appeal Administrator must make a recommendation on the appeal to the Appeal Authority within twenty (20) days of receipt of the recommendation received from the Appeals Committee.
- (3) The Appeal Authority must decide on an appeal, and notify the appellant, applicant, and, where applicable, interested and affected party, of its decision within thirty (30) days of receiving recommendations from the Appeal Administrator.
- (4) An appeal decision must contain written reasons for the decision.

25G. Processing of appeal

- (1) The Appeal Administrator must acknowledge receipt of an appeal, responding or answering to an appeal, respectively, within five (5) days after receiving either.
- (2) The Appeal Administrator must notify the appellant and the applicant if applicable, within five (5) days of the appointment of an Appeals Committee for the consideration of an appeal.

25H. Extension or Condonation of timeframes

- (1) The time periods contemplated in regulations 25C, 25D, and 25F may be extended or condoned, on application submitted in writing by the relevant party to the Appeal Administrator.
- (2) An application for extension of timeframes must not be submitted later than five (5) days prior to the lapsing of the period to which the extension relates.
- (3) An application for condonation of timeframes must not be submitted later than ten (10) days after the lapsing of the period to which the condonation relates.
- (4) When considering an extension or condonation, the Minister must take into account the following factors:
 - (a) the degree of lateness;
 - (b) the detailed explanation provided on the reasons for the entire duration of the lateness;
 - (c) whether and to what extent any party to the appeal will suffer prejudice if the time period is extended, or failure to comply with a time period is condoned; and
 - (d) a detailed explanation of the merits of the application for extension or condonation.

25I. Complex appeals

- (1) The Appeal Authority may decide an appeal is complex if it requires:
 - (a) an external expert/ specialist to assist the Appeal Authority to render a decision;
 - (b) the Appeal Administrator to undertake a site inspection to properly advise the Appeal Authority; or
 - (c) more than one Appeal Administrator to process the appeal due to the technical nature of its subject matter.
- (2) Despite Regulation 25F, if the Appeal Authority decides an appeal is complex based on the need to appoint an expert, then:
 - (a) the Appeal Administrator/ Appeals Committee must commence with the process to appoint an expert within ten (10) days of the instruction from the Appeal Authority;

- (b) the expert panel must provide their recommendations to the Appeal Administrator within thirty (30) days of receiving the instruction from the Appeal Administrator;
 - (c) the Appeal Administrator must provide recommendations to the Minister within twenty (20) days of receiving the expert recommendation; and
 - (d) the Appeal Authority must decide on an appeal, and notify the appellant, applicant, and, where applicable, any interested and affected party and affected organs of state of its decision within thirty (30) days of receiving recommendations from the Appeal Administrator.
- (3) If the Appeal Authority decides an appeal is complex based on the need to do a site inspection, then—
- (a) the Appeal Administrator/ Appeals Committee must undertake the site inspection within ten (10) days of the instruction from the appeal authority; and
 - (b) where an appeal is complex in terms of regulation 25I(1) (b) and (c) of these Regulations, then—
 - (i) the Appeal Administrator must make recommendations to the Appeal Authority within thirty (30) days of response or answer, whichever is applicable; and
 - (ii) the Appeal Authority may decide on an appeal and notify the appellant, applicant, and where applicable, any interested and affected party and organs of state, of its decision within fifty (50) days of receiving recommendations from the Appeal Administrator.

25J. Delivery of documents

- (1) A person may deliver documents in terms of these Regulations by:
 - (a) Electronic mail to the email address stipulated on the Departmental website for appeals;
 - or
 - (b) a hard copy by hand delivery to the nearest forestry offices.

25K. Reckoning of days

- (1) When days must be reckoned in terms of these Regulations, the period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day, which is not a Saturday, Sunday or public holiday, and the period between 15 December to 5 January must be excluded from the reckoning of days.

- (2) Where a prescribed timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe.”

6. Short title and commencement

These Regulations are called the Amendment Regulations under the National Forests Act, 2024, and come into operation on the date of publication in the *Government Gazette*.

