



# environmental affairs

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA



## EMI LEGISLATION HANDBOOK

### VOLUME 1

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**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

*[Assented To: 19 November 1998]*  
*[Commencement Date: 29 January 1999]*  
[Proc. R8 / GG 19703 / 19990129]

**as amended by:**

National Environmental Management Act 56 of 2002  
[with effect from 29 January 1999]  
Mineral and Petroleum Resources Development Act 28 of 2002  
[with effect from 1 May 2004 - Proc. R25 / GG 26264 / 20040423]  
National Environmental Management Amendment Act 8 of 2004  
[with effect from 7 January 2005 - Proc. R1 / GG 27161 / 20050106]  
National Environmental Management Amendment Act 46 of 2003  
[with effect from 1 May 2005 - Proc. 20 / GG 27539 / 20050429]  
National Environmental Management Amendment Act 62 of 2008 - See s. 12  
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National Environment Laws Amendment Act 44 of 2008  
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[with effect from 6 September 2012]  
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[with effect from 2 September 2014]

The Act has been amended by s. 26 of Act 30/2013 w.e.f. 18 December 2013 by the substitution for the expression “Minister of Minerals and Energy”, wherever it occurs, of the expression “Minister responsible for mineral resources”.

The Act has been amended by s. 26 of Act 30/2013 w.e.f. 18 December 2013 by the substitution for the expression “Minister of Water Affairs and Forestry”, wherever it occurs, of the expression “Minister responsible for water affairs”.

The Act has been amended by s. 26 of Act 30/2013 w.e.f. 18 December 2013 by the substitution for the expression “Minister of Environmental Affairs and Tourism”, wherever it occurs, of the expression “Minister responsible for environmental affairs”.

**ACT**

**To provide for co-operative environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote cooperative governance and procedures for co-ordinating environmental functions exercised by organs of state; to provide for certain aspects of the administration and enforcement of other environmental management laws; and to provide for matters connected therewith.**

[Long title amended by s. 3 of Act 56/2002 and substituted by s. 13 of Act 46/2003]

**PREAMBLE**

**WHEREAS** many inhabitants of South Africa live in an environment that is harmful to their health and wellbeing;

everyone has the right to an environment that is not harmful to his or her health or wellbeing;

the State must respect, protect, promote and fulfill the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities;

inequality in the distribution of wealth and resources, and the resultant poverty, are among the important causes as well as the results of environmentally harmful practices;

sustainable development requires the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that development serves present and future generations;

everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that -

prevent pollution and ecological degradation;

promote conservation; and

secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

the environment is a functional area of concurrent national and provincial legislative competence, and all spheres of government and all organs of state must cooperate with, consult and support one another;

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**AND WHEREAS** it is desirable -

that the law develops a framework for integrating good environmental management into all development activities;

that the law should promote certainty with regard to decisionmaking by organs of state on matters affecting the environment;

that the law should establish principles guiding the exercise of functions affecting the environment;

that the law should ensure that organs of state maintain the principles guiding the exercise of functions affecting the environment;

that the law should establish procedures and institutions to facilitate and promote cooperative government and intergovernmental relations;

that the law should establish procedures and institutions to facilitate and promote public participation in environmental governance;

that the law should be enforced by the State and that the law should facilitate the enforcement of environmental laws by civil society:

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**1. Definitions**

(1) In this Act, unless the context requires otherwise -

“**activities**”, when used in Chapter 5, means policies, programmes, processes, plans and projects identified in terms of section 24(2)(a) and (b);

[Definition of “activities” substituted by s. 1 of Act 56/2002, s. 1 of Act 62/2008 and s. 1 of Act 30/2013 w.e.f. 18 December 2013]

“**Agenda 21**” means the document by that name adopted at the United Nations Conference of Environment and Development held in Rio de Janeiro, Brazil in June 1992;

“**aircraft**” means an airborne craft of any type whatsoever, whether self-propelled or not, and includes a hovercraft;

[Definition of “aircraft” inserted by s. 1 of Act 46/2003]

“**applicant**” means a person who has submitted an application for an environmental authorisation to the competent authority and has paid the prescribed fee;

[Definition of “applicant” inserted by s. 1 of Act 62/2008 and substituted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

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**“assessment”**, when used in Chapter 5, means the process of collecting, organising, analysing, interpreting and communicating information that is relevant to decision-making;

[Definition of “assessment” inserted by s. 1 of Act 8/2004]

**“best practicable environmental option”** means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term;

**“commence”**, when used in Chapter 5, means the start of any physical implementation in furtherance of a listed activity or specified activity, including site preparation and any other action on the site or the physical implementation of a plan, policy, programme or process, but does not include any action required for the purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or specified activity;

[Definition of “commence” inserted by s. 1 of Act 8/2004 and substituted by s. 1 of Act 62/2008 and s. 1 of Act 30/2013 w.e.f. 18 December 2013]

**“commercially confidential information”** means commercial information, the disclosure of which would prejudice to an unreasonable degree the commercial interests of the holder: Provided that details of emission levels and waste products must not be considered to be commercially confidential notwithstanding any provision of this Act or any other law;

**“Committee”** .....

[Definition of “Committee” deleted by s. 4 of Act 14/2009]

**“community”** .....

[Definition of “community” substituted by s. 1 of Act 62/2008 and deleted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

**“competent authority”**, in respect of a listed activity or specified activity, means the organ of state charged by this Act with evaluating the environmental impact of that activity and, where appropriate, with granting or refusing an environmental authorisation in respect of that activity;

[Definition of “competent authority” inserted by s. 1 of Act 8/2004]

**“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

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**“delegation”**, in relation to a duty, includes an instruction to perform the duty;

[Definition of “delegation” inserted by s. 1 of Act 46/2003]

**“Department”** means the Department responsible for environmental affairs;

[Definition of “Department” substituted by s. 1 of Act 30/2013 w.e.f. 18 December 2013]

**“development footprint”**, in respect of land, means any evidence of its physical transformation as a result of the undertaking of any activity;

[Definition of “development footprint” inserted by s. 1 of Act 62/2008]

**“Director-General”** means the Director-General of the Department;

[Definition of “Director-General” substituted by s. 1 of Act 30/2013 w.e.f. 18 December 2013]

**“ecosystem”** means a dynamic system of plant, animal and micro-organism communities and their nonliving environment interacting as a functional unit;

**“environment”** means the surroundings within which humans exist and that are made up of -

- (i) the land, water and atmosphere of the earth;
- (ii) micro-organisms, plant and animal life;
- (iii) any part or combination of (i) and (ii) and the interrelationships among and between them; and
- (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and wellbeing;

**“environmental assessment practitioner”**, when used in Chapter 5, means the individual responsible for the planning, management, coordination or review of environmental impact assessments, strategic environmental assessments, environmental management programmes or any other appropriate environmental instruments introduced through regulations;

[Definition of “environmental assessment practitioner” inserted by s. 1 of Act 8/2004 and substituted by s. 1 of Act 30/2013 w.e.f. 18 December 2013]

**“environmental authorisation”**, when used in Chapter 5, means the authorisation by a competent authority of a listed activity or specified activity in terms of this Act, and includes a similar authorisation contemplated in a specific environmental management Act;

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[Definition of “environmental authorisation” inserted by s. 1 of Act 8/2004 and substituted by s. 1 of Act 62/2008]

“**environmental implementation plan**” means an implementation plan referred to in section 11;

“**environmental management cooperation agreement**” means an agreement referred to in section 35(1);

“**environmental management inspector**” means a person designated as an environmental management inspector in terms of section 31B, 31BA or 31C;

[Definition of “environmental management inspector” inserted by s. 1 of Act 46/2003 and substituted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

“**environmental management plan**” means a management plan referred to in section 11;

“**environmental management programme**” means a programme required in terms of section 24;

[Definition of “environmental management programme” inserted by s. 1 of Act 62/2008]

“**environmental mineral resource inspector**” means a person designated as an environmental mineral resource inspector in terms of section 31BB;

[Definition of “environmental mineral resource inspector” inserted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

“**evaluation**”, when used in Chapter 5, means the process of ascertaining the relative importance or significance of information, in the light of people's values, preferences and judgements, in order to make a decision;

[Definition of “evaluation” inserted by s. 1 of Act 8/2004]

“**exploration area**” .....

[Definition of “exploration area” inserted by s. 1 of Act 62/2008 and deleted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

“**financial provision**” means the insurance, bank guarantee, trust fund or cash that applicants for an environmental authorisation must provide in terms of this Act guaranteeing the availability of sufficient funds to undertake the-

- (a) rehabilitation of the adverse environmental impacts of the listed or specified activities;

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- (b) rehabilitation of the impacts of the prospecting, exploration, mining or production activities, including the pumping and treatment of polluted or extraneous water;
- (c) decommissioning and closure of the operations;
- (d) remediation of latent or residual environmental impacts which become known in the future;
- (e) removal of building structures and other objects; or
- (f) remediation of any other negative environmental impacts;

[Definition of “financial provision” inserted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

“**financial year**” means a period commencing on 1 April of any year and ending on 31 March of the following year;

“**Forum**” .....

[Definition of “Forum” deleted by s. 4 of Act 14/2009]

“**hazard**” means a source of or exposure to danger;

“**holder**” has the meaning assigned to it in section 1 of the Mineral and Petroleum Resources Development Act, 2002;

[Definition of “holder” inserted by s. 1 of Act 62/2008]

“**holder of an old order right**” has the meaning assigned to ‘holder’ in item 1 of Schedule II to the Minerals and Petroleum Resources Development Act, 2002;

[Definition of “holder of an old order right” inserted by s. 1 of Act 62/2008]

“**integrated environmental authorisation**” means an authorisation granted in terms of section 24L;

[Definition of “integrated environmental authorisation” inserted by s. 1 of Act 62/2008]

“**interested and affected party**”, for the purposes of Chapter 5 and in relation to the assessment of the environmental impact of a listed activity or related activity, means an interested and affected party contemplated in section 24(4)(a)(v), and which includes -

- (a) any person, group of persons or organisation interested in or affected by such operation or activity; and

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(b) any organ of state that may have jurisdiction over any aspect of the operation or activity;

[Definition of “interested and affected party” inserted by s. 1 of Act 62/2008]

“**international environmental instrument**” means any international agreement, declaration, resolution, convention or protocol which relates to the management of the environment;

“**listed activity**”, when used in Chapter 5, means an activity identified in terms of section 24(2)(a) and (d);

[Definition of “listed activity” inserted by s. 1 of Act 8/2004]

“**listed area**”, when used in Chapter 5, means a geographical area identified in terms of section 24(2)(b) and (c);

[Definition of “listed area” inserted by s. 1 of Act 8/2004]

“**MEC**” means the Member of the Executive Council to whom the Premier has assigned responsibility for environmental affairs;

[Definition of “MEC” substituted by s. 1 of Act 8/2004]

“**mine**” has the meaning assigned to it in section 1 of the Mineral and Petroleum Resources Development Act, 2002;

[Definition of “mine” inserted by s. 1 of Act 62/2008]

“**Mineral and Petroleum Resources Development Act, 2002**” means the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

[Definition of “Mineral and Petroleum Resources Development Act, 2002” inserted by s. 1 of Act 62/2008]

“**mining area**” .....

[Definition of “mining area” inserted by s. 1 of Act 62/2008 and deleted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

“**Minister**” means the Minister responsible for environmental matters;

[Definition of “Minister” substituted by s. 1 of Act 62/2008 and s. 1 of Act 25/2014 w.e.f. 2 September 2014]

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**“Minister responsible for mineral resources”** .....

[Definition of “Minister of Minerals and Energy” inserted by s. 1 of Act 62/2008 and amended by s. 26 of Act 30/2013 w.e.f. 18 December 2013 and deleted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

**“national department”** means a department of State within the national sphere of government;

**“norms or standards”**, when used in Chapter 5, means any norm or standard contemplated in section 24(10);

[Definition of “norms or standards” inserted by s. 1 of Act 62/2008]

**“organ of state”** means organ of state as defined in the Constitution;

**“owner of works”** has the meaning contemplated in paragraph (b) of the definition of “owner” in section 102 of the Mine Health and Safety Act, 1996 (Act No. 29 of 1996);

[Definition of “owner of works” inserted by s. 1 of Act 62/2008]

**“person”** includes a juristic person;

**“pollution”** means any change in the environment caused by -

- (i) substances;
- (ii) radioactive or other waves; or
- (iii) noise, odours, dust or heat,

emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or wellbeing or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

**“prescribe”** means prescribe by regulation in the *Gazette*;

**“production area”** .....

[Definition of “production area” inserted by s. 1 of Act 62/2008 and deleted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

**“prospecting area” .....**

[Definition of “prospecting area” inserted by s. 1 of Act 62/2008 and deleted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

**“provincial head of department”** means the head of the provincial department responsible for environmental affairs;

**“public participation process”**, in relation to the assessment of the environmental impact of any application for an environmental authorisation, means a process by which potential interested and affected parties are given opportunity to comment on, or raise issues relevant to, the application;

[Definition of “public participation process” inserted by s. 1 of Act 62/2008]

**“Regional Mining Development and Environmental Committee”.....**

[Definition of “Regional Mining Development and Environmental Committee” inserted by s. 1 of Act 62/2008 and deleted by s. 1 of Act 25/2014 w.e.f. 2 September 2014]

**“regulation”** means a regulation made under this Act;

**“residue deposit”** has the meaning assigned to it in section 1 of the Mineral and Petroleum Resources Development Act, 2002;

[Definition of “residue deposit” inserted by s. 1 of Act 62/2008]

**“residue stockpile”** has the meaning assigned to it in section 1 of the Mineral and Petroleum Resources Development Act, 2002;

[Definition of “residue stockpile” inserted by s. 1 of Act 62/2008]

**“review”**, when used in Chapter 5, means the process of determining whether an assessment has been carried out correctly or whether the resulting information is adequate in order to make a decision;

[Definition of “review” inserted by s. 1 of Act 8/2004]

**“spatial development tool”**, when used in Chapter 5, means a spatial description of environmental attributes, developmental activities and developmental patterns and their relation to each other;

[Definition of “spatial development tool” inserted by s. 1 of Act 62/2008]

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**“specific environmental management Acts”** .....

[Definition of “specific environmental management Acts” inserted by s. 1 of Act 46/2003 and deleted by s. 3 of Act 44/2008]

**“specific environmental management Act”** means-

- (a) the Environment Conservation Act, 1989 (Act No. 73 of 1989);
- (b) the National Water Act, 1998 (Act No. 36 of 1998);
- (c) the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);
- (d) the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
- (e) the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
- (f) the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);
- (g) the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); or
- (h) the World Heritage Convention Act, 1999 (Act No. 49 of 1999),

and includes any regulation or other subordinate legislation made in terms of any of those Acts;

[Definition of “specific environmental management Act” inserted by s. 1 of Act 8/2004 and substituted by s. 3 of Act 44/2008 and s. 1 of Act 30/2013 w.e.f. 18 December 2013]

**“specified activity”**, when used in Chapter 5, means an activity as specified within a listed geographical area in terms of section 24(2)(b) and (c);

[Definition of “specified activity” inserted by s. 1 of Act 8/2004]

**“state land”** means land which vests in the national or a provincial government, and includes land below the high water mark and the Admiralty Reserve, but excludes land belonging to a local authority;

**“sustainable development”** means the integration of social, economic and environmental factors into planning, implementation and decisionmaking so as to ensure that development serves present and future generations;

**“this Act”** includes the schedules, and regulations and any notice issued under the Act.

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“**vessel**” means any waterborne craft of any kind, whether self-propelled or not, but does not include any moored floating structure that is not used as a means of transporting anything by water.

[Definition of “vessel” inserted by s. 1 of Act 46/2003]

- (2) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise.
- (3) A reasonable interpretation of a provision which is consistent with the purpose of this Act must be preferred over an alternative interpretation which is not consistent with the purpose of this Act.
- (4) Neither -
  - (a) a reference to a duty to consult specific persons or authorities, nor
  - (b) the absence of any reference in this Act to a duty to consult or give a hearing, exempts the official or authority exercising a power or performing a function from the duty to act fairly.
- (5) Any administrative process conducted or decision taken in terms of this Act must be conducted or taken in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), unless otherwise provided for in this Act.

