So what exactly is Sanparks’ mandate and how does a national park differ from a special or national nature reserve?

Sanparks is mandated to manage any protected area it managed immediately before the Protected Areas Act (PAA) took effect in November 2005. Such an area must be managed in strict accordance with the act, the management plan and any condition and agreement which existed immediately before the act took effect. In addition, the minister of environmental affairs and tourism may appoint Sanparks to manage any other national protected areas such as special or national nature reserves and national protected environments, which fall under his jurisdiction.

THREE ACTS

There are three acts that broadly direct all conservation business of Sanparks. Both the National Environmental Management: Protected Areas Act no 57 of 2003 (PAA) and the National Environmental Management: Biodiversity act no 10 of 2004 (Nemba) came onto effect at the beginning of November 2005. The National Environmental Management Act no 107 of 1998 (Nema) came into operation on January 29, 1999. Sanparks is therefore a statutory body and exists as a juristic person that can be sued or may sue another in its own name. A board of directors governs the organisation, with the assistance of the chief executive officer, who is responsible for the day to day
management of operations, and various board committees as established by the board. To date, the board has established committees including a committee to assist the chairperson, an audit committee, a conservation and tourism committee, a human resources and communications committee and remuneration committee.

The minister of Deat appoints the chairperson of the board from the members that have been appointed by the minister.

WHAT DIFFERENTIATES NATIONAL PARKS FROM OTHER NATIONAL PROTECTED AREAS?

The PAA differentiates between four types of protected areas, which are national parks, special nature reserves, national and provincial nature reserves and national protected environments. Section 20 of the PAA states that land could only be declared a national park to protect:

- the area if it is of national and international biodiversity importance or contains a viable representative sample of South Africa’s natural systems, scenic areas or cultural heritage sites, or
- the ecological integrity of one or more ecosystems in the area;
- to prevent exploitation or occupation inconsistent with the protection of the ecological integrity of the area;
- to provide spiritual, scientific, educational, recreational and tourism opportunities which are environmentally compatible; and
- to contribute to economic development, where feasible

All four elements need to be present for land to be granted national park status. The officially protected area of a national park includes the land area and the airspace above that land extending to 2500 feet above the highest point of the park. The minister may declare an area a special nature reserve:

- to protect highly sensitive, outstanding ecosystems, species or geological or physical features in the area; and
- to make the area primarily available for scientific research or environmental monitoring.

The Protected Areas Act provides for the declaration of national and provincial nature reserves which can serve to supplement the system of national parks. National protected environments are also provided for in the PAA and these areas are designated as such in order to, inter alia, regulate these areas as buffer zones for the protection of special nature reserves, national parks and world heritage sites. Private land owner consent is required before private land can be included in an area to be given national nature reserve or national protected environment status.

MUNICIPAL LAWS AND NATIONAL PARKS

Municipal legislation applies to national parks, where appropriate and where it does not conflict with national legislation regulating national conservation. These include municipal rates and tax legislation, municipal building regulations relating to water and sanitation, waste, electricity reticulation and so on. Where a
municipality is unable or unwilling to provide municipal services, Sanparks may, in agreement with the relevant municipality, provide these services in a national park.

WHAT LEGISLATION APPLIES WHEN?

Only national government can pass legislation regulating nature conservation issues in national parks. Provincial conservation legislation cannot be applied in national parks. However, other national legislation also applies to national parks, where appropriate, such as the National Water Act, National Forests Act, National Heritage Resources Act, the World Heritage Convention Act and Marine Living Resources Act. All these acts apply at the same time and should be implemented in a way that best serves the environment. Primary national legislation that regulates a particular national environmental issue will override secondary national legislation.

For example, the water act regulates the use of water resources and the PAA cannot be used to override this. Since the constitution provides that all matters affecting nature conservation in national parks is to be regulated exclusively by national conservation legislation, provincial nature conservation cannot be applied for conservation issues in national parks. However, other provincial legislation may apply to national parks in terms of issues like roads, pollution and waste management and land use and planning. Sanparks has to pay municipal rates and taxes with regard to the land it manages.

It is exempt from paying for all land that is not used for residential, agricultural or commercial purposes.

WHAT IS SANPARKS’ OBLIGATION WITH REGARD ECO-TOURISM DEVELOPMENT IN NATIONAL PARKS?

Any eco-tourism development must support the conservation objective or ‘desired state’ of the national park concerned. No development may affect the survival of any species or significantly disrupt the integrity or ecological systems of national parks. In terms of section 19 of the PAA, development of any kind is only possible:

• in an area designated for development in the park management plan of the particular national park;
• on the basis that national EIA legislation is to be applied to the proposed development and where this does not apply that SANParks then indicate in writing the nature and extent of the strategic environmental impact assessment required for the development; and further
• if Sanparks has approved the environmental impact assessment before this is submitted to the relevant authority for approval in terms of any EIA legislation.

CAN PROSPECTING AND MINING OCCUR IN A NATIONAL PROTECTED AREAS?

As a general rule, no - the exception being where commercial and prospecting and mining rights which were in existence prior to November 2005, but these are subject to more stringent environmental management plans requested by the Minister of Deat.

http://www.krugertimes.com/krugernews/sanparks.htm

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