**forestry, fisheries
and the environment**

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

ANNEXURE A**WRITTEN NOTICE**

(in terms of regulation 24A(1) and/or (2))

Ref:

Enquiries:

Physical address:

Tel:

Email:

[Name of person to be issued a written notice]

[Address]

[Contact details]

Dear Sir/Madam

WRITTEN NOTICE IN TERMS OF REGULATION 24A FOR CONTRAVENING SECTION 7(1)(a) OF THE NATIONAL FORESTS ACT, 1998 (ACT NO. 84 OF 1998) AS AMENDED IN RESPECT OF [INSERT ILLEGAL ACTIVITY COMMENCED WITH] AT [INSERT PROPERTY/SITE DESCRIPTION ERF/PORCION/STREET NUMBER AND NAME] UNDER [INSERT MUNICIPALITY] ("THE SITE").

1. INTRODUCTION

Reference is made to the matter above and to the following:

- 1.1. [Details of the notice of intention to issue a written notice, any representations received from the alleged transgressor and any other relevant correspondence].

2. **DECISION**

- 2.1. I, [insert name of official], in my capacity as [insert designation], having considered the matter, am of the view that you, [insert Person's Name/ company name] represented by [insert name of representative] in your capacity as [insert capacity in the company]), as the person who has unlawfully commenced or continued with illegal activities on the Site, have failed to adhere to the provisions of the law in respect of the commenced activities on the Site.
- 2.2. Accordingly, I hereby issue you, [insert Person's Name/ company name] represented by [insert name of representative] as the person who has unlawfully commenced or continued with [list illegal activities] on the Site with a written notice in terms of Regulation 24A for contravening section 7(1)(a) of the National Forests Act, 1998 (Act No. 84 of 1998) as amended.

3. **DETAILS AND RATIONALE FOR ISSUING WRITTEN NOTICE**

3.1. [Refer to any inspections conducted, finding, site observations made].

3.2. **Section number**

Section 7(1)(a) of the National Forests Act, 1998 (Act No.84 of 1998), as amended.

3.3. **Legal Provision:**

Written notice in terms of regulation 24A for contravening section 7(1)(a) of the National Forests Act, 1998 (Act No.84 of 1998) as amended.

3.4. Natural Forest Type and Forest Status e.g., Mangrove Forest is classified as an endangered ecosystem in terms of the National Environmental Management Biodiversity Act, 2004 (Act No.10 of 2004).

3.5. Estimated area/quantity of natural forest/indigenous tree or any other indigenous vegetation in a natural forest that is cut, disturbed, damaged, destroyed or removed,

3.6. Geographical Positioning System (GPS) Coordinates of the affected area depicted on a Google Earth or spatial map.

3.7. Name of tree species cut, disturbed, damaged or destroyed (if identifiable)

4. INSTRUCTION OR STEPS TO BE TAKEN

In terms of this written notice, I require you to do the following:

- 4.1 [Indicate steps to be taken, insert details in respect of the steps to be taken by the person accused of non-compliance and the period in which these steps must be taken]
- 4.2 [Prohibited conduct: List any acts which may not be performed by the person accused of non-compliance and the period in which the prohibition will remain in force.]

5. PROCEDURAL ARRANGEMENTS

- 5.1. If you wish to lodge an objection to this written notice, you may do so in writing to the Minister within thirty (30) days of receipt of the written notice.
- 5.2. Objections must be submitted in writing by electronic mail to the email address stipulated on the Departmental website for appeals or to the nearest regional forestry offices.

6. FAILURE TO COMPLY

Act / Section Number	Offence and penalty
Sections 7(1)(a) and 7(5) read with section 62(1) of the National Forests Act, 1998 (Act No.84 of 1998).	<p>Offence: Section 61. Any person who fails to take the steps which he or she has been instructed to take in terms of [section] sections 4(8), 7(5), 8(3), 14(6) and 17(3) within the period or the extended period laid down, is guilty of a fifth category offence.</p> <p>Section 62(1) Any person who contravenes the prohibition of certain acts in relation to trees, indigenous vegetation or any other forest product in natural forests referred to in section 7(1) is guilty of a first category offence.</p> <p>Section 63(5) Any person who contravenes a condition in a licence, exemption, or any other authorisation in terms of this Act, in respect of—</p>

(a) a protected area, a natural forest, or protected trees, is guilty of a second category offence.

(b) any other forest, is guilty of a third category offence.

Penalty:

Section 58(1) - A person who is guilty of a first category offence referred to in sections 62 and 63 may be sentenced to a fine or imprisonment for a period of up to three years, or to both a fine and such imprisonment.

Section 58(2) - A person who is guilty of a second category offence referred to in section 62, 63 and 64 may be sentenced on a first conviction for that offence to a fine or imprisonment for a period of up to two years, or to both a fine and such imprisonment.