[Subs. (5) added by s. 1 of Act 62/2008]

## CHAPTER 1

### NATIONAL ENVIRONMENTAL MANAGEMENT PRINCIPLES

#### 2. Principles

- (1) The principles set out in this section apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and -
  - (a) shall apply alongside all other appropriate and relevant considerations, including the State’s responsibility to respect, protect, promote and fulfil the social and economic rights in Chapter 2 of the Constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;
  - (b) serve as the general framework within which environmental management and implementation plans must be formulated;

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- (c) serve as guidelines by reference to which any organ of state must exercise any function when taking any decision in terms of this Act or any statutory provision concerning the protection of the environment;
  - (d) serve as principles by reference to which a conciliator appointed under this Act must make recommendations; and
  - (e) guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment.
- (2) Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably.
- (3) Development must be socially, environmentally and economically sustainable.
- (4)
- (a) Sustainable development requires the consideration of all relevant factors including the following:
    - (i) That the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
    - (ii) that pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
    - (iii) that the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied;
    - (iv) that waste is avoided, or where it cannot be altogether avoided, minimised and reused or recycled where possible and otherwise disposed of in a responsible manner;
    - (v) that the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource;
    - (vi) that the development, use and exploitation of renewable resources and the ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised;
    - (vii) that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions; and

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- (viii) that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.
- (b) Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option.
  - (c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.
  - (d) Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human wellbeing must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.
  - (e) Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle.
  - (f) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.
  - (g) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge, including traditional and ordinary knowledge.
  - (h) Community wellbeing and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.
  - (i) The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment.
  - (j) The right of workers to refuse work that is harmful to human health or the environment and to be informed of dangers must be respected and protected.
  - (k) Decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with the law.
  - (l) There must be intergovernmental coordination and harmonisation of policies, legislation and actions relating to the environment.

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- (m) Actual or potential conflicts of interest between organs of state should be resolved through conflict resolution procedures.
- (n) Global and international responsibilities relating to the environment must be discharged in the national interest.
- (o) The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage.
- (p) The costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment.
- (q) The vital role of women and youth in environmental management and development must be recognised and their full participation therein must be promoted.
- (r) Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.

**CHAPTER 2**  
**INSTITUTIONS**

**Part 1:**

**National Environmental Advisory Forum**

**3. ....**

[S.3 repealed by s. 5 of Act No. 14 of 2009]

**3A. Establishment of fora or advisory committees**

The Minister may by notice in the *Gazette*-

- (a) establish any forum or advisory committee;
- (b) determine its composition and functions; and
- (c) determine, in consultation with the Minister of Finance, the basis and extent of the remuneration and payment of expenses of any member of such forum or committee.

[S.3A inserted by s. 6 of Act 14/2009]

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4. ....

5. ....

6. ....

[Part 1 repealed by s. 5 of Act 14/2009]

**Part 2:**

**Committee for Environmental Coordination**

7. ....

8. ....

9. ....

10. ....

[Part 2 repealed by s. 5 of Act 14/2009]

**CHAPTER 3**

**PROCEDURES FOR COOPERATIVE GOVERNANCE**

**11. Environmental implementation plans and management plans**

(1) Every national department listed in Schedule 1 as exercising functions which may affect the environment and every provincial department responsible for environmental affairs must prepare an environmental implementation plan within five years of the coming into operation of this Act, and at intervals of not more than five years thereafter.

[Subs. (1) substituted by s. 2 of Act 30/2013 w.e.f. 18 December 2013]

(2) Every national department listed in Schedule 2 as exercising functions involving the management of the environment must prepare an environmental management plan

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within five years of the coming into operation of this Act, and at intervals of not more than five years thereafter.

[Subs. (2) substituted by s. 2 of Act 30/2013 w.e.f. 18 December 2013]

- (3) Every national department that is listed in both Schedule 1 and Schedule 2 may prepare a consolidated environmental implementation and management plan.
- (4) Every organ of state referred to in subsections (1) and (2) must, in its preparation of an environmental implementation plan or environmental management plan, and before submitting such plan take into consideration every other environmental implementation plan and environmental management plan already adopted with a view to achieving consistency among such plans.
- (5) The Minister may by notice in the *Gazette* -
  - (a) extend the date for the submission of any environmental implementation plans and environmental management plans for periods not exceeding 12 months;
  - (b) on application by any organ of state, or on his or her own initiative with the agreement of the relevant Minister where it concerns a national department, amend Schedules 1 and 2. [Para. (b) substituted by s. 7 of Act 14/2009]
- (6) The Director-General must, at the request of a national department or province assist with the preparation of an environmental implementation plan.
- (7) The preparation of environmental implementation plans and environmental management plans may consist of the assembly of information or plans compiled for other purposes and may form part of any other process or procedure.
- (8) The Minister may issue guidelines to assist provinces and national departments in the preparation of environmental implementation and environmental management plans.

### **12. Purpose and objects of environmental implementation plans and environmental management plans**

The purpose of environmental implementation and management plans is to -

- (a) coordinate and harmonise the environmental policies, plans, programmes and decisions of the various national departments that exercise functions that may affect the environment or are entrusted with powers and duties aimed at the achievement, promotion, and protection of a sustainable environment, and of provincial and local spheres of government, in order to -
  - (i) minimise the duplication of procedures and functions; and

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- (ii) promote consistency in the exercise of functions that may affect the environment;
- (b) give effect to the principle of cooperative government in Chapter 3 of the Constitution;
- (c) secure the protection of the environment across the country as a whole;
- (d) prevent unreasonable actions by provinces in respect of the environment that are prejudicial to the economic or health interests of other provinces or the country as a whole; and
- (e) enable the Minister to monitor the achievement, promotion, and protection of a sustainable environment.

### **13. Content of environmental implementation plans**

- (1) Every environmental implementation plan must contain:
  - (a) a description of policies, plans and programmes that may significantly affect the environment;
  - (b) a description of the manner in which the relevant national department or province will ensure that the policies, plans and programmes referred to in paragraph (a) will comply with the principles set out in section 2 as well as any national norms and standards as envisaged under section 146(2)(b)(i) of the Constitution and set out by the Minister, or by any other Minister, which have as their objective the achievement, promotion, and protection of the environment;
  - (c) a description of the manner in which the relevant national department or province will ensure that its functions are exercised so as to ensure compliance with relevant legislative provisions, including the principles set out in section 2, and any national norms and standards envisaged under section 146(2)(b)(i) of the Constitution and set out by the Minister, or by any other Minister, which have as their objective the achievement, promotion, and protection of the environment; and
  - (d) recommendations for the promotion of the objectives and plans for the implementation of the procedures and regulations referred to in Chapter 5.
- (2) The Minister may make regulations for the purpose of giving effect to subsection (1)(b) and (c).

[Subs. (2) substituted by s. 8 of Act 14/2009]

### **14. Content of environmental management plans**

Every environmental management plan must contain -

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- (a) a description of the functions exercised by the relevant department in respect of the environment;
- (b) a description of environmental norms and standards, including norms and standards contemplated in section 146(2)(b)(i) of the Constitution, set or applied by the relevant department;
- (c) a description of the policies, plans and programmes of the relevant department that are designed to ensure compliance with its policies by other organs of state and persons;
- (d) a description of priorities regarding compliance with the relevant department's policies by other organs of state and persons;
- (e) a description of the extent of compliance with the relevant department's policies by other organs of state and persons;
- (f) a description of arrangements for cooperation with other national departments and spheres of government, including any existing or proposed memoranda of understanding entered into, or delegation or assignment of powers to other organs of state, with a bearing on environmental management; and
- (g) proposals for the promotion of the objectives and plans for the implementation of the procedures and regulations referred to in Chapter 5.

**15. Submission, scrutiny and adoption of environmental implementation plans and environmental management plans**

- (1) Every environmental implementation plan and every environmental management plan must be submitted for approval to the Minister or MEC, as the case may be.

[Subs. (1) substituted by s. 9 of Act 14/2009]

- (2) .....

[Subs. (2) deleted by s. 9 of Act 14/2009]

- (3) .....

[Subs. (3) deleted by s. 9 of Act 14/2009]

- (4) .....

[Subs. (4) deleted by s. 9 of Act 14/2009]

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- (5) A national department which has submitted an environmental management plan must adopt and publish its plan in the *Gazette* within 90 days of such submission and the plan becomes effective from the date of such publication.
- (6) The exercise of functions by organs of state may not be delayed or postponed on account of -
  - (a) the failure of any organ of state to submit an environmental implementation plan;
  - (b) .....

[Para. (b) deleted by s. 9 of Act 14/2009]

- (c) .....

[Para. (c) deleted by s. 9 of Act 14/2009]

- (d) any difference or disagreement regarding any environmental implementation plan and the resolution of that difference or disagreement; or
- (e) the failure of any organ of state to adopt and publish its environmental implementation or management plan.

**16. Compliance with environmental implementation plans and environmental management plans**

(1)

- (a) Every organ of state must exercise every function it may have, or that has been assigned or delegated to it, by or under any law, and that may significantly affect the protection of the environment, substantially in accordance with the environmental implementation plan or the environmental management plan prepared, submitted and adopted by that organ of state in accordance with this Chapter: Provided that any substantial deviation from an environmental management plan or environmental implementation plan must be reported forthwith to the Director-General.
- (b) Every organ of state must report annually within four months of the end of its financial year on the implementation of its adopted environmental management plan or environmental implementation plan to the Director-General.
- (c) The Minister may recommend to any organ of state which has not submitted and adopted an environmental implementation plan or environmental management plan, that it comply with a specified provision of an adopted environmental implementation plan or submitted environmental management plan.

[Subs. (1) substituted by s. 10 of Act 14/2009]

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- (2) The Director-General monitors compliance with environmental implementation plans and environmental management plans and may -
- (a) take any steps or make any inquiries he or she deems fit in order to determine if environmental implementation plans and environmental management plans are being complied with by organs of state; and
  - (b) if, as a result of any steps taken or inquiry made under paragraph (a), he or she is of the opinion that an environmental implementation plan and an environmental management plan is not substantially being complied with, serve a written notice on the organ of state concerned, calling on it to take such specified steps as the Director-General considers necessary to remedy the failure of compliance.
- (3)
- (a) Within 30 days of the receipt of a notice contemplated in subsection (2)(b), an organ of state must respond to the notice in writing setting out any -
    - (i) objections to the notice;
    - (ii) steps that will be taken to remedy failures of compliance; or
    - (iii) other information that the organ of state considers relevant to the notice.
  - (b) After considering the representations from the organ of state and any other relevant information, the Director-General must within 30 days of receiving a response referred to in paragraph (a) issue a final notice -
    - (i) confirming, amending or cancelling the notice referred to in subsection (2)(b);
    - (ii) specify steps and a time period within which steps must be taken to remedy the failure of compliance.
  - (c) If, after compliance with the provisions of paragraphs (a) and (b) there still remains a difference or disagreement between the organs of state and the Director-General, the organ of state may request the Minister to refer any difference or disagreement between itself and the Director-General regarding compliance with an environmental implementation plan, or the steps necessary to remedy a failure of compliance, to conciliation in accordance with Chapter 4.
  - (d) Where an organ of state does not submit any difference or disagreement to conciliation in accordance with paragraph (c), or if conciliation fails to resolve the matter, the Director-General may within 60 days of the final notice referred to in paragraph (b) if the matter has not been submitted to conciliation, or within 30 days of the date of conciliation, as the case may be -

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- (i) where the organ of state belongs to the provincial sphere of government, request the Minister to intervene in accordance with section 100 of the Constitution: Provided that such a difference or disagreement must be dealt with in accordance with the Act contemplated in section 41(2) of the Constitution once promulgated;
  - (ii) where the organ of state belongs to the local sphere of government, request the MEC to intervene in accordance with section 139 of the Constitution: Provided that such a difference or disagreement must be dealt with in accordance with the Act contemplated in section 41(2) of the Constitution once promulgated; or
  - (iii) where the organ of state belongs to the national sphere of government refer the matter for determination by the Minister in consultation with the Ministers responsible for the Department of Land Affairs, Department of Water Affairs and Forestry, Department of Minerals and Energy and Department of Constitutional Development.
- (4) Each provincial government must ensure that -
- (a) the relevant provincial environmental implementation plan is complied with by each municipality within its province and for this purpose the provisions of subsections (2) and (3) must apply with the necessary changes; and
  - (b) municipalities adhere to the relevant environmental implementation and management plans, and the principles contained in section 2 in the preparation of any policy, programme or plan, including the establishment of integrated development plans and land development objectives.
- (5) The Director-General must keep a record of all environmental implementation plans and environmental management plans, relevant agreements between organs of state and any reports submitted under subsection (1)(b); and such plans, reports and agreements must be available for inspection by the public.

### **16A. Environment outlook report**

- (1) The Minister must within four years of the coming into operation of the National Environmental Management Laws Second Amendment Act, 2013, prepare and publish a national environment outlook report for the Republic and at intervals of not more than four years thereafter.
- (2) An MEC must-
  - (a) prepare and publish a provincial environment outlook report which must contain the information determined by the Minister in terms of subsection (4); and

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- (b) within four years of the coming into operation of the National Environmental Management Laws Second Amendment Act, 2013, submit the report to the Minister and at intervals of not more than four years thereafter.
- (3) A metropolitan or a district municipality may prepare and publish a municipal environment outlook report which must-
  - (a) contain the information determined by the Minister in terms of subsection (4); and
  - (b) be submitted to the Minister and MEC within four years of the coming into operation of the National Environmental Management Laws Second Amendment Act, 2013 and at intervals of not more than four years thereafter.
- (4) The Minister must, for the purposes of the environment outlook reports contemplated in subsection (2) and (3), by notice in the *Gazette*, determine-
  - (a) the procedure for compiling the report;
  - (b) the format; and
  - (c) the content of the report.
- (5) The Minister must prescribe the process for the submission, evaluation and adoption of the environment outlook report.
- (6) The relevant organs of state must co-operate with the Minister or MEC by furnishing the Minister or MEC with information required for inclusion in a national or a provincial environment outlook report.
- (7) The Minister may, at the request of a province, assist with the preparation of a provincial environment outlook report.
- (8) The MEC may, at the request of a municipality, assist with the preparation of a municipality's environment outlook report.

**[Proposed amendment:** S. 16A to be inserted by s. 3 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

## CHAPTER 4

### FAIR DECISIONMAKING AND CONFLICT MANAGEMENT

#### 17. Reference to conciliation

- (1) Any Minister, MEC or Municipal Council -

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- (a) where a difference or disagreement arises concerning the exercise of any of its functions which may significantly affect the environment, or
- (b) before whom an appeal arising from a difference or disagreement regarding the protection of the environment is brought under any law,

may, before reaching a decision, consider the desirability of first referring the matter to conciliation and -

- (i) must if he, she or it considers conciliation appropriate either -
    - (aa) refer the matter to the Director-General for conciliation under this Act; or
    - (bb) appoint a conciliator on the conditions, including timelimits, that he, she or it may determine; or
    - (cc) where a conciliation or mediation process is provided for under any other relevant law administered by such Minister, MEC or Municipal Council, refer the matter for mediation or conciliation under such other law; or
  - (ii) if he, she or it considers conciliation inappropriate or if conciliation has failed, make a decision: Provided that the provisions of section 4 of the Development Facilitation Act, 1995 (Act No. 67 of 1995), shall prevail in respect of decisions in terms of that Act and laws contemplated in subsection 1(c) thereof.
- (2) Anyone may request the Minister, a MEC or Municipal Council to appoint a facilitator to call and conduct meetings of interested and affected parties with the purpose of reaching agreement to refer a difference or disagreement to conciliation in terms of this Act, and the Minister, MEC or Municipal Council may, subject to section 22, appoint a facilitator and determine the manner in which the facilitator must carry out his or her tasks, including timelimits.
- (3) A court or tribunal hearing a dispute regarding the protection of the environment may order the parties to submit the dispute to a conciliator appointed by the Director-General in terms of this Act and suspend the proceedings pending the outcome of the conciliation.

