

By Ian Cox

“Well, in our country,” said Alice, still panting a little, “you’d generally get to somewhere else — if you ran very fast for a long time, as we’ve been doing.”

“A slow sort of country!” said the Queen. “Now, here, you see, it takes all the running you can do, to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that!”

It’s been a busy month.

Thank you all who assisted in asking for information and/or submitting objections to the proposed amendments to the Draft 2108 AIS lists and Regulations. It has made a real difference.

Here is a list of some of the objections that were submitted:

- [Durban Fly Tyers-DFT](#)
- [Federation of Southern African Fly Fishers-FOSAF](#)
- [Trout South Africa – TSA](#)
- [Aquaculture South Africa – Aquaculture SA](#)
- [Wildlife Producers Association - WPA](#)
- [Wildlife Ranchers Association of South Africa - WRASA](#)
- [Natal Fly Fishers Club- NFFC](#)
- [Cape Piscatorial Society - CPS](#)
- [Ian Cox](#)
- [Malan en Seuns](#)
- [Xplorer Fly Fishing](#)



These objections were preceded by a letter of demand addressed by a consortium of interested parties in the sustainable resources sector to the Minister requesting that she withdraw the notice on account of the fact that it is unlawful.

She has not done so. She has not even acknowledged receipt of the letter so the legality of those draft lists and regulations are going to have to be tested in court.

FOSAF have briefed a legal team (See A big thank you ) has been briefed and papers will be filed in the next couple of weeks. That is if the Department of Environmental Affairs (“DEA”) does not come to its senses and withdraw them. They are after all hopelessly unlawful and there is well established jurisprudence that says that this must be so. The case that they are unlawful is what I like to call “a headshot”.

But wait there is more!

DEA have not responded to the demand to withdraw the notice is that it is banking on being able to change the law to legitimise ex post facto what it is done. Thus a [NEMLA Bill](#) is before Parliament. FOSAF and Trout SA wrote to the Portfolio Committee on Environmental Affairs dealing with this amendment last year. You can read that TSA FOSAF submission by clicking [here](#). Parliament has just published this Bill for comment. We have until 19 April to do so. The consortium is hard at work preparing those comments but I have in the meantime submitted my personal comments that are based on the TSA/FOSAF submission that is referred to above. You can access it by clicking [here](#).

You will see that my letter picks up on the themes set out ion the TSA/FOSAF representation and in particular that:

1. The proposed amendments increase the discretionary powers of officials despite the fact that they are failing to lawfully exercise the authority they have. This apparent reward for bad behaviour is not only contrary to the accountable government that President Ramaphosa has promised, it also contravenes the doctrine of separation of powers.
2. It, points to the fact that confirms the fears expressed in that memorandum of a slow incremental change to the law that diminishes human rights and the role of the courts can effectively play in policing government abuse is now confirmed by the contents of the [Draft Biodiversity Bill](#).

These issues speak to an underlying problem that FOSAF's Ilan Lax has been complaining about for over ten years. That is that the NEMBA was drafted without the benefit of a completed policy formulation process. It is a law lost in a sea of outdated beliefs unaided by the guiding instruments of policy or principle.

Details of how to take your objection if you are of a mind to do so are set out in the April 2018 Bobbin or can be accessed by clicking [here](#).