Section 58(3) - A person who is guilty of a third category offence referred to in section 62 and 63 may be sentenced on a first conviction for that offence to a fine or imprisonment for a period of up to one year, or to both a fine and such imprisonment.

Section 58(4) - A person who is guilty of a fourth category offence referred to in section 63 and 64 may be sentenced on a first conviction for that offence to a fine or a community service for a period of up to six months or to both a fine and such service.

Section 58(5) - A person who is guilty of a second, third or fourth offence category offence may be sentenced on a second conviction for that offence as if he or she has committed a first, second or third category offence, respectively.

Section 58(6) - A person who is guilty of a fifth category offence referred to in section 61 may be sentenced to a fine not exceeding R10 million or imprisonment a period of up to 10 years or to both such fine and imprisonment.

Section 58(8)(b) - A court which sentences any person for any offence in terms of this Act, may suspend or revoke a licence granted to the offender under section 7, 15 or 23.

- 6.1 We wish to make it clear that the instructions contained herein are made in the interest of sustainable forest management and with a view to a cooperative resolution of the issue. The submission of the requested information above does not imply that no further action would be taken against you.
- 6.2 If any licence has been issued, the licence [insert licence number] has been suspended or revoked due to the above non-compliance until further notice.
- 6.3 If you are unclear about any aspect of this written notice, kindly contact the person indicated for enquiries in writing as soon as possible.

Yours sincerely

[insert Name of official])

[Designation]

Date:

Acknowledgement of Receipt:

Received by Mr /Ms _____
on behalf of the company _____
on this _____ day of _____, at _____

Signature _____



**forestry, fisheries
and the environment**

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

ANNEXURE B
NOTICE OF INTENTION TO ISSUE A WRITTEN NOTICE
(in terms of regulation 24A(3))

Ref:

Enquiries:

Physical address:

Tel:

Email:

[Name of person to be issued a Notice of Intention]

[Address]

[Contact details]

Dear Sir/Madam

NOTICE OF INTENTION TO ISSUE A WRITTEN NOTICE IN TERMS OF REGULATION 24A(3) FOR CONTRAVENING OF SECTION 7 (1) (a) OF THE NATIONAL FORESTS ACT, 1998 (ACT NO. 84 OF 1998) AS AMENDED IN RESPECT OF [INSERT ILLEGAL ACTIVITY COMMENCED WITH] AT [INSERT PROPERTY/SITE DESCRIPTION ERF/PORITION/STREET NUMBER AND NAME] UNDER [INSERT MUNICIPALITY] ("THE SITE").

1. I, [insert name of official], in my capacity as [insert designation]r, hereby give you written notice of my intention to issue you, [insert name of natural person/company represented by [insert name of representative] in your capacity as [insert capacity of representative in company], as the person who has unlawfully commenced with illegal activities at [insert property description] under [insert relevant Municipality] with a written notice in terms of section 7(5) of the National Forests Act, 1998 (Act No. 84 of 1998) as amended read with regulation 24A of the these Regulations.

2. The written notice that I intend to issue relates to your non-compliance with [indicate relevant legislation / Regulation].
3. I have reasonable grounds for believing that you have commenced, on or after [insert date], with illegal activities in terms of Regulation 24A contravening sections (7) (1) (a) without a licence required in terms of the Act.
4. I have reached this opinion because of the following:
 - 4.1 [Refer to any correspondences between the transgressor and the Department, inspections conducted, and the observation made, spatial analysis that was conducted e.g., aerial imagery, and any other relevant correspondence].
 - 4.2 List the illegal activities observed on site in relation to the Act.

5. INTENDED INSTRUCTIONS

- 5.1 In accordance with Regulation 24A of the Regulations read with the Promotion of Administration of Justice Act, 2000 (Act No. 3 of 2000), I hereby afford you the opportunity to make written representations to me within [insert time frame] calendar days of receipt of this Notice, if you are of the view that there are any compelling and substantial reasons for me not to exercise my powers in terms of Regulation 24A contravening [insert relevant section of the Act] to issue a written notice which will require you to, inter alia:
 - 5.2 [insert specific instructions that would be given in the written notice to address the non-compliances.
 - 5.3 You are furthermore suspended from conducting any identified potential illegal activities that may be occurring at the time, while written response is being compiled or considered.