**18. Conciliation**

- (1) Where a matter has been referred to conciliation in terms of this Act, the Director-General may, on the conditions, including timelimits, that he or she may determine, appoint a conciliator acceptable to the parties to assist in resolving a difference or disagreement: Provided that if the parties to the difference or disagreement do not reach agreement on the person to be appointed, the Director-General may appoint a person who has adequate experience in or knowledge of conciliation of environmental disputes.

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- (2) A conciliator appointed in terms of this Act must attempt to resolve the matter -
  - (a) by obtaining such information whether documentary or oral as is relevant to the resolution of the difference or disagreement;
  - (b) by mediating the difference or disagreement;
  - (c) by making recommendations to the parties to the difference or disagreement; or
  - (d) in any other manner that he or she considers appropriate.
- (3) In carrying out his or her functions, a conciliator appointed in terms of this Act must take into account the principles contained in section 2.
- (4) A conciliator may keep or cause to be kept, whether in writing or by mechanical or electronic means, a permanent record of all or part of the proceedings relating to the conciliation of a matter.
- (5) Where such record has been kept, any member of the public may obtain a readable copy of the record upon payment of a fee as approved by Treasury.
- (6) Where conciliation does not resolve the matter, a conciliator may enquire of the parties whether they wish to refer the matter to arbitration and may with their concurrence endeavour to draft terms of reference for such arbitration.
- (7)
  - (a) The conciliator must submit a report to the Director-General, the parties and the person who referred the matter for conciliation, setting out the result of his or her conciliation, and indicating whether or not an agreement has been reached.
  - (b) In the event of no agreement having been reached, the report may contain his or her recommendations and reasons therefor.
  - (c) Where relevant, the report must contain the conciliator's comments on the conduct of the parties.
  - (d) The report and any agreement reached as a result of the conciliation must be available for inspection by the public and any member of the public may obtain a copy thereof upon payment of a fee as approved by Treasury.
- (8) The Director-General may from time to time with the concurrence of the Minister of Finance, appoint persons or organisations with relevant knowledge or expertise to provide conciliation and mediation services.

## **19. Arbitration**

- (1) A difference or disagreement regarding the protection of the environment may be referred to arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).
- (2) Where a dispute or disagreement referred to in subsection (1) is referred to arbitration the parties thereto may appoint as arbitrator a person from the panel of arbitrators established in terms of section 21.

## **20. Investigation**

The Minister may at any time appoint one or more persons to assist either him or her or, after consultation with a Municipal Council or MEC or another national Minister, to assist such a Municipal Council or MEC or another national Minister in the evaluation of a matter relating to the protection of the environment by obtaining such information, whether documentary or oral, as is relevant to such evaluation and to that end -

- (a) the Minister may by notice in the *Gazette* give such person or persons the powers of a Commission of Inquiry under the Commissions Act, 1947 (Act No. 8 of 1947);
- (b) the Minister may make rules by notice in the *Gazette* for the conduct of the inquiry: Provided that the decision of the inquiry and the reasons therefor must be reduced to writing;
- (c) the Director-General must designate, subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as many officers and employees of the Department as may be necessary to assist such person and any work may be performed by a person other than such officer or employee at the remuneration and allowances which the Minister with the concurrence of the Minister of Finance may determine.

## **21. Appointment of panel and remuneration**

- (1) The Minister may, with the concurrence of the Minister of Finance, determine remuneration and allowances, either in general or in any particular case, to be paid from money appropriated by Parliament for that purpose to any person or persons appointed in terms of this Act to render facilitation, conciliation, arbitration or investigation services, who are not in the fulltime employment of the State.
- (2) The Minister may create a panel or panels of persons from which appointment of facilitators and arbitrators in terms of this Act may be made, or contracts entered into in terms of this Act.
- (3) The Minister may, pending the establishment of a panel or panels in terms of subsection (2), adopt the panel established in terms of section 31(1) of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996).

**22. Relevant considerations, report and designated officer**

(1) Decisions under this Act concerning the reference of a difference or disagreement to conciliation, the appointment of a conciliator, the appointment of a facilitator, the appointment of persons to conduct investigations, and the conditions of such appointment, must be made taking into account -

- (a) the desirability of resolving differences and disagreements speedily and cheaply;
- (b) the desirability of giving indigent persons access to conflict resolution measures in the interest of the protection of the environment;
- (c) the desirability of improving the quality of decisionmaking by giving interested and affected persons the opportunity to bring relevant information to the decisionmaking process;
- (d) any representations made by persons interested in the matter; and
- (e) such other considerations relating to the public interest as may be relevant.

(2)

(a) .....

[Para. (a) deleted by s. 11 of Act 14/2009]

(b) .....

[Para. (b) deleted by s. 11 of Act 14/2009]

- (c) The Director-General shall designate an officer to provide information to the public on appropriate dispute resolution mechanisms for referral of disputes and complaints.
- (d) The reports, records and agreements referred to in this subsection must be available for inspection by the public.

**CHAPTER 5**

**INTEGRATED ENVIRONMENTAL MANAGEMENT**

**23. General objectives**

(1) The purpose of this Chapter is to promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities.

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- (2) The general objective of integrated environmental management is to -
- (a) promote the integration of the principles of environmental management set out in section 2 into the making of all decisions which may have a significant effect on the environment;
  - (b) identify, predict and evaluate the actual and potential impact on the environment, socio-economic conditions and cultural heritage, the risks and consequences and alternatives and options for mitigation of activities, with a view to minimising negative impacts, maximising benefits, and promoting compliance with the principles of environmental management set out in section 2;
  - (c) ensure that the effects of activities on the environment receive adequate consideration before actions are taken in connection with them;
  - (d) ensure adequate and appropriate opportunity for public participation in decisions that may affect the environment;
  - (e) ensure the consideration of environmental attributes in management and decisionmaking which may have a significant effect on the environment; and
  - (f) identify and employ the modes of environmental management best suited to ensuring that a particular activity is pursued in accordance with the principles of environmental management set out in section 2.
- (3) The Director-General must coordinate the activities of organs of state referred to in section 24(1) and assist them in giving effect to the objectives of this section and such assistance may include training, the publication of manuals and guidelines and the coordination of procedures.

### **23A. Mainstreaming environmental management**

- (1) The Minister may, with a view to promote or facilitate integrated, environmentally sustainable and sound management, provide for-
- (a) the guidelines on the development, content and use of voluntary organisation or sector based instruments; and
  - (b) the circumstances under which such instruments may be submitted to and considered by the Minister.
- (2) Such instruments must, at least-
- (a) integrate environmental considerations into decision-making;
  - (b) provide for the implementation of best environmental practice;

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- (c) promote the progressive adoption of environmentally sound technology; or
  - (d) promote sustainable consumption and production, including, where appropriate, eco-endorsement or labelling.
- (3) In his or her consideration of such instruments, the Minister may-
- (a) as appropriate, engage with the organisation or sector concerned, as the case may be, on the content and use of its instrument if the organisation or sector concerned, as the case may be, requires the Minister to endorse or approve such instrument; or
  - (b) endorse or approve such instrument.

[S. 23A inserted by s. 4 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

#### **24. Environmental authorisations**

- (1) In order to give effect to the general objectives of integrated environmental management laid down in this Chapter, the potential consequences for or impacts on the environment of listed activities or specified activities must be considered, investigated, assessed and reported on to the competent authority or the Minister responsible for mineral resources, as the case may be, except in respect of those activities that may commence without having to obtain an environmental authorisation in terms of this Act.
- (1A) Every applicant must comply with the requirements prescribed in terms of this Act in relation to-
- (a) steps to be taken before submitting an application, where applicable;
  - (b) any prescribed report;
  - (c) any procedure relating to public consultation and information gathering;
  - (d) any environmental management programme;
  - (e) the submission of an application for an environmental authorisation and any other relevant information; and
  - (f) the undertaking of any specialist report, where applicable.
- (2) The Minister, or an MEC with the concurrence of the Minister, may identify-
- (a) activities which may not commence without environmental authorisation from the competent authority;
  - (b) geographical areas based on environmental attributes, and as specified in spatial development tools adopted in the prescribed manner by the environmental authority, in which specified activities may not commence without environmental authorisation from the competent authority;
  - (b) geographical areas based on environmental attributes, and as specified in spatial development tools adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, in which specified activities may not commence without an environmental authorisation from the competent authority;

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[Para. (b) substituted by s. 5 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

- (c) geographical areas based on environmental attributes, and specified in spatial development tools adopted in the prescribed manner by the environmental authority, in which specified activities may be excluded from authorisation by the competent authority;
- (c) geographical areas based on environmental attributes, and specified in spatial tools or environmental management instruments, adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, in which specified activities may be excluded from the requirement to obtain an environmental authorisation from the competent authority;

[Para. (c) substituted by s. 5 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

- (d) activities contemplated in paragraphs (a) and (b) that may commence without an environmental authorisation, but that must comply with prescribed norms or standards:
- (d) activities contemplated in paragraphs (a) and (b) that may be excluded from the requirement to obtain an environmental authorisation from the competent authority, but that must comply with prescribed norms or standards; or

[Para. (d) substituted by s. 5 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

- (e) activities contemplated in paragraphs (a) and (b) that, based on an environmental management instrument adopted in the prescribed manner by the Minister or an MEC, with the concurrence of the Minister, may be excluded from the requirement to obtain an environmental authorisation from the competent authority;

[Para. (e) added by s. 5 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

Provided that where an activity falls under the jurisdiction of another Minister or MEC, a decision in respect of paragraphs (a) to (d) must be taken after consultation with such other Minister or MEC.

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(2A)

- (a) In accordance with the risk averse and cautious approach contemplated in section 2(4)(a)(vii) and subject to paragraphs (e) and (f), the Minister may by notice in the *Gazette* prohibit or restrict the granting of an environmental authorisation by the competent authority for a listed or a specified activity in a specified geographical area for such period and on such terms and conditions as the Minister may determine, if it is necessary to ensure the protection of the environment, the conservation of resources or sustainable development.
- (b) Where the Minister has exercised his or her powers in terms of paragraph (a), the competent authority must-
  - (i) not accept any further application for an environmental authorisation for the identified listed or specified activity in the identified geographical area until such time that the prohibition has been lifted; and
  - (ii) deem all pending applications to have been withdrawn.
- (c) The exercise of the Minister's powers in terms of paragraph (a) does not affect the undertaking of activities authorised by means of an environmental authorisation prior to the prohibition or restriction becoming effective.
- (d) Where the prohibition or restriction affects the exercise of a power that an MEC has in terms of this Act, the prohibition or restriction contemplated in paragraph (a) may be published in the *Gazette* after consulting the MEC concerned.
- (e) The Minister may by notice in the *Gazette*-
  - (i) lift a prohibition or restriction made in terms of paragraph (a) if the circumstances which caused the Minister exercise his or her powers in terms of paragraph (a) no longer exist; or
  - (ii) amend any period, term or condition applicable to a prohibition or restriction if the circumstances which caused the Minister to exercise his or her powers in terms of paragraph (a) have changed.
- (f) Before the exercise of his or her powers in terms of paragraph (a), the Minister must-
  - (i) consult all Cabinet members whose areas of responsibility will be affected by the exercise of the power;
  - (ii) in accordance with the principles of co-operative governance set out in Chapter 3 of the Constitution, consult an MEC who will be affected by the exercise of the power; and

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- (iii) publish a notice in the *Gazette* inviting members of the public to submit to the Minister, within 30 days of publication of the notice in the *Gazette*, written representations on the proposed prohibition or restriction.

[Subs. (2A) inserted by s. 5 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

- (3) The Minister, or an MEC with the concurrence of the Minister, may compile information and maps that specify the attributes of the environment in particular geographical areas, including the sensitivity, extent, interrelationship and significance of such attributes which must be taken into account by every competent authority.
- (4) Procedures for the investigation, assessment and communication of the potential consequences or impacts of activities on the environment -
  - (a) must ensure, with respect to every application for an environmental authorisation-
    - (i) coordination and cooperation between organs of state in the consideration of assessments where an activity falls under the jurisdiction of more than one organ of state;
    - (ii) that the findings and recommendations flowing from an investigation, the general objectives of integrated environmental management laid down in this Act and the principles of environmental management set out in section 2 are taken into account in any decision made by an organ of state in relation to any proposed policy, programme, process, plan or project;
    - (iii) that a description of the environment likely to be significantly affected by the proposed activity is contained in such application;
    - (iv) investigation of the potential consequences for or impacts on the environment of the activity and assessment of the significance of those potential consequences or impacts; and
    - (v) public information and participation procedures which provide all interested and affected parties, including all organs of state in all spheres of government that may have jurisdiction over any aspect of the activity, with a reasonable opportunity to participate in those information and participation procedures; and
  - (b) must include, with respect to every application for an environmental authorisation and where applicable-
    - (i) investigation of the potential consequences or impacts of the alternatives to the activity on the environment and assessment of the significance of those potential consequences or impacts, including the option of not implementing the activity;

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- (ii) investigation of mitigation measures to keep adverse consequences or impacts to a minimum;
  - (iii) investigation, assessment and evaluation of the impact of any proposed listed or specified activity on any national estate referred to in section 3(2) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), excluding the national estate contemplated in section 3(2)(i)(vi) and (vii) of that Act;
  - (iv) reporting on gaps in knowledge, the adequacy of predictive methods and underlying assumptions, and uncertainties encountered in compiling the required information;
  - (v) investigation and formulation of arrangements for the monitoring and management of consequences for or impacts on the environment, and the assessment of the effectiveness of such arrangements after their implementation;
  - (vi) consideration of environmental attributes identified in the compilation of information and maps contemplated in subsection (3); and
  - (vii) provision for the adherence to requirements that are prescribed in a specific environmental management Act relevant to the listed or specified activity in question.
- (4A) Where environmental impact assessment has been identified as the environmental instrument to be utilised in informing an application for environmental authorisation, subsection (4)(b) is applicable.
- (5) The Minister, or an MEC with the concurrence of the Minister, may make regulations consistent with subsection (4)-
- (a) laying down the procedure to be followed in applying for, the issuing of, and monitoring compliance with, environmental authorisations;
  - (b) laying down the procedure to be followed in respect of-
    - (i) the efficient administration and processing of environmental authorisations;
    - (ii) fair decision-making and conflict management in the consideration and processing of applications for environmental authorisations;
    - (iv) applications to the competent authority by any person to be exempted from the provisions of any regulation in respect of a specific activity;
    - (v) appeals against decisions of competent authorities;
    - (vi) the management and control of residue stockpiles and deposits;

[Subpara. (vi) substituted by s. 2 of Act 25/2014 w.e.f. 2 September 2014]

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- (vii) consultation with land owners, lawful occupiers and other interested or affected parties;
  - (viii) mine closure requirements and procedures, the apportionment of liability for mine closure and the sustainable closure of mines with an interconnected or integrated impact resulting in a cumulative impact;
  - (ix) financial provision; and
  - (x) monitoring and environmental management programme performance assessments;
- (bA) laying down the procedure to be followed for the preparation, evaluation, adoption and review of prescribed environmental management instruments, including-
- (i) environmental management frameworks;
  - (ii) strategic environmental assessments;
  - (iii) environmental impact assessments;
  - (iv) environmental management programmes;
  - (v) environmental risk assessments;
  - (vi) environmental feasibility assessments;
  - (vii) norms or standards;
  - (viii) spatial development tools;
  - (viiiA) minimum information requirements; or
  - (ix) any other relevant environmental management instrument that may be developed in time;

[Para. (bA) substituted by s. 2 of Act 25/2014 w.e.f. 2 September 2014]

- (bB) laying down the procedure for the preparation, evaluation and adoption of the instruments referred to in subsection (2)(c), (d) and (e), including criteria or conditions to be included in such instruments;

[Para. (bB) inserted by s. 5 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

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- (c) prescribing fees, after consultation with the Minister of Finance, to be paid for-
    - (i) the consideration and processing of applications for environmental authorisations; and
    - (ii) the review of documents, processes and procedures by specialists on behalf of the competent authority;
  - (d) requiring, after consultation with the Minister of Finance, the provision of financial or other security to cover the risks to the State and the environment of non-compliance with conditions attached to environmental authorisations;
  - (e) specifying that specified tasks performed in connection with an application for an environmental authorisation, may only be performed by an environmental assessment practitioner registered in accordance with the prescribed procedures;
  - (f) requiring that competent authorities maintain a registry of applications for, and records of decisions in respect of, environmental authorisations;
  - (g) specifying that a contravention of a specified regulation is an offence and prescribing penalties for the contravention of that regulation;
  - (h) prescribing minimum criteria for the report content for each type of report and for each process that is contemplated in terms of the regulations in order to ensure a consistent quality and to facilitate efficient evaluation of reports;
  - (i) prescribing review mechanisms and procedures including criteria for, and responsibilities of all parties in, the review process; and
  - (j) prescribing any other matter necessary for dealing with and evaluating applications for environmental authorisations.
- (6) An MEC may make regulations in terms of subsection (5) only in respect of listed activities and specified activities or areas in respect of which the MEC is the competent authority.
- (7) Compliance with the procedures laid down by the Minister or an MEC in terms of subsection (4) does not absolve a person from complying with any other statutory requirement to obtain authorization from any organ of state charged by law with authorising, permitting or otherwise allowing the implementation of the activity in question.
- (8)
- (a) Authorisations obtained under any other law for an activity listed or specified in terms of this Act does not absolve the applicant from obtaining authorisation under this Act unless an authorisation has been granted in the manner contemplated in section 24L.

