



J Leslie Smith & Company Inc.

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29 January 2015

The MEC
Department of Economic Development, Tourism &
Environmental Affairs

Per E-mail: mecpa@kznded.gov.za

Dear Sirs,

KWAZULU-NATAL ENVIRONMENTAL, BIODIVERSITY AND PROTECTED AREAS MANAGEMENT BILL, 2014

OUR CLIENTS: BRIAN BOSWELL CIRCUS (PTY) LTD; NATAL ZOOLOGICAL GARDENS (PTY) LTD; NATAL LION PARK CC

We act for the listed entities reflected in the heading to this letter.

We have been asked to provide comments on the KwaZulu-Natal Environmental, Biodiversity and Protected Areas Management Bill on behalf of our clients.

As the Bill has only recently been received by our clients and given that the document runs to well over 500 pages, including the schedules (which will require separate detailed comment in due course), these submissions are of a preliminary nature and our clients reserve their rights to provide further comments as and when appropriate.

Our clients' primary concern relates to the historical difficulties which have been experienced with certain officials from Ezemvelo KZN Wildlife ("Ezemvelo"). Our clients are primarily concerned with what they perceive as deliberately obstructive conduct and unnecessarily bureaucratic processes for obtaining permits and licences in order for them to conduct their businesses.

Our clients have been compelled to proceed with litigation in order to correct administratively unlawful conduct on the part of the Board and officials of Ezemvelo.

Our clients are eager to ensure that a far more productive and co-operative relationship will be created between Ezemvelo and those members of the public who are required to engage with them.

Proprietor: J Leslie Smith & Company Inc.

Incorporated No. 1997/003455/21

VAT Reg No. 4030102737

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While it is hoped that the supervisory powers provided for in Section 6 of the Bill may have some impact on these historical difficulties; the Bill does not appear to address the long standing concerns of our clients, and other individuals who are also required to obtain permits and licences, in that the Act sets up an equally complex permitting procedure.

The requirements for obtaining permits and licences from Ezemvelo have become gradually more and more onerous, to the point where it has become virtually impossible for our clients to operate in this environment. Our clients are concerned that the unwritten intention is to outlaw the keeping of animals in captivity, which would obviously be contrary to our clients' constitutional right to trade, and in any event, would be contrary to the national legislation relating to the keeping of animals in captivity and trading in those animals.

The number of licences and permits which our clients are required to have in terms of the legislation has increased from 2 or 3, up to, at the last count, 26 separate documents, all of which have significant conditions and requirements in order to obtain them.

Chapter 7 of the Bill appears to expand on the bureaucratic processes which our clients will be required to follow and, from our clients' point of view, appears to be likely to increase the bureaucracy and the obstacles to conducting their businesses.

This concern is particularly valid in light of the fact that the regulations which will have to flow from this legislation, in order to make it operative, is likely to make it even more burdensome for our clients to operate.

Our clients propose that all individuals who are likely to be affected by the proposed legislation be invited to a meeting at which these concerns could be discussed and where the parties are able to brainstorm a more streamlined and efficient system.

Given the fact that your portfolios include economic development and tourism, in addition to environmental affairs, it is vital that the impact of this legislation, particularly the licensing and permitting processes, be analysed in relation to its impact on economic development and tourism in the Province.

Our clients have previously documented the impact of the inability to obtain permits on the film and advertising industry generally. Our clients trade commercially in wildlife and they have been hindered in their efforts to import and export animals which obviously has an impact on our clients' ability to trade.

The Bill refers to sustainable use and this obviously relates to the commercial use of animals. That being the case, it may be appropriate for a representative of that sector of the economy to be represented on the proposed Board. The Board's specific powers and functions need to be addressed in detail.

Given the ongoing conflict between Ezemvelo and those seeking permits; it would be suggested that a separate entity be tasked with issuing permits, licences and registrations, as required. The specific powers and duties of this entity would need to be addressed in detail too.

The permit application procedure needs to be streamlined and simplified to limit the amount of bureaucracy involved and it is submitted that this procedure and the conditions which should be applied to those permits, would best be developed via a consultative process with the very individuals who keep those animals.

Consideration should also be given to extending the period of validity of licences and permits to avoid the complex application process on an annual basis. It would be proposed that once a facility has been registered and is licenced or permitted to operate, that a basic monitoring process could be implemented; rather than a complicated annual renewal process.

In conclusion then, it would appear that the Bill is in need of significant amendment and that the only way for this to be done in a meaningful fashion, would be for those parties that are directly affected by this proposed legislation to be directly involved in providing input on the processes, procedures and conditions which, as currently set out, are unlikely to be workable.

Yours faithfully,

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