6. PROCEDURAL ARRANGEMENTS

- 6.1 You may make representations to me as the [insert designation] in relation to this notice of intention within seventy two (72) hours [insert timeframe], at the following address: [insert physical address or e-mail address]

- 6.2 Should you fail to comply with this written notice of intention above, which is to make representations in writing, a written notice will be issued.
- 6.3 Failure to comply with a written notice when it has been issued, you will have committed an offence in terms of the National Forests Act, 1998 (Act No. 84 of 1998).
- 6.4 The Department will be entitled to take the required steps on your behalf and to claim from you any costs incurred in so doing.
- 6.5 We wish to make it clear that the instructions contained herein are made in the interest of sustainable forest management and with a view to a co-operative resolution of the issue. Depending on the outcome of the representations made in this regard, the Department will decide upon a way forward regarding this matter. The submission of the requested information above does not imply that no further action would be taken against you.
- 6.6 If you are unclear about any aspect of this notice of intention, kindly contact the person indicated for enquiries in writing as soon as possible.

Yours sincerely

[Name of official]

[Designation]

[Date]

ACKNOWLEDGMENT OF RECEIPT:

Received by Mr /Ms _____

on behalf of the company _____

On this _____ day of _____, at _____

Signature



**forestry, fisheries
and the environment**

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

ANNEXURE C

APPEAL FORM

(in terms of regulation 25C)

APPEAL FORM IN TERMS OF THE NATIONAL FORESTS ACT, 1998 (ACT NO. 84 OF 1998)

Enquiries: Refer to the Departmental website for the relevant contact person within the Forestry Branch.

Please submit your completed appeal form and supporting documentation by electronic mail to the email address stipulated on the Departmental website for appeals or a hard copy by hand delivery to the nearest forestry offices.

NOTE:

- (1) This form should only be utilized if you are submitting an appeal in terms of any section of the National Forests Act, 1998 (Act No. 84 of 1998 as amended).
- (2) An electronic version of this form may be obtained from the Departmental website.
- (3) The completed appeal form must be posted or submitted electronically to the addresses stipulated on the Departmental website.
- (4) Information requested must be provided in the allocated spaces. If the allocated space is insufficient, additional pages may be attached as an Annexure.
- (5) Information should be as brief and clear as possible.
- (6) Where provided with boxes the appropriate box should be ticked.
- (7) The appeal must be submitted to the Minister within twenty (20) days after the decision has been granted by the Department and the appellant has been notified in writing of the Department's decision.
- (8) A copy of supporting documents (e.g., reports) must be attached to this form on submission.
- (9) This form must be duly signed by the appellant or the appellant's duly appointed representative.

PART A1. APPELLANT'S DETAILS

Full name of Appellant:

.....

Company Name (if applicable)

.....

Identity document number or passport number (Attach a certified copy):

.....

Physical Address		Postal Address	
	Postal Code		
Tel no. (work)		Tel no. (home)	
Fax number:			
Mobile number:			
Email address:			

PART A2. DULY AUTHORISED REPRESENTATIVE'S DETAILS (if applicable)

Name of person representing the appellant (if applicable)

.....

Identity document number or passport number (Attach a certified copy):

.....

Physical Address		Postal Address	

	Postal Code		Postal Code
Tel no. (work)		Tel no. (home)	
Fax number:			
Mobile number:			
E-mail address:			

PART B. INFORMATION OF THE DECISION TO BE APPEALED

1. Project Name (where applicable):

2. Property Description (Street Name, ERF number, PTN number, Farm Number, Suburb/Town, Local Municipality, District Municipality, Province):

3. Brief description of the activity:

4. Department's decision on the abovementioned project:

5. Licence number (where applicable):

6. Were you notified of the Department's decision? (Yes/No):

7. If yes, please provide date of decision and proof of correspondence:

PART D: GROUNDS OF APPEAL

1. Provide a statement setting out the ground/s of your appeal.

2. Does your appeal contain any new information that was not submitted to the Department before the Department's decision? (Yes/No).

3. If yes, please provide the information e.g. why was the information not made available to the Department before the Department's decision and reasons why the Minister should consider it.

4. Please list any attachments that are included in your appeal document:

a. _____

b. _____

c. _____

d. _____

e. _____

Appellant's Signature (Or duly appointed
representative)

Date

FOR OFFICIAL USE:

Appeal received by: _____ Date: _____

Attachments included: YES NO Copies of notifications attached: YES NO

Ref No: _____

Signature

Office of the Minister