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- (b) Authorisations obtained after any investigation, assessment and communication of the potential impacts or consequences of activities, including an exemption granted in terms of section 24M or permits obtained under any law for a listed activity or specified activity in terms of this Act, may be considered by the competent authority as sufficient for the purposes of section 24(4), provided that such investigation, assessment and communication comply with the requirements of section 24(4)(a) and, where applicable, comply with section 24(4)(b).
- (9) Only the Minister may make regulations in accordance with subsection (5) stipulating the procedure to be followed and the report to be prepared in investigating, assessing and communicating potential consequences for or impacts on the environment by activities, for the purpose of complying with subsection (1), where the activity -
- (a) has a development footprint that falls within the boundaries of more than one province or traverses international boundaries; or
- (b) will affect compliance with obligations resting on the Republic under customary international law or a convention.
- (10)
- (a) The Minister, or an MEC with the concurrence of the Minister, may-
- develop or adopt norms or standards for activities, or for any part of an activity or for a combination of activities, contemplated in terms of subsection (2)(d);
- (i) develop or adopt norms or standards for-
- (aa) a listed activity or specified activity contemplated in subsection (2)(a) and (b);
- (bb) any part of the listed or specified activity referred to in item (aa);
- (cc) any sector relating to item (aa);
- (dd) any geographical area relating to item (aa);or
- (ee) any combination of the activities, sectors, geographical areas, listed activities or specified activities referred to in items (aa), (bb), (cc) and (dd);
- [Proposed amendment:** Subpara. (i) to be substituted by s. 5 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]
- (ii) prescribe the use of the developed or adopted norms or standards in order to meet the requirements of this Act;

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- (iii) prescribe reporting and monitoring requirements; and
  - (iv) prescribe procedures and criteria to be used by the competent authority for the monitoring of such activities in order to determine compliance with the prescribed norms or standards.
- (b) Norms or standards contemplated in paragraph (a) must provide for rules, guidelines or characteristics-
- (i) that may commonly and repeatedly be used; and
  - (ii) against which the performance of activities or the results of those activities may be measured for the purposes of achieving the objects of this Act.
- (c) The process of developing norms or standards contemplated in paragraph (a) must, as a minimum, include-
- (i) publication of the draft norms or standards for comment in the relevant *Gazette*;
  - (ii) consideration of comments received; and
  - (iii) publication of the norms or standards to be prescribed.
- (d) The process of adopting norms or standards contemplated in paragraph (a) must, as a minimum, include-
- (i) publication of the intention to adopt existing norms or standards in order to meet the requirements of this Act for comment in the relevant *Gazette*;
  - (ii) consideration of comments received; and
  - (iii) publication of the norms or standards to be prescribed.

[S. 24 substituted by s. 2 of Act 8/2004 and s. 2 of Act 62/2008 with effect from 1 May 2009]

**24A. Procedure for listing activity or area**

Before identifying any activity or area in terms of section 24(2), the Minister or MEC, as the case may be, must publish a notice in the relevant *Gazette* -

- (a) specifying, through description, a map or any other appropriate manner, the activity or area that it is proposing to list;
- (b) inviting interested parties to submit written comments on the proposed listing within a period specified in the notice.

[S. 24A inserted by s. 3 of Act 8/2004]

**24B. Procedure for delisting of activities or areas**

- (1) The Minister may delist an activity or area identified by the Minister in terms of section 24(2).
- (2) An MEC may, with the concurrence of the Minister, delist an activity or area identified by the MEC in terms of section 24(2).
- (3) The Minister or MEC, as the case may be, must comply with section 24A, read with the changes required by the context, before delisting an activity or area in terms of this section.

[S. 24B inserted by s. 3 of Act 8/2004]

**24C. Procedure for identifying competent authority**

- (1) When listing or specifying activities in terms of section 24(2) the Minister, or an MEC with the concurrence of the Minister, must identify the competent authority responsible for granting environmental authorisations in respect of those activities.
- (2) The Minister must be identified as the competent authority in terms of subsection (1), unless otherwise agreed to in terms of section 24C(3), if the activity-

[Words preceding para. (a) substituted by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

- (a) has implications for international environmental commitments or relations, and where-
  - (i) it is identified by the Minister by notice in the *Gazette*; or
  - (ii) it is an activity that takes place in an area protected by means of an international environmental instrument, other than-
    - (aa) a conservancy;
    - (bb) a protected natural environment;
    - (cc) a proclaimed private nature reserve;
    - (dd) a natural heritage site;
    - (ee) the buffer zone or transitional area of a biosphere reserve; or
    - (ff) the buffer zone or transitional area of a world heritage site;

[Para. (a) substituted by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

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(b) .....

[Para. (b) deleted by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

- (c) has a development footprint that falls within the boundaries of more than one province or traverses international boundaries;
- (d) is undertaken, or is to be undertaken, by-
  - (i) a national department;
  - (ii) a provincial department responsible for environmental affairs or any other organ of state performing a regulatory function and reporting to the MEC; or
  - (iii) a statutory body, excluding any municipality, performing an exclusive competence of the national sphere of government; or
- (e) will take place within a national proclaimed protected area or other conservation area under control of a national authority.

(2A) The Minister responsible for mineral resources must be identified as the competent authority in terms of subsection (1) where the listed or specified activity is directly related to -

- (a) prospecting or exploration of a mineral or petroleum resource; or
- (b) extraction and primary processing of a mineral or petroleum resource.

[Subs. (2A) substituted by s. 3 of Act 25/2014 w.e.f. 2 September 2014]

(2B)

- (a) Notwithstanding the other provisions of this section, and in the event of the Minister not being the competent authority, the Minister must be identified as the competent authority where a Cabinet decision stipulates that the Minister must be the competent authority for activities related to a matter declared as a national priority or matters related to such national priority.
- (b) Notice must be given by the Minister in the *Gazette* approximately 90 days prior to the Cabinet decision referred to in paragraph (a).
- (c) The notice referred to in paragraph (b) must as a minimum contain the following information:
  - (i) The proposed decision to be considered by Cabinet and its rationale;

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- (ii) the approximate date of the consideration of the proposed decision by Cabinet;
- (iii) the proposed date on which the decision will come into effect;
- (iv) the proposed time-frame for which the Minister will be the competent authority, where appropriate;
- (v) the activities contemplated in section 24(2)(a) or geographical areas contemplated in section 24(2)(b); and
- (vi) any transitional arrangements that may be applicable to applications for environmental authorisations that already have been or are being processed.

(d) Once Cabinet has made the decision referred to in paragraph (a),

the Minister must publish the decision by notice in the *Gazette*.

[Subs. (2B) inserted by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

(2C)

- (a) Whenever a decision on an application for an environmental authorisation is not made within the time-frames applicable to that process, the applicant may apply to the Minister to facilitate the process of taking the decision by the Minister responsible for mineral resources, or where appropriate, to take the decision.
- (b) The applicant must notify the Minister responsible for mineral resources in writing of the intention to exercise the option in paragraph (a) at least 30 days prior to the exercising of such option.
- (c) The application contemplated in paragraph (a) must, at least, contain all the documents submitted to the Minister responsible for mineral resources in order to enable the Minister to take a decision.
- (d) Before taking a decision contemplated in paragraph (a), the Minister must request the Minister responsible for mineral resources to provide him or her with a report within a specified time period on the status and causes of delay in the application and whether the Minister will be able to take the decision within a specified time period.
- (e) After having received the report referred to in paragraph (d) or in the event that no response or no satisfactory response or cooperation is received from the Minister responsible for mineral resources within the specified time period, the Minister must, where appropriate, take the decision or such other steps as the Minister may deem necessary, within a reasonable time period.

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- (f) The Minister must, simultaneously with the submission of the annual report contemplated in section 40(1)(d)(i) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), submit a report to Parliament setting out the details regarding the exercise of the power referred to in subsection (e) during the previous financial year.

[Subs. (2C) inserted by s. 3 of Act 25/2014 w.e.f. 2 September 2014]

- (3) The Minister and an MEC may agree that applications for environmental authorisations with regard to any activity or class of activities-

- (a) contemplated in subsection (2) may be dealt with by the MEC;
- (b) in respect of which the MEC is identified as the competent authority may be dealt with by the Minister.

- (4) In accordance with section 125(2)(b) of the Constitution, whenever an MEC fails to take a decision on an application for an environmental authorisation within the time periods prescribed by this Act, the applicant may apply to the Minister to take the decision.

[Subs. (4) added by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

- (5) The applicant must notify the MEC in writing of the intention to exercise the option in subsection (4) at least 30 days prior to the exercising of such option.

[Subs. (5) added by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

- (6) The application contemplated in subsection (4) must, at least, contain all the documents submitted to the MEC in order to enable the Minister to take a decision.

[Subs. (6) added by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

- (7) Before taking a decision contemplated in subsection (4), the Minister must request the MEC to provide him or her with a report within a specified time period on the status and causes of delay in the application.

[Subs. (7) added by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

- (8) After having received the report referred to in subsection (7) or in the event that no response or no satisfactory response or cooperation is received from the MEC within the specified time period the Minister must, where appropriate-

- (a) inform the applicant in the event that the MEC had complied with the relevant prescripts;
- (b) assist the MEC in accordance with section 125(3) of the Constitution to fulfil his or her obligations under this Act; or

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- (c) direct the MEC to take the decision and such other steps as the Minister may deem necessary within a specified time period.

[Subs. (8) added by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

- (9) In the event that the MEC fails to take the decision within the specified time period or in any other manner fails to comply with the directive contemplated in subsection (8)(c), the Minister must take the decision within a reasonable period of time.

[Subs. (9) added by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

- (10) The Minister must, simultaneously with the submission of the annual report contemplated in section 40(1)(d)(i) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), submit a report to Parliament setting out the details regarding the exercise of the power referred to in subsection (8) during the previous financial year.

[Subs. (10) added by s. 6 of Act 30/2013 w.e.f. 18 December 2013]

[S. 24C inserted by s. 3 of Act 8/2004 and substituted by s. 3 of Act 62/2008 with effect from 1 May 2009]

### **24D. Publication of list**

- (1) The Minister or MEC concerned, as the case may be, must publish in the relevant *Gazette* a notice containing a list of-
- (a) activities or areas identified in terms of section 24(2); and
  - (b) competent authorities identified in terms of section 24C.
- (2) The notice referred to in subsection (1) must specify the date on which the list is to come into effect.

[S. 24D inserted by s. 3 of Act 8/2004 and substituted by s. 4 of Act 62/2008 with effect from 1 May 2009]

### **24E. Minimum conditions attached to environmental authorisations**

Every environmental authorisation must as a minimum ensure that -

- (a) adequate provision is made for the ongoing management and monitoring of the impacts of the activity on the environment throughout the life cycle of the activity;
- (b) the property, site or area is specified; and

(c) provision is made for the transfer of rights and obligations.

[Para. (c) substituted by s. 7 of Act 30/2013 w.e.f. 18 December 2013]

[S. 24E inserted by s. 3 of Act 8/2004]

**24F. Prohibitions relating to commencement or continuation of listed activity**

[Heading of s. 24F substituted by s. 8 of Act 30/2013 w.e.f. 18 December 2013]

(1) Notwithstanding any other Act, no person may-

(a) commence an activity listed or specified in terms of section 24(2)(a) or (b) unless the competent authority or the Minister responsible for mineral resources, as the case may be, has granted an environmental authorisation for the activity; or

(b) commence and continue an activity listed in terms of section 24(2)(d) unless it is done in terms of an applicable norm or standard.

[Subs. (1) substituted by s. 5 of Act 62/2008 with effect from 1 May 2009]

(2) .....

[Subs. (2) substituted by s. 5 of Act 62/2008 with effect from 1 May 2009 and deleted by s. 8 of Act 30/2013 w.e.f. 18 December 2013]

(3) .....

[Subs. (3) deleted by s. 8 of Act 30/2013 w.e.f. 18 December 2013]

(4) .....

[Subs. (4) deleted by s. 8 of Act 30/2013 w.e.f. 18 December 2013]

[S. 24F inserted by s. 3 of Act 8/2004]

**24G. Consequences of unlawful commencement of activity**

(1) On application by a person who-

(a) has commenced with a listed or specified activity without an environmental authorisation in contravention of section 24F(1);

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- (b) has commenced, undertaken or conducted a waste management activity without a waste management licence in terms of section 20(b) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008),

the Minister, Minister responsible for mineral resources or MEC concerned, as the case may be, may direct the applicant to-

- (i) immediately cease the activity pending a decision on the application submitted in terms of this subsection;
- (ii) investigate, evaluate and assess the impact of the activity on the environment;
- (iii) remedy any adverse effects of the activity on the environment;
- (iv) cease, modify or control any act, activity, process or omission causing pollution or environmental degradation;
- (v) contain or prevent the movement of pollution or degradation of the environment;
- (vi) eliminate any source of pollution or degradation;
- (vii) compile a report containing-
  - (aa) a description of the need and desirability of the activity;
  - (bb) an assessment of the nature, extent, duration and significance of the consequences for or impacts on the environment of the activity, including the cumulative effects and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;
  - (cc) a description of mitigation measures undertaken or to be undertaken in respect of the consequences for or impacts on the environment of the activity;
  - (dd) a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed;
  - (ee) an environmental management programme; or
- (viii) provide such other information or undertake such further studies as the Minister, Minister responsible for mineral resources or MEC, as the case may be, may deem necessary.

