

Trout threatened in KwaZulu Natal

By Ian Cox



Just when we are making such good progress with in protecting trout, we find that once again trout are being threatened. This time it is in KZN and the threat lies in the Kwazulu-Natal Environmental, Biodiversity and Protected Areas Management Bill, 2014. This Bill is available online at <http://www.invasives.org.za/resources/downloadable-resources/viewdownload/63-kwazulu-natal-conservation-laws/1073-kzn-environmental-biodiversity-protected-area-management-bill.html>

The schedules to the bill can be found at <http://www.invasives.org.za/resources/downloadable-resources/viewdownload/63-kwazulu-natal-conservation-laws/1074-kzn-conversation-bill-schedules-1-10.html>

FOSAF chair Ilan Lax and I have prepared comments on the Bill for Trout South Africa and FOSAF.

The bill does not propose that trout are listed as invasive in KZN. However unlike most alien species trout are not listed exempted as alien species but is rather to be subjected to control as aliens by a system of permitting. In terms of section 46 it will this be illegal to stock trout or operate a trout aquaculture facility or own trout waters without a permit issued by the Ezemvelo KZN Wildlife. Ezemvelo may moreover direct landowners to eradicate alien species if they think that they may cause harm. While Ezemvelo KZN Wildlife recognises the economic value of trout they also believe trout are a highly invasive and damaging species.

This proposed legislation is incompatible with governments promise that trout will not be declared invasive have to be permitted where they already exist outside government nature reserves.

National Government has already regulated alien and invasive species in KZN. The regulation of the environment is a shared competence which means that both national and provincial governments may legislate on environmental matters. However national government may override the provincial right to legislate where this is in the national interest. National Government has exercised right in respect of the management of biodiversity. Provincial government cannot make laws if the right reposes in Government in the national interest. One presumes that provincial governments agree that this is so because they would have challenged national government if they thought otherwise. KZN can't know exercise powers it has conceded to national government. It is in any event crazy for two governments to make laws governing the same issue in the same area. Biodiversity laws are already confusing and difficult to implement. This will make it worse.

Lastly the proposed Bill makes a wide range of ordinary activity criminal unless sanctioned by a permit. Penalties for noncompliance are severe and include lengthy jail terms and massive fines. The Provincial government has a wide discretion to grant, refuse, suspend or cancel permits. The Bill contemplates that a wide range of rights that are ordinarily guaranteed such as for example the right to remain silent or the right to privacy or security of one's person property fall away. These powers affect a broad range of social cultural and economic activity will condemn large number of people to a life of fear constantly at risk of imprisonment or ruin at the instant of wildlife officials.