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- (2) The Minister, Minister responsible for mineral resources or MEC concerned must consider any report or information submitted in terms of subsection (1) and thereafter may-
- (a) refuse to issue an environmental authorisation; or
  - (b) issue an environmental authorisation to such person to continue, conduct or undertake the activity subject to such conditions as the Minister, Minister responsible for mineral resources or MEC may deem necessary, which environmental authorisation shall only take effect from the date on which it has been issued; or
  - (c) direct the applicant to provide further information or take further steps prior to making a decision provided for in paragraph (a) or (b).
- (3) The Minister, Minister responsible for mineral resources or MEC may as part of his or her decision contemplated in subsection (2)(a), (b) or (c) direct a person to-
- (a) rehabilitate the environment within such time and subject to such conditions as the Minister, Minister responsible for mineral resources or MEC may deem necessary; or
  - (b) take any other steps necessary under the circumstances.
- (4) A person contemplated in subsection (1) must pay an administrative fine, which may not exceed R5 million and which must be determined by the competent authority, before the Minister, Minister responsible for mineral resources or MEC concerned may act in terms of subsection (2)(a) or (b).
- (5) In considering a decision contemplated in subsection (2), the Minister, Minister responsible for mineral resources or MEC may take into account whether or not the applicant complied with any directive issued in terms of subsection (1) or (2).
- (6) The submission of an application in terms of subsection (1) or the granting of an environmental authorisation in terms of subsection (2)(b) shall in no way derogate from-
- (a) the environmental management inspector's or the South African Police Services' authority to investigate any transgression in terms of this Act or any specific environmental management Act;
  - (b) the National Prosecuting Authority's legal authority to institute any criminal prosecution.
- (7) If, at any stage after the submission of an application in terms of subsection (1), it comes to the attention of the Minister, Minister for mineral resources or MEC, that the applicant is under criminal investigation for the contravention of or failure to comply with section 24F(1) or section 20(b) of the National Environmental Management: Waste Act, 2008

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(Act No. 59 of 2008), the Minister, Minister responsible for mineral resources or MEC may defer a decision to issue an environmental authorisation until such time that the investigation is concluded and-

- (a) the National Prosecuting Authority has decided not to institute prosecution in respect of such contravention or failure;
- (b) the applicant concerned is acquitted or found not guilty after prosecution in respect of such contravention or failure has been instituted; or
- (c) the applicant concerned has been convicted by a court of law of an offence in respect of such contravention or failure and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.

[S. 24G inserted by s. 3 of Act 8/2004 and substituted by s. 6 of Act 62/2008 with effect from 1 May 2009 and substituted by s. 9 of Act 30/2013 w.e.f 18 December 2013]

### **24H. Registration authorities**

- (1) An association proposing to register its members as environmental assessment practitioners may apply to the Minister to be appointed as a registration authority in such manner as the Minister may prescribe.
- (2) The application must contain -
  - (a) the constitution of the association;
  - (b) a list of the members of the association;
  - (c) a description of the criteria and process to be used to register environmental assessment practitioners;
  - (d) a list of the qualifications of the members of the association responsible for the assessment of applicants for registration;
  - (e) a code of conduct regulating the ethical and professional conduct of members of the association; and
  - (f) any other prescribed requirements.
- (3) After considering an application, and any other additional information that the Minister may require, the Minister may -
  - (a) by notice in the *Gazette*, appoint the association as a registration authority; or
  - (b) in writing addressed to the association, refuse the application, giving reasons for such refusal.

- (4) The Minister may, for good cause and in writing addressed to the association, terminate the appointment of an association as a registration authority.
- (5) The Minister must maintain a register of all associations appointed as registration authorities in terms of this section.
- (6) The Minister may appoint as registration authorities such number of associations as are required for the purposes of this Act and may, if circumstances so require, limit the number of registration authorities to a single registration authority.

[Subs. (6) added by s. 7 of Act 62/2008 with effect from 1 May 2009]

[S. 24H inserted by s. 3 of Act 8/2004]

#### **24I. Appointment of external specialist to review assessment**

The Minister or MEC may appoint an external specialist reviewer, and may recover costs from the applicant, in instances where -

- (a) the technical knowledge required to review any aspect of an assessment is not readily available within the competent authority;
- (b) a high level of objectivity is required which is not apparent in the documents submitted, in order to ascertain whether the information contained in such documents is adequate for decision-making or whether it requires amendment.

[S. 24I inserted by s. 3 of Act 8/2004]

#### **24J. Implementation guidelines**

The Minister or an MEC, with the concurrence of the Minister, may publish guidelines regarding-

- (a) listed activities or specified activities; or
- (b) the implementation, administration and institutional arrangements of regulations made in terms of section 24(5).

[S. 24J inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

#### **24K. Consultation between competent authorities and consideration of legislative compliance requirements of other organs of state having jurisdiction**

- (1) The Minister or an MEC may consult with any organ of state responsible for administering the legislation relating to any aspect of an activity that also requires environmental

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authorisation under this Act in order to coordinate the respective requirements of such legislation and to avoid duplication.

- (2) The Minister or an MEC, in giving effect to Chapter 3 of the Constitution and section 24(4)(a)(i) of this Act, may after consultation with the organ of state contemplated in subsection (1) enter into a written agreement with the organ of state in order to avoid duplication in the submission of information or the carrying out of a process relating to any aspect of an activity that also requires environmental authorisation under this Act.
- (3) The Minister or an MEC may-
  - (a) after having concluded an agreement contemplated in subsection (2), consider the relevance and application of such agreement on applications for environmental authorisations; and
  - (b) when he or she considers an application for environmental authorisation that also requires authorisation in terms of other legislation take account of, either in part or in full and as far as specific areas of expertise are concerned, any process authorised under that legislation as adequate for meeting the requirements of Chapter 5 of this Act, whether such processes are concluded or not and provided that section 24(4)(a) and, where applicable, section 24(4)(b) are given effect to in such process.

[S. 24K inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

### **24L. Alignment of environmental authorisations**

- (1) A competent authority empowered under Chapter 5 to issue an environmental authorisation and any other authority empowered under a specific environmental management Act may agree to issue an integrated environmental authorisation.

[Subs. (1) substituted by s. 4 of Act 25/2014 w.e.f. 2 September 2014]

- (2) An integrated environmental authorisation contemplated in subsection (1) may be issued only if-

[Words preceding para. (a) substituted by s. 4 of Act 25/2014 w.e.f. 2 September 2014]

- (a) the relevant provisions of this Act and the other law or specific environmental management Act have been complied with; and
- (b) the environmental authorisation specifies the-
  - (i) provisions in terms of which it has been issued; and
  - (ii) relevant authority or authorities that have issued it.

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- (3) A competent authority empowered under Chapter 5 to issue an environmental authorisation in respect of a listed activity or specified activity may regard such authorisation as a sufficient basis for the granting or refusing of an authorisation, a permit or a licence under a specific environmental management Act if that specific environmental management Act is also administered by that competent authority.
- (4) A competent authority empowered under Chapter 5 to issue an environmental authorisation may regard an authorisation in terms of any other legislation that meets all the requirements stipulated in section 24(4)(a) and, where applicable, section 24(4)(b) to be an environmental authorisation in terms of that Chapter.

[S. 24L inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

### **24M. Exemptions from application of certain provisions**

- (1) The Minister or MEC, as the case may be, may grant an exemption from any provision of this Act, except from the provision of section 24(4)(a) or the requirement to obtain an environmental authorisation contemplated in section 24(2)(a) or (b).

[Subs. (1) substituted by s. 10 of Act 30/2013 w.e.f. 18 December 2013]

- (2) The Minister responsible for mineral resources may grant an exemption from any matter contemplated in section 24(4)(b).
- (3) The Minister or an MEC, as the case may be, must prescribe the process to be followed for the lodging and processing of an application for exemption in terms of this section.
- (4) The Minister, the Minister responsible for mineral resources or MEC may only grant an exemption contemplated in subsection (1) or (2), as the case may be, if-
  - (a) the granting of the exemption is unlikely to result in significant detrimental consequences for or impacts on the environment;
  - (b) the provision cannot be implemented in practice in the case of the application in question;  
[Para. (b) amended by s. 10 of Act 30/2013 w.e.f. 18 December 2013]
  - (c) the exemption is unlikely to adversely affect the rights of interested or affected parties; or  
[Para. (c) amended by s. 10 of Act 30/2013 w.e.f. 18 December 2013]
  - (d) the activity is of national or provincial importance and is aimed at preventing or mitigating serious harm to the environment or property.

[Para. (d) added by s. 10 of Act 30/2013 w.e.f. 18 December 2013]

[S. 24M inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

## **24N. Environmental management programme**

- (1) The Minister, the Minister responsible for mineral resources or an MEC may require the submission of an environmental management programme before considering an application for an environmental authorisation.

[Subs. (1) substituted by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

- (1A) Where an environmental impact assessment has been identified as the environmental instrument to be utilised as the basis for a decision on an application for environmental authorisation, the Minister, the Minister responsible for mineral resources or an MEC must require the submission of an environmental management programme before deciding an application for an environmental authorisation.

[Subs. (1A) substituted by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

- (2) The environmental management programme must contain-
- (a) information on any proposed management, mitigation, protection or remedial measures that will be undertaken to address the environmental impacts that have been identified in a report contemplated in subsection 24(1A), including environmental impacts or objectives in respect of-
    - (i) planning and design;
    - (ii) pre-construction and construction activities;
    - (iii) the operation or undertaking of the activity in question;
    - (iv) the rehabilitation of the environment; and
    - (v) closure, if applicable;
  - (b) details of-
    - (i) the person who prepared the environmental management programme; and
    - (ii) the expertise of that person to prepare an environmental management programme;
  - (c) a detailed description of the aspects of the activity that are covered by the environmental management programme;
  - (d) information identifying the persons who will be responsible for the implementation of the measures contemplated in paragraph (a);

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- (e) information in respect of the mechanisms proposed for monitoring compliance with the environmental management programme and for reporting on the compliance;
- (f) as far as is reasonably practicable, measures to rehabilitate the environment affected by the undertaking of any listed activity or specified activity to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development; and
- (g) a description of the manner in which it intends to-
  - (i) modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation;
  - (ii) remedy the cause of pollution or degradation and migration of pollutants; and
  - (iii) comply with any prescribed environmental management standards or practices.

(3) The environmental management programme must, where appropriate-

- (a) set out time periods within which the measures contemplated in the environmental management programme must be implemented;
- (b) contain measures regulating responsibilities for any environmental damage, pollution, pumping and treatment of polluted or extraneous water or ecological degradation which may occur inside and outside the boundaries of the operations in question;

[Para. (b) substituted by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

- (c) develop an environmental awareness plan describing the manner in which-
  - (i) the applicant intends to inform his or her employees of any environmental risk which may result from their work; and
  - (ii) risks must be dealt with in order to avoid pollution or the degradation of the environment.

(4) .....

[Subs. (4) deleted by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

- (5) The Minister, the Minister responsible for mineral resources or an MEC may call for additional information and may direct that the environmental management programme in question must be adjusted in such a way as the Minister, the Minister responsible for mineral resources or the MEC may require.

[Subs. (5) substituted by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

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- (6) The Minister, the Minister responsible for mineral resources or an MEC may at any time after he or she has approved an application for an environmental authorisation approve an amended environmental management programme.

[Subs. (6) substituted by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

- (7) The holder and any person issued with an environmental authorisation-
- (a) must at all times give effect to the general objectives of integrated environmental management laid down in section 23;
  - (b) must consider, investigate, assess and communicate the impact of his or her prospecting or mining on the environment;
  - (c) must manage all environmental impacts-
    - (i) in accordance with his or her approved environmental management programme, where appropriate; and
    - (ii) as an integral part of the prospecting or mining, exploration or production operation, unless the Minister responsible for mineral resources directs otherwise;

[Subpara. (ii) substituted by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

- (d) must monitor and audit compliance with the requirements of the environmental management programme;
- (e) must, as far as is reasonably practicable, rehabilitate the environment affected by the prospecting or mining operations to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development; and
- (f) is responsible for any environmental damage, pollution, pumping and treatment of polluted or extraneous water or ecological degradation as a result of his or her operations to which such right, permit or environmental authorisation relates.

[Para. (f) substituted by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

- (8) Notwithstanding the Companies Act, 2008 (Act No. 71 of 2008), or the Close Corporations Act, 1984 (Act No. 69 of 1984), the directors of a company or members of a close corporation are jointly and severally liable for any negative impact on the environment, whether advertently or inadvertently caused by the company or close corporation which they represent, including damage, degradation or pollution.

[Subs. (8) added by s. 5 of Act 25/2014 w.e.f. 2 September 2014]

[S. 24N inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

**240.Criteria to be taken into account by competent authorities when considering applications**

- (1) If the Minister, the Minister responsible for mineral resources or an MEC considers an application for an environmental authorisation, the Minister, Minister responsible for mineral resources or MEC must-

[Words preceding para. (a) substituted by s. 6 of Act 25/2014 w.e.f. 2 September 2014]

- (a) comply with this Act;
- (b) take into account all relevant factors, which may include-
  - (i) any pollution, environmental impacts or environmental degradation likely to be caused if the application is approved or refused;
  - (ii) measures that may be taken-
    - (aa) to protect the environment from harm as a result of the activity which is the subject of the application; and
    - (bb) to prevent, control, abate or mitigate any pollution, substantially detrimental environmental impacts or environmental degradation;
  - (iii) the ability of the applicant to implement mitigation measures and to comply with any conditions subject to which the application may be granted;
  - (iiiA) the ability of the applicant to comply with the prescribed financial provision;

[Subpara. (iiiA) inserted by s. 6 of Act 25/2014 w.e.f. 2 September 2014]

- (iv) where appropriate, any feasible and reasonable alternatives to the activity which is the subject of the application and any feasible and reasonable modifications or changes to the activity that may minimise harm to the environment;
- (v) any information and maps compiled in terms of section 24(3), including any prescribed environmental management frame-works, to the extent that such information, maps and frame-works are relevant to the application;
- (vi) information contained in the application form, reports, comments, representations and other documents submitted in terms of this Act to the Minister, Minister responsible for mineral resources, MEC or competent authority in connection with the application;

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(vii) any comments received from organs of state that have jurisdiction over any aspect of the activity which is the subject of the application; and

(viii) any guidelines, departmental policies, and environmental management instruments that have been adopted in the prescribed manner by the Minister or MEC, with the concurrence of the Minister, and any other information in the possession of the competent authority that are relevant to the application; and

[Subpara. (viii) substituted by s. 11 of Act 30/2013 w.e.f. 18 December 2013]

(c) take into account the comments of any organ of state charged with the administration of any law which relates to the activity in question.

(2) The Minister, the Minister responsible for mineral resources or an MEC must consult with every State department that administers a law relating to a matter affecting the environment when such Minister, Minister responsible for mineral resources or MEC considers an application for an environmental authorisation.

[Subs. (2) substituted by s. 6 of Act 25/2014 w.e.f. 2 September 2014]

(2A) Where the matter relates to prospecting, exploration, mining or production, the request for comment contemplated in subsection (2), must be submitted by registered mail to the Director-General or provincial head of department of the State department contemplated in subsection (2).

[Subs. (2A) inserted by s. 6 of Act 25/2014 w.e.f. 2 September 2014]

(3) A State department consulted in terms of subsection (2) must submit comment within 30 days from the date on which the Minister, Minister responsible for mineral resources, or MEC, or environmental assessment practitioner requests such State department in writing to submit comment.

[Subs. (3) substituted by s. 6 of Act 25/2014 w.e.f. 2 September 2014]

(4) .....

[Subs. (4) deleted by s. 6 of Act 25/2014 w.e.f. 2 September 2014]

(5) .....

[Subs. (5) deleted by s. 6 of Act 25/2014 w.e.f. 2 September 2014]

[S. 24O inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

**24P. Financial provision for remediation of environmental damage**

- (1) An applicant for an environmental authorisation relating to prospecting, exploration, mining or production must, before the Minister responsible for mineral resources issues the environmental authorisation, comply with the prescribed financial provision for the rehabilitation, closure and ongoing post decommissioning management of negative environmental impacts.

[Subs. (1) substituted by s. 7 of Act 25/2014 w.e.f. 2 September 2014]

- (2) If any holder or any holder of an old order right fails to rehabilitate or to manage any impact on the environment, or is unable to undertake such rehabilitation or to manage such impact, the Minister responsible for mineral resources may, upon written notice to such holder, use all or part of the financial provision contemplated in subsection (1) to rehabilitate or manage the environmental impact in question.

- (3) Every holder must annually-

- (a) assess his or her environmental liability in a prescribed manner and must increase his or her financial provision to the satisfaction of the Minister responsible for mineral resources; and
- (b) submit an audit report to the Minister responsible for mineral resources on the adequacy of the financial provision from an independent auditor.

[Subs. (3) substituted by s. 7 of Act 25/2014 w.e.f. 2 September 2014]

- (4)

- (a) If the Minister responsible for mineral resources is not satisfied with the assessment and financial provision contemplated in this section, the Minister responsible for mineral resources may appoint an independent assessor to conduct the assessment and determine the financial provision.

- (b) Any cost in respect of such assessment must be borne by the holder in question.

- (5) The requirement to maintain and retain the financial provision contemplated in this section remains in force notwithstanding the issuing of a closure certificate by the Minister responsible for mineral resources in terms of the Mineral and Petroleum Resources Development Act, 2002 to the holder or owner concerned and the Minister responsible for mineral resources may retain such portion of the financial provision as may be required to rehabilitate the closed mining or prospecting operation in respect of latent, residual or any other environmental impacts, including the pumping of polluted or extraneous water, for a prescribed period.

[Subs. (5) substituted by s. 7 of Act 25/2014 w.e.f. 2 September 2014]

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- (6) The Insolvency Act, 1936 (Act No. 24 of 1936), does not apply to any form of financial provision contemplated in subsection (1) and all amounts arising from that provision.
- (7) The Minister, or an MEC in concurrence with the Minister, may in writing make subsections (1) to (6) with the changes required by the context applicable to any other application in terms of this Act.

[S. 24P inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

### **24Q. Monitoring and performance assessment**

As part of the general terms and conditions for an environmental authorisation and in order to-

- (a) ensure compliance with the conditions of the environmental authorisation; and
- (b) in order to assess the continued appropriateness and adequacy of the environmental management programme,

every holder and every holder of an old order right must conduct such monitoring and such performance assessment of the approved environmental management programme as may be prescribed.

[S. 24Q inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

### **24R. Mine closure on environmental authorisation**

- (1) Every holder, holder of an old order right and owner of works remain responsible for any environmental liability, pollution or ecological degradation, the pumping and treatment of polluted or extraneous water, the management and sustainable closure thereof notwithstanding the issuing of a closure certificate by the Minister responsible for mineral resources in terms of the Mineral and Petroleum Resources Development Act, 2002, to the holder or owner concerned.

[Subs. (1) substituted by s. 8 of Act 25/2014 w.e.f. 2 September 2014]

- (2) When the Minister responsible for mineral resources issues a closure certificate, he or she must return such portion of the financial provision contemplated in section 24P as the Minister may deem appropriate to the holder concerned, but may retain a portion of such financial provision referred to in subsection (1) for any latent, residual or any other environmental impact, including the pumping of polluted or extraneous water, for a prescribed period after issuing a closure certificate.

[Subs. (2) substituted by s. 8 of Act 25/2014 w.e.f. 2 September 2014]

- (3) Every holder, holder of an old order right or owner of works must plan, manage and implement such procedures and requirements in respect of the closure of a mine as may be prescribed.

- (4) The Minister may, in consultation with the Minister responsible for mineral resources and by notice in the *Gazette*, identify areas where mines are interconnected or their impacts are integrated to such an extent that the interconnection results in a cumulative impact.
- (5) The Minister may, by notice in the *Gazette*, publish strategies in order to facilitate mine closure where mines are interconnected, have an integrated impact or pose a cumulative impact.

[S. 24R inserted by s. 8 of Act 62/2008 with effect from 1 May 2009]

#### **24S. Management of residue stockpiles and residue deposits**

Residue stockpiles and residue deposits must be deposited and managed in accordance with the provisions of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), on any site demarcated for that purpose in the environmental management plan or environmental management programme in question.

[S. 24S inserted by s. 9 of Act 25/2014 w.e.f. 2 September 2014]

## **CHAPTER 6**

### **INTERNATIONAL OBLIGATIONS AND AGREEMENTS**

#### **25. Incorporation of international environmental instruments**

- (1) Where the Republic is not yet bound by an international environmental instrument, the Minister may make a recommendation to Cabinet and Parliament regarding accession to and ratification of an international environmental instrument, which may deal with the following:
  - (a) Available resources to ensure implementation;
  - (b) views of interested and affected parties;
  - (c) benefits to the Republic;
  - (d) disadvantages to the Republic;
  - (e) the estimated date when the instrument is to come into effect;
  - (f) the estimated date when the instrument will become binding on the Republic;
  - (g) the minimum number of states required to sign the instrument in order for it to come into effect;

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- (h) the respective responsibilities of all national departments involved;
  - (i) the potential impact of accession on national parties;
  - (j) reservations to be made, if any; and
  - (k) any other matter which in the opinion of the Minister is relevant.
- (2) Where the Republic is a party to an international environmental instrument the Minister, after compliance with the provisions of section 231(2) and (3) of the Constitution, may publish the provisions of the international environmental instrument in the *Gazette* and any amendment or addition to such instrument.
- (3) The Minister may introduce legislation in Parliament or make such regulations as may be necessary for giving effect to an international environmental instrument to which the Republic is a party, and such legislation and regulations may deal with *inter alia* the following -
- (a) the coordination of the implementation of the instrument;
  - (b) the allocation of responsibilities in terms of the instrument, including those of other organs of state;
  - (c) the gathering of information, including for the purposes of compiling and updating reports required in terms of the instrument and for submission to Parliament;
  - (d) the dissemination of information related to the instrument and reports from international meetings;
  - (e) initiatives and steps regarding research, education, training, awareness raising and capacity building;
  - (f) ensuring public participation;
  - (g) implementation of and compliance with the provisions of the instrument, including the creation of offences and the prescription of penalties where applicable; and
  - (h) any other matter necessary to give effect to the instrument.
- (4) The Minister may prior to a recommendation referred to in subsection (1), publish a notice in the *Gazette*, stating his or her intention to make such recommendation and inviting written comments.

## 26. Reports

- (1) The Minister must report to Parliament once a year regarding international environmental instruments for which he or she is responsible and such report may include details on -
  - (a) participation in international meetings concerning international environmental instruments;
  - (b) progress in implementing international environmental instruments to which the Republic is a party;
  - (c) preparations undertaken in respect of international instruments to which the Republic is likely to become a party;
  - (d) initiatives and negotiations within the region of Southern Africa;
  - (e) the efficacy of coordination mechanisms; and
  - (f) legislative measures that have been taken and the time frames within which it is envisaged that their objectives will be achieved.
- (2)
  - (a) The Minister must initiate an Annual Performance Report on Sustainable Development to meet the government's commitment to Agenda 21.
  - (b)
    - (i) The Annual Performance Report must cover all relevant activities of all national departments and spheres of government.
    - (ii) All relevant organs of state must provide information to the Minister by a date to be determined by the Minister for the purposes of the report referred to in paragraph (a) and this may consist of an assembly of information compiled for other purposes.
  - (c) The Minister may appoint persons as he or she considers necessary to act as a Secretariat to ensure preparation of the report.
  - (d) The purpose of the report shall be to -
    - (i) provide an audit and a report of the government's performance in respect of Agenda 21;

- (ii) review procedures for coordinating policies and budgets to meet the objectives of Agenda 21; and
- (iii) review progress on a public educational programme to support the objectives of Agenda 21.

## **27. Application**

- (1) This Chapter applies to any international environmental instrument whether the Republic became a party to it before or after the coming into force of this Act.
- (2) The provisions of any international environmental instrument published in accordance with this section are evidence of the contents of the international environmental instrument in any proceedings or matter in which the provisions of the instrument come into question.

## **CHAPTER 7**

### **COMPLIANCE, ENFORCEMENT AND PROTECTION**

#### **Part 1:**

#### **Environmental hazards, access to information and protection of whistleblowers**

[Heading substituted by s. 2 of Act 46/2003]

#### **28. Duty of care and remediation of environmental damage**

- (1) Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.

(1A) Subsection (1) also applies to a significant pollution or degradation that-

- (a) occurred before the commencement of this Act;
- (b) arises or is likely to arise at a different time from the actual activity that caused the contamination; or
- (c) arises through an act or activity of a person that results in a change to pre-existing contamination.

[Subs. (1A) inserted by s. 12 of Act 14/2009]

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(2) Without limiting the generality of the duty in subsection (1), the persons on whom subsection (1) imposes an obligation to take reasonable measures, include an owner of land or premises, a person in control of land or premises or a person who has a right to use the land or premises on which or in which -

- (a) any activity or process is or was performed or undertaken; or
- (b) any other situation exists,

which causes, has caused or is likely to cause significant pollution or degradation of the environment.

(3) The measures required in terms of subsection (1) may include measures to -

- (a) investigate, assess and evaluate the impact on the environment;
- (b) inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing significant pollution or degradation of the environment;
- (c) cease, modify or control any act, activity or process causing the pollution or degradation;
- (d) contain or prevent the movement of pollutants or the causant of degradation;
- (e) eliminate any source of the pollution or degradation; or
- (f) remedy the effects of the pollution or degradation.

(4) The Director-General, the Director-General of the department responsible for mineral resources or a provincial head of department may, after having given adequate opportunity to affected persons to inform him or her of their relevant interests, direct any person who is causing, has caused or may cause significant pollution or degradation of the environment to -

[Words preceding para. (a) substituted by s. 10 of Act 25/2014 w.e.f. 2 September 2014]

- (a) cease any activity, operation or undertaking;
- (b) investigate, evaluate and assess the impact of specific activities and report thereon;
- (c) commence taking specific measures before a given date;
- (d) diligently continue with those measures; and
- (e) complete those measures before a specified reasonable date:

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Provided that the Director-General or a provincial head of department may, if urgent action is necessary for the protection of the environment, issue such directive, and consult and give such opportunity to inform as soon thereafter as is reasonable.

[Subs. (4) substituted by s. 12 of Act 30/2013 w.e.f. 18 December 2013]

(5) The Director-General, the Director-General of the department responsible for mineral resources or a provincial head of department, when considering any measure or time period envisaged in subsection (4), must have regard to the following;

[Words preceding para. (a) substituted by s. 10 of Act 25/2014 w.e.f. 2 September 2014]

- (a) the principles set out in section 2;
- (b) the provisions of any adopted environmental management plan or environmental implementation plan;
- (c) the severity of any impact on the environment and the costs of the measures being considered;
- (d) any measures proposed by the person on whom measures are to be imposed;
- (e) the desirability of the State fulfilling its role as custodian holding the environment in public trust for the people; and

[Para. (e) amended by s. 12 of Act 30/2013 w.e.f. 18 December 2013]

- (f) any other relevant factors.
- (6) If a person required under this Act to undertake rehabilitation or other remedial work on the land of another, reasonably requires access to, use of or a limitation on use of that land in order to effect rehabilitation or remedial work, but is unable to acquire it on reasonable terms, the Minister may -
- (a) expropriate the necessary rights in respect of that land for the benefit of the person undertaking the rehabilitation or remedial work, who will then be vested with the expropriated rights; and
  - (b) recover from the person for whose benefit the expropriation was effected all costs incurred.
- (7) Should a person fail to comply, or inadequately comply, with a directive under subsection (4), the Director-General or a provincial head of department may take reasonable measures to remedy the situation or apply to a competent court for appropriate relief.

[Subs. (7) substituted by s. 12 of Act 14/2009 and s. 12 of Act 30/2013 w.e.f. 18 December 2013]

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- (8) Subject to subsection (9), the Director-General, the Director-General of the department responsible for mineral resources or provincial head of department may recover costs for reasonable remedial measures to be undertaken under subsection (7), before such measures are taken and all costs incurred as a result of acting under subsection (7), from any or all of the following persons -

[Words preceding para. (a) substituted by s. 12 of Act 14/2009 and s. 10 of Act 25/2014 w.e.f. 2 September 2014]

- (a) any person who is or was responsible for, or who directly or indirectly contributed to, the pollution or degradation or the potential pollution or degradation;
- (b) the owner of the land at the time when the pollution or degradation or the potential for pollution or degradation occurred, or that owner's successor in title;
- (c) the person in control of the land or any person who has or had a right to use the land at the time when -
  - (i) the activity or the process is or was performed or undertaken; or
  - (ii) the situation came about; or
- (d) any person who negligently failed to prevent -
  - (i) the activity or the process being performed or undertaken; or
  - (ii) the situation from coming about;

Provided that such person failed to take the measures required of him or her under subsection (1).

- (9) The Director-General, the Director-General of the department responsible for mineral resources or provincial head of department may in respect of the recovery of costs under subsection (8), claim proportionally from any other person who benefited from the measures undertaken under subsection (7).

[Subs. (9) substituted by s. 10 of Act 25/2014 w.e.f. 2 September 2014]

- (10) The costs claimed under subsections (6), (8) and (9) must be reasonable and may include, without being limited to, labour, administrative and overhead costs.
- (11) If more than one person is liable under subsection (8), the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsections (1) and (4).

(12) Any person may, after giving the Director-General, the Director-General of the department responsible for mineral resources or provincial head of department 30 days' notice, apply to a competent court for an order directing the Director-General, the Director-General of the department responsible for mineral resources or any provincial head of department to take any of the steps listed in subsection (4) if the Director-General, the Director-General of the department responsible for mineral resources or provincial head of department fails to inform such person in writing that he or she has directed a person contemplated in subsection (8) to take one of those steps, and the provisions of section 32(2) and (3) shall apply to such proceedings, with the necessary changes.

[Subs. (12) substituted by s. 10 of Act 25/2014 w.e.f. 2 September 2014]

(13) When considering any application in terms of subsection (12), the court must take into account the factors set out in subsection (5).

(14).....

[Subs. (14) added by s. 12 of Act 14/2009 and deleted by s. 12 of Act 30/2013 w.e.f. 18 December 2013]

(15).....

[Subs. (15) added by s. 12 of Act 14/2009 and deleted by s. 12 of Act 30/2013 w.e.f. 18 December 2013]

## **29. Protection of workers refusing to do environmentally hazardous work**

- (1) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having refused to perform any work if the person in good faith and reasonably believed at the time of the refusal that the performance of the work would result in an imminent and serious threat to the environment.
- (2) An employee who has refused to perform work in terms of subsection (1) must as soon thereafter as is reasonably practicable notify the employer either personally or through a representative that he or she has refused to perform work and give the reason for the refusal.
- (3) Subsection (1) applies whether or not the person refusing to work has used or exhausted any other applicable external or internal procedure or otherwise remedied the matter concerned.
- (4) No person may advantage or promise to advantage any person for not exercising his or her right in terms of subsection (1).

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- (5) No person may threaten to take any action contemplated by subsection (1) against a person because that person has exercised or intends to exercise his or her right in terms of subsection (1).

**30. Control of incidents**

[Heading of s. 30 substituted by s. 13 of Act 30/2013 w.e.f. 18 December 2013]

(1) In this section -

- (a) "incident" means an unexpected, sudden and uncontrolled release of a hazardous substance, including from a major emission, fire or explosion, that causes, has caused or may cause significant harm to the environment, human life or property;

[Para. (a) substituted by s. 13 of Act 30/2013 w.e.f. 18 December 2013]

(b) "responsible person" includes any person who -

- (i) is responsible for the incident;
- (ii) owns any hazardous substance involved in the incident; or
- (iii) was in control of any hazardous substance involved in the incident at the time of the incident;

(c) "relevant authority" means -

- (i) a municipality with jurisdiction over the area in which an incident occurs;
- (ii) a provincial head of department or any other provincial official designated for that purpose by the MEC in a province in which an incident occurs;
- (iii) the Director-General;
- (iv) any other Director-General of a national department.

(2) Where this section authorises a relevant authority to take any steps, such steps may only be taken by -

- (a) the person referred to in subsection (1)(c)(iv) if no steps have been taken by any of the other persons listed in subsection (1)(c);
- (b) the person referred to in subsection (1)(c)(iii) if no steps have been taken by any of the persons listed in subsection (1)(c)(i) and (c)(ii);

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- (c) the person referred to in subsection (1)(c)(ii) if no steps have been taken by the person listed in subsection (1)(c)(i):

Provided that any relevant authority may nevertheless take such steps if it is necessary to do so in the circumstances and no other person referred to in subsection (1)(c) has yet taken such steps.

- (3) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer must forthwith after knowledge of the incident, report through the most effective means reasonably available -
- (a) the nature of the incident;
  - (b) any risks posed by the incident to public health, safety and property;
  - (c) the toxicity of substances or by-products released by the incident; and
  - (d) any steps that should be taken in order to avoid or minimise the effects of the incident on public health and the environment to -
    - (i) the Director-General;
    - (ii) the South African Police Services and the relevant fire prevention service;
    - (iii) the relevant provincial head of department or municipality; and
    - (iv) all persons whose health may be affected by the incident.
- (4) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer, must, as soon as reasonably practicable after knowledge of the incident -
- (a) take all reasonable measures to contain and minimise the effects of the incident, including its effects on the environment and any risks posed by the incident to the health, safety and property of persons;
  - (b) undertake cleanup procedures;
  - (c) remedy the effects of the incident;
  - (d) assess the immediate and long-term effects of the incident on the environment and public health.
- (5) The responsible person or, where the incident occurred in the course of that person's employment, his or her employer, must, within 14 days of the incident, report to the

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Director-General, provincial head of department and municipality such information as is available to enable an initial evaluation of the incident, including -

- (a) the nature of the incident;
  - (b) the substances involved and an estimation of the quantity released and their possible acute effect on persons and the environment and data needed to assess these effects;
  - (c) initial measures taken to minimise impacts;
  - (d) causes of the incident, whether direct or indirect, including equipment, technology, system, or management failure; and
  - (e) measures taken and to be taken to avoid a recurrence of such incident.
- (6) A relevant authority may direct the responsible person to undertake specific measures within a specific time to fulfil his or her obligations under subsections (4) and (5): Provided that the relevant authority must, when considering any such measure or time period, have regard to the following:
- (a) the principles set out in section 2;
  - (b) the severity of any impact on the environment as a result of the incident and the costs of the measures being considered;
  - (c) any measures already taken or proposed by the person on whom measures are to be imposed, if applicable;
  - (d) the desirability of the State fulfilling its role as custodian holding the environment in public trust for the people;
  - (e) any other relevant factors.
- (7) A verbal directive must be confirmed in writing at the earliest opportunity, which must be within seven days.
- (8) Should -
- (a) the responsible person fail to comply, or inadequately comply with a directive under subsection (6);
  - (b) there be uncertainty as to who the responsible person is; or
  - (c) there be an immediate risk of serious danger to the public or potentially serious detriment to the environment,

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a relevant authority may take the measures it considers necessary to -

- (i) contain and minimise the effects of the incident;
- (ii) undertake cleanup procedures; and
- (iii) remedy the effects of the incident.

(9) A relevant authority may claim reimbursement of all reasonable costs incurred by it in terms of subsection (8) from every responsible person jointly and severally.

(10) A relevant authority which has taken steps under subsections (6) or (8) must, as soon as reasonably practicable, prepare comprehensive reports on the incident, which reports must be made available through the most effective means reasonably available to -

- (a) the public;
- (b) the Director-General;
- (c) the South African Police Services and the relevant fire prevention service;
- (d) the relevant provincial head of department or municipality; and
- (e) all persons who may be affected by the incident.

(11).....

[Subs. (11) added by s. 13 of Act 14/2009 and deleted by s. 13 of Act 30/2013 w.e.f. 18 December 2013]

### **30A. Emergency situations**

- (1) The competent authority may on its own initiative or on written or oral request from a person, direct a person verbally or in writing to carry out a listed or specified activity, without obtaining an environmental authorisation contemplated in section 24(2)(a) or (b), in order to prevent or contain an emergency situation or to prevent, contain or mitigate the effects of the emergency situation.
- (2) The request from the person referred to in subsection (1) must at least include, where known-
  - (a) the nature, scope and possible impact of the emergency situation;
  - (b) the listed or specified activities that will be commenced with in response to the emergency situation;

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- (c) the cause of the emergency situation; and
  - (d) the proposed measures to prevent or to contain the emergency situation or to prevent, contain or mitigate the effects of the emergency situation.
- (3) The competent authority may direct the person to undertake specific measures within a specific time period in order to prevent or contain an emergency situation or to prevent, contain or mitigate the effects of the emergency situation.
- (4) The verbal directive referred to in subsection (1) must be confirmed in writing at the earliest opportunity, which must be within seven days.
- (5) Before making a decision contemplated in subsection (3), the competent authority must at least, where information is available, consider-
- (a) the nature of the emergency situation;
  - (b) the information contained in the request referred to in subsection (2);
  - (c) whether the emergency situation was caused by or the fault of the person;
  - (d) the principles in section 2;
  - (e) the risk of the impact on the environment as a result of the emergency and the costs of the measures considered; and
  - (f) the risk of the impact on the environment of the emergency situation, prevention, control or mitigation measures and the post-event mitigation or rehabilitation measures that may be required.
- (6) If the competent authority decides not to issue a directive provided for in subsection (1), the activity cannot commence or continue in the absence of an environmental authorisation.
- (7) In this section 'emergency situation' means a situation that has arisen suddenly that poses an imminent and serious threat to the environment, human life or property, including a 'disaster' as defined in section 1 of the Disaster Management Act, 2002 (Act No. 57 of 2002), but does not include an incident referred to in section 30 of this Act.

**[Proposed amendment:** S. 30A to be inserted by s. 3 of Act 30/2013 w.e.f. 18 December 2014 or on a date fixed by the President by proclamation in the *Gazette*, whichever is the earliest]

**31. Access to environmental information and protection of whistleblowers**

(1) .....

[Subs. (1) deleted by s. 14 of Act 14/2009]

(2) .....

[Subs. (2) deleted by s. 14 of Act 14/2009]

(3) .....

[Subs. (3) deleted by s. 14 of Act 14/2009]

(4) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having disclosed any information, if the person in good faith reasonably believed at the time of the disclosure that he or she was disclosing evidence of an environmental risk and the disclosure was made in accordance with subsection (5).

(5) Subsection (4) applies only if the person concerned -

(a) disclosed the information concerned to -

- (i) a committee of Parliament or of a provincial legislature;
- (ii) an organ of state responsible for protecting any aspect of the environment or emergency services;
- (iii) the Public Protector;
- (iv) the Human Rights Commission;
- (v) any attorney-general or his or her successor;
- (vi) more than one of the bodies or persons referred to in subparagraphs (i) to (v);

(b) disclosed the information concerned to one or more news media and on clear and convincing grounds believed at the time of the disclosure -

- (i) that the disclosure was necessary to avert an imminent and serious threat to the environment, to ensure that the threat to the environment was properly and timeously investigated or to protect himself or herself against serious or irreparable harm from reprisals; or

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- (ii) giving due weight to the importance of open, accountable and participatory administration, that the public interest in disclosure of the information clearly outweighed any need for nondisclosure;
  - (c) disclosed the information concerned substantially in accordance with any applicable external or internal procedure, other than the procedure contemplated in paragraph (a) or (b), for reporting or otherwise remedying the matter concerned; or
  - (d) disclosed information which, before the time of the disclosure of the information, had become available to the public, whether in the Republic or elsewhere.
- (6) Subsection (4) applies whether or not the person disclosing the information concerned has used or exhausted any other applicable external or internal procedure to report or otherwise remedy the matter concerned.
- (7) No person may advantage or promise to advantage any person for not exercising his or her right in terms of subsection (4).
- (8) No person may threaten to take any action contemplated by subsection (4) against a person because that person has exercised or intends to exercise his or her right in terms of subsection (4).

### **Part 2**

#### **Application and enforcement of Act and any specific environmental management Act**

[Heading of Part 2 substituted by s. 15 of Act 14/2009]

#### **31A. Application**

- (1) This Part applies to the enforcement of this Act and any specific environmental management Act.

[Subs. (1) substituted by s. 16 of Act 14/2009]

- (2) In this Part, unless inconsistent with the context, a word or expression to which a meaning has been assigned in a specific environmental management Act has, in relation to the administration or enforcement of that Act, the meaning assigned to it in that Act.
- (3) For the purposes of this Part, Schedule 1 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), is deemed to include an offence committed in terms of this Act or a specific environmental management Act.

**31B. Designation of environmental management inspectors by Minister**

- (1) The Minister may -
- (a) designate as an environmental management inspector, any staff member of -
    - (i) the Department; or
    - (ii) any other organ of state; and
  - (b) at any time withdraw a designation made in terms of paragraph (a).
- (2) A designation in terms of subsection (1)(a)(ii) may only be made by agreement between the Minister and the relevant organ of state.

**31BA. Designation of environmental management inspectors by Minister responsible for water affairs**

- (1) The Minister responsible for water affairs may-
- (a) designate as an environmental management inspector, any staff member of -
    - (i) the Department of Water Affairs and Forestry; or
    - (ii) any other organ of state; and
  - (b) at any time withdraw a designation made in terms of paragraph (a).
- (2) A designation in terms of subsection (1)(a)(ii) may only be made by agreement between the Minister responsible for water affairs and the relevant organ of state.

[S. 31BA inserted by s. 4 of Act 44/2008]

**31BB. Designation of environmental mineral resource inspectors by Minister responsible for mineral resources**

- (1) The Minister responsible for mineral resources may-
- (a) designate as an environmental mineral resource inspector, any staff member of the Department of Mineral Resources; and
  - (b) at any time withdraw a designation made in terms of paragraph (a).

[S. 31BB inserted by s. 11 of Act 25/2014 w.e.f. 2 September 2014]

**31C. Designation of environmental management inspectors by MEC**

- (1) An MEC may -
- (a) designate as an environmental management inspector, any staff member of -
    - (i) the department responsible for environmental management in the province;
    - (ii) any other provincial organ of state; or
    - (iii) any municipality in the province; and
  - (b) at any time withdraw a designation made in terms of paragraph (a).
- (2) A designation in terms of subsection (1)(a)(ii) or (iii) may only be made by agreement between the relevant MEC and the relevant provincial organ of state or municipality.

**31D. Mandates**

- (1) When designating a person as an environmental management inspector, the Minister, the Minister responsible for water affairs or MEC, as the case may be, must, subject to subsection (2), determine whether the person concerned is designated for the enforcement of -
- (a) this Act;
  - (b) a specific environmental management Act;
  - (c) specific provisions of this Act or a specific environmental management Act;
  - (d) this Act and all specific environmental management Acts; or
  - (e) any combination of those Acts or provisions of those Acts.
- (2) An MEC may designate a person as an environmental management inspector for the enforcement of only those provisions of this Act or any specific environmental management Act-
- (a) which are administered by the MEC or a provincial organ of state; or
  - (b) in respect of which the MEC or a provincial organ of state exercises or performs assigned or delegated powers or duties.
- (2A)The Minister responsible for mineral resources may designate a person as an environmental mineral resource inspector for the compliance monitoring and enforcement

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of the provisions of this Act or a specific environmental management Act in respect of which powers are conferred on him or her.

[Subs. (2A) inserted by s. 12 of Act 25/2014 w.e.f. 2 September 2014]

- (3) A person designated as an environmental management inspector or environmental mineral resource inspector may exercise any of the powers given to environmental management inspectors in terms of this Act that are necessary for the inspector's mandate in terms of subsections (1) or 2A that may be specified by the Minister, the Minister responsible for water affairs, the Minister responsible for mineral resources or MEC by notice in writing to the environmental management inspector or environmental mineral resource inspector.

[Subs. (3) substituted by s. 12 of Act 25/2014 w.e.f. 2 September 2014]

- (4) Despite the provisions in subsections (2A) and (3), the Minister may, with the concurrence of the Minister responsible for mineral resources, if the environmental mineral resource inspectors are unable or not adequately able to fulfill the compliance monitoring and enforcement functions, designate environmental management inspectors to implement these functions in terms of this Act or a specific environmental management Act in respect of which powers have been conferred on the Minister responsible for mineral resources.

[Subs. (4) added by s. 12 of Act 25/2014 w.e.f. 2 September 2014]

- (5) In the event that a complainant alleges that a specific compliance monitoring and enforcement function relating to prospecting, exploration, mining and production has not been implemented or has been inadequately implemented, the complainant must submit, in writing, information substantiating such allegations to the Minister responsible for mineral resources.

[Subs. (5) added by s. 12 of Act 25/2014 w.e.f. 2 September 2014]

- (6) In the event that the complainant is not satisfied with the response from the Minister responsible for mineral resources, the complainant may submit, in writing, such information to the Minister with substantiating documentation, including details of the engagement with the Minister responsible for mineral resources.

[Subs. (6) added by s. 12 of Act 25/2014 w.e.f. 2 September 2014]

- (7) On receipt of such information referred to in subsection (6), the Minister must consult with the Minister responsible for mineral resources on his or her response to the complainant.

[Subs. (7) added by s. 12 of Act 25/2014 w.e.f. 2 September 2014]

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- (8) Subsequent to subsection (7), the Minister may, in concurrence with the Minister responsible for mineral resources, within a reasonable period of time and where appropriate-
- (a) assist or support the Minister responsible for mineral resources to fulfill his or her compliance monitoring and enforcement obligations under this Act; or
  - (b) direct the environmental management inspectors as contemplated in subsection (4) to undertake the compliance monitoring and enforcement functions.

[Subs. (8) added by s. 12 of Act 25/2014 w.e.f. 2 September 2014]

- (9) The Minister must inform the complainant of steps taken in response to the complaint.

[Subs. (9) added by s. 12 of Act 25/2014 w.e.f. 2 September 2014]

[S. 31D substituted by s. 5 of Act 44/2008]

### **31E. Prescribed standards**

- (1) The Minister may prescribe -
- (a) qualification criteria for environmental management inspectors; and
  - (b) training that must be completed by environmental management inspectors.
- (2) The Minister may only prescribe criteria and training in terms of subsection (1) after consultation with the Minister responsible for safety and security.

### **31F. Proof of designation**

- (1) A prescribed identity card must be issued to each person designated as an environmental management inspector.
- (2) When exercising any powers or performing any duties in terms of this Act or a specific environmental management Act, an environmental management inspector must, on demand by a member of the public, produce the identity card referred to in subsection (1).

[Subs. (2) substituted by s. 17 of Act 14/2009]

### **31G. Functions of inspectors**

- (1) An environmental management inspector within his or her mandate in terms of section 31D -
- (a) must monitor and enforce compliance with a law for which he or she has been designated in terms of that section;

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- (b) may investigate any act or omission in respect of which there is a reasonable suspicion that it might constitute -
  - (i) an offence in terms of such law;
  - (ii) a breach of such law; or
  - (iii) a breach of a term or condition of a permit, authorisation or other instrument issued in terms of such law.
- (2) An environmental management inspector -
  - (a) must carry out his or her duties and exercise his or her powers -
    - (i) in accordance with any instructions issued by the Minister or MEC, as the case may be; and
    - (ii) subject to any limitations and in accordance with any procedures that may be prescribed; and
  - (b) may be accompanied by an interpreter or any other person whose assistance may reasonably be required;
  - (c) must exercise his or her powers in a way that minimises any damage to, loss or deterioration of any premises or thing.

### **31H. General powers**

- (1) An environmental management inspector, within his or her mandate in terms of section 31D, may-
  - (a) question a person about any act or omission in respect of which there is a reasonable suspicion that it might constitute -
    - (i) an offence in terms of a law for which that inspector has been designated in terms of that section;
    - (ii) a breach of such law; or
    - (iii) a breach of a term or condition of a permit, authorisation or other instrument issued in terms of such law;
  - (b) issue a written notice to a person who refuses to answer questions in terms of paragraph (a), requiring that person to answer questions put to him or her in terms of that paragraph;

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- (c) inspect, or question a person about, any document, book or record or any written or electronic information -
  - (i) which may be relevant for the purpose of paragraph (a); or
  - (ii) to which this Act or a specific environmental management Act relates;
- (d) copy, or make extracts from, any document, book or record or any written or electronic information referred to in paragraph (c), or remove such document, book, record or written or electronic information in order to make copies or extracts;
- (e) require a person to produce or deliver to a place specified by the inspector, any document, book or record or any written or electronic information referred to in paragraph (c) for inspection;
- (f) inspect, question a person about, and if necessary remove any specimen, article, substance or other item which, on reasonable suspicion, may have been used in -
  - (i) committing an offence in terms of the law for which that inspector has been designated in terms of section 31D;
  - (ii) breaching such law; or
  - (iii) breaching a term or condition of a permit, authorisation or other instrument issued in terms of such law;
- (g) take photographs or make audio-visual recordings of anything or any person that is relevant for the purposes of an investigation or for a routine inspection;

[Para. (g) substituted by s. 18 of Act 14/2009]

- (h) dig or bore into the soil;
  - (i) take samples;
  - (j) remove any waste or other matter deposited or discharged in contravention of the law for which that inspector has been designated in terms of section 31D or a term or condition of a permit, authorisation or other instrument issued in terms of such law; or
  - (k) carry out any other prescribed duty not inconsistent with this Act and any other duty that may be prescribed in terms of a specific environmental management Act.
- (2) A written notice issued in terms of subsection (1)(b) must be in the prescribed format and must require a person to answer specified questions either orally or in writing, and either alone or in the presence of a witness, and may require that questions are answered under oath or affirmation.

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- (3) A person who receives a written notice in terms of subsection (1)(b), must answer all questions put to him or her truthfully and to the best of his or her ability, notwithstanding that an answer might incriminate him or her, but any answer that incriminates such person may not be used against him or her in any subsequent criminal proceedings for an offence in terms of this Act or a specific environmental management Act.
- (4) An environmental management inspector must -
- (a) provide a receipt for -
    - (i) any document, book, record or written or electronic information removed in terms of subsection (1)(d); or
    - (ii) any specimen, article, substance or other item removed in terms of subsection (1)(f); and
  - (b) return anything removed within a reasonable period or, subject to section 34D, at the conclusion of any relevant criminal proceedings.
- (5) In addition to the powers set out in this Part, an environmental management inspector must be regarded as being a peace officer and may exercise all the powers assigned to a peace officer, or to a police official who is not a commissioned officer, in terms of Chapters 2, 5, 7 and 8 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)-
- (a) to comply with his or her mandate in terms of section 31D; and
  - (b) within the area of jurisdiction for which he or she has been designated.

Subs. (5) substituted by s. 6 of Act 44/2008]

**31. Seizure of items**

- (1) The provisions of sections 30 to 34 of the Criminal Procedure Act, 1977, apply to the disposal of anything seized in terms of this Part, subject to such modifications as the context may require.
- (2) When an item is seized in terms of this Part, the environmental management inspector may request the person who was in control of the item immediately before the seizure of the item, to take it to a place designated by the inspector, and if the person refuses to take the item to the designated place, the inspector may do so.
- (3) In order to safeguard a vehicle, vessel or aircraft that has been seized, the environmental management inspector may immobilise it by removing a part.
- (4) An item seized in terms of this section, including a part of a vehicle, vessel or aircraft referred to in subsection (3), must be kept in such a way that it is secured against damage.

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- (5) An environmental management inspector may -
- (a) in the case of a specimen of a threatened or protected species or alien species being imported into the Republic, at the port of entry, request the person responsible for the import or that person's agent, to produce the original copies of the import permit, together with such other documentation as may be required; and
  - (b) in the case of a specimen of a threatened or protected species, being exported or re-exported from the Republic, at the port of exit, request the person responsible for the export or re-export or that person's agent to produce the original copy of the export or re-export permit, together with such other documentation as may be required.

**31J. Powers to stop, enter and search vehicles, vessels and aircraft**

- (1) An environmental management inspector, within his or her mandate in terms of section 31D, may, without a warrant, enter and search any vehicle, vessel or aircraft, or search any pack-animal or any other mechanism of transport, on reasonable suspicion that that vehicle, vessel, aircraft, pack animal or other mechanism of transport-;

[Words preceding para. (a) substituted by s. 15 of Act 30/2013 w.e.f. 18 December 2013]

- (a) is being or has been used, or contains or conveys anything which is being or has been used, to commit-
    - (i) an offence in terms of the law for which that inspector has been designated in terms of section 31D; or
    - (ii) a breach of such law or a term or condition of a permit, authorisation or other instrument issued in terms of such law; or
  - (b) contains or conveys a thing which may serve as evidence of such offence or breach.
- (2) An environmental management inspector may, without a warrant, seize a vehicle, vessel, aircraft, pack-animal or any other mechanism of transport or anything contained in or on any vehicle, vessel, aircraft, pack-animal or other mechanism of transport-
- (a) which is concerned in or is on reasonable grounds believed to be concerned in the commission of an offence;
  - (b) which may afford evidence of the commission or suspected commission of an offence;
  - (c) which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence; or

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- (d) which, on reasonable grounds, is being utilised in a manner that is likely to cause significant pollution, impact or degradation of the environment,

in terms of this Act or a specific environmental management Act.

[Subpara. (2) substituted by s. 15 of Act 30/2013 w.e.f. 18 December 2013]

- (3) The provisions of section 31I apply to anything seized in terms of subsection (2), subject to such modifications as the context may require.
- (4) An environmental management inspector may, for the purpose of implementing subsection (1), at any time, and without a warrant -
- (a) order the driver of a vehicle or vessel to stop, or the pilot of an aircraft to land; or
  - (b) if necessary and possible, force the driver or pilot to stop or land, as the case may be.
- (5) An environmental management inspector may exercise on or in respect of such vehicle, vessel or aircraft any of the powers mentioned in section 31H.
- (6) An environmental management inspector may apply to the National or Provincial Commissioner of Police for written authorisation in terms of section 13(8) of the South African Police Service Act, 1995 (Act No. 68 of 1995), to establish a roadblock or a checkpoint.
- (7) An environmental management inspector has, within his or her mandate in terms of section 31D, all the powers of a member of the South African Police Service in terms of section 13(8) of the South African Police Service Act, 1995.

### **31K. Routine inspections**

- (1) An environmental management inspector, within his or her mandate in terms of section 31D, and subject to subsection (2), may at any reasonable time conduct routine inspections and, without a warrant, enter and inspect any building, land or premises or search, including but not limited to, any vehicle, vessel, aircraft, pack-animals, container, bag, box, or item for the purposes of ascertaining compliance with-

[Words preceding para. (a) substituted by s. 19 of Act 14/2009]

- (a) the legislation for which that inspector has been designated in terms of section 31D; or
  - (b) a term or condition of a permit, authorisation or other instrument issued in terms of such legislation.
- (2) An environmental management inspector, within his or her mandate in terms of section 31D, may, with a warrant obtained in terms of subsection (3), but subject to subsection (4), enter and inspect any residential premises for the purposes of ascertaining compliance with -

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- (a) the legislation for which that inspector has been designated in terms of section 31D; or
  - (b) a term or condition of a permit, authorisation or other instrument issued in terms of such legislation.
- (3) A magistrate may issue a warrant contemplated in subsection (2) only on written application by an environmental management inspector setting out under oath or affirmation that it is necessary to enter and inspect the specified residential premises for the purposes of ascertaining compliance with the Acts for which that inspector has been designated in terms of section 31D.
- (4) An environmental management inspector may in terms of subsection (2) enter and inspect any residential premises without a warrant, but only if -
- (a) the person in control of the premises consents to the entry and inspection; or
  - (b) there are reasonable grounds to believe that a warrant would on application be issued, but that the delay that may be caused by applying for a warrant would defeat the object of the entry or inspection.
- (5) While carrying out a routine inspection, an environmental management inspector may seize anything in or on any, including but not limited to, business or residential premises, land or vehicle, vessel, aircraft, pack-animals, container, bag, box, or item that may be used as evidence in the prosecution of any person for an offence in terms of this Act or a specific environmental management Act.

[Subs. (5) substituted by s. 19 of Act 14/2009]

- (6) The provisions of section 31I apply to anything seized in terms of subsection (5), subject to such modifications as the context may require.
- (7) An environmental management inspector may exercise on such building, land, premises, vehicle, vessel, aircraft, pack-animals, container, bag, box, item and the like any of the powers mentioned in section 31H.

[Subs. (7) substituted by s. 19 of Act 14/2009]

### **31L. Power to issue compliance notices**

- (1) An environmental management inspector, within his or her mandate in terms of section 31D, may issue a compliance notice in the prescribed form and following a prescribed procedure if there are reasonable grounds for believing that a person has not complied -
- (a) with a provision of the law for which that inspector has been designated in terms of section 31D; or

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- (b) with a term or condition of a permit, authorisation or other instrument issued in terms of such law.
- (2) A compliance notice must set out -
- (a) details of the conduct constituting non-compliance;
  - (b) any steps the person must take and the period within which those steps must be taken;
  - (c) any thing which the person may not do, and the period during which the person may not do it; and
  - (d) the procedure to be followed in lodging an objection to the compliance notice with the Minister or MEC, as the case may be.
- (3) An environmental management inspector may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice.
- (4) A person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Minister or MEC has agreed to suspend the operation of the compliance notice in terms of subsection (5).
- (5) A person who receives a compliance notice and who wishes to lodge an objection in terms of section 31M may make representations to the Minister or MEC, as the case may be, to suspend the operation of the compliance notice pending finalisation of the objection.

### **31M. Objections to compliance notice**

- (1) Any person who receives a compliance notice in terms of section 31L may object to the notice by making representations, in writing, to the Minister or MEC, as the case may be, within 30 days of receipt of the notice, or within such longer period as the Minister or MEC may determine.
- (2) After considering any representations made in terms of subsection (1) and any other relevant information, the Minister or MEC, as the case may be -
- (a) may confirm, modify or cancel a notice or any part of a notice; and
  - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

**31N. Failure to comply with compliance notice**

(1) .....

[Subs. (1) deleted by s. 16 of Act 30/2013 w.e.f. 18 December 2013]

(2) If a person fails to comply with a compliance notice, the environmental management inspector must report the non-compliance to the Minister or MEC, as the case may be, and the Minister or MEC may -

(a) revoke or vary the relevant permit, authorisation or other instrument which is the subject of the compliance notice;

(b) take any necessary steps and recover the costs of doing so from the person who failed to comply; and

(c) .....

[Para. (c) deleted by s. 20 of Act 14/2009]

(3) .....

[Subs. (3) added by s. 7 of Act 44/2008 and deleted by s. 16 of Act 30/2013 w.e.f. 18 December 2013]

**31O. Powers of South African Police Service members**

(1) A member of the South African Police Service has, in respect of an offence in terms of this Act or a specific environmental management Act, all the powers of an environmental management inspector in terms of this Part excluding the power to conduct routine inspections in terms of section 31K and the power to issue and enforce compliance notices in terms of sections 31L to 31O.

(2) Notwithstanding subsection (1), the Minister or MEC, as the case may be, may, with the concurrence of the Minister responsible for safety and security, by written notice to a member of the South African Police Service, assign to that member all the powers contemplated in sections 31K to 31O.

**31P. Duty to produce documents**

Any person to whom a permit, licence, permission, certificate, authorisation or any other document has been issued in terms of this Act or a specific environmental management Act, must produce that document at the request of an environmental management inspector.

**31Q. Confidentiality**

(1) It is an offence for any person to disclose information about any other person if that information was acquired while exercising or performing any power or duty in terms of this Act or a specific environmental management Act, except -

- (a) if the information is disclosed in compliance with the provisions of any law;
- (b) if the person is ordered to disclose the information by a court;
- (c) if the information is disclosed to enable a person to perform a function in terms of this Act or a specific environmental management Act; or
- (d) for the purposes of the administration of justice.

(1A) Subsection (1) does not apply to information that pertains to-

- (a) environmental quality or the state of the environment;
- (b) any risks posed to the environment, public safety and the health and well-being of people; or
- (c) compliance with or contraventions of any environmental legislation by any person.

[Subs. (1A) inserted by s. 21 of Act 14/2009]

(2) .....

[Subs. (2) deleted by s. 17 of Act 30/2013 w.e.f. 18 December 2013]

[Part 2 inserted by s. 4 of Act 46/2003]

**Part 3:**

**Judicial matters**

[Heading inserted by s. 5 of Act 46/2003]

**32. Legal standing to enforce environmental laws**

(1) Any person or group of persons may seek appropriate relief in respect of any breach or threatened breach of any provision of this Act, including a principle contained in Chapter 1, or of any provision of a specific environmental management Act, or of any other statutory provision concerned with the protection of the environment or the use of natural resources -

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- (a) in that person's or group of person's own interest;
- (b) in the interest of, or on behalf of, a person who is, for practical reasons, unable to institute such proceedings;
- (c) in the interest of or on behalf of a group or class of persons whose interests are affected;
- (d) in the public interest; and
- (e) in the interest of protecting the environment.

[Subs. (1) amended by s. 6 of Act 46/2003]

- (2) A court may decide not to award costs against a person who, or group of persons which, fails to secure the relief sought in respect of any breach or threatened breach of any provision of this Act, including a principle contained in Chapter 1, or of any provision of a specific environmental management Act, or of any other statutory provision concerned with the protection of the environment or the use of natural resources, if the court is of the opinion that the person or group of persons acted reasonably out of a concern for the public interest or in the interest of protecting the environment and had made due efforts to use other means reasonably available for obtaining the relief sought.

[Subs. (2) substituted by s. 6 of Act 46/2003]

- (3) Where a person or group of persons secures the relief sought in respect of any breach or threatened breach of any provision of this Act, or of any provision of a specific environmental management Act, or of any other statutory provision concerned with the protection of the environment, a court may on application -
  - (a) award costs on an appropriate scale to any person or persons entitled to practice as advocate or attorney in the Republic who provided free legal assistance or representation to such person or group in the preparation for or conduct of the proceedings; and
  - (b) order that the party against whom the relief is granted pay to the person or group concerned any reasonable costs incurred by such person or group in the investigation of the matter and its preparation for the proceedings.

[Subs. (3) amended by s. 6 of Act 46/2003]

**33. Private prosecution**

- (1) Any person may -

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- (a) in the public interest; or
- (b) in the interest of the protection of the environment,

institute and conduct a prosecution in respect of any breach or threatened breach of any duty, other than a public duty resting on an organ of state, in any national or provincial legislation or municipal bylaw, or any regulation, licence, permission or authorisation issued in terms of such legislation, where that duty is concerned with the protection of the environment and the breach of that duty is an offence.

(2) The provisions of sections 9 to 17 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) applicable to a prosecution instituted and conducted under section 8 of that Act must apply to a prosecution instituted and conducted under subsection (1): Provided that if -

- (a) the person prosecuting privately does so through a person entitled to practice as an advocate or an attorney in the Republic;
- (b) the person prosecuting privately has given written notice to the appropriate public prosecutor that he or she intends to do so; and
- (c) the public prosecutor has not, within 28 days of receipt of such notice, stated in writing that he or she intends to prosecute the alleged offence,
  - (i) the person prosecuting privately shall not be required to produce a certificate issued by the Attorney-General stating that he or she has refused to prosecute the accused; and
  - (ii) the person prosecuting privately shall not be required to provide security for such action.

(3) The court may order a person convicted upon a private prosecution brought under subsection (1) to pay the costs and expenses of the prosecution, including the costs of any appeal against such conviction or any sentence.

(4) The accused may be granted an order for costs against the person prosecuting privately, if the charge against the accused is dismissed or the accused is acquitted or a decision in favour of the accused is given on appeal and the court finds either:

- (a) that the person instituting and conducting the private prosecution did not act out of a concern for the public interest or the protection of the environment; or
- (b) that such prosecution was unfounded, trivial or vexatious.

(5) When a private prosecution is instituted in accordance with the provisions of this Act, the Attorney-General is barred from prosecuting except with the leave of the court concerned.

### 34. Criminal proceedings

- (1) Whenever any person is convicted of an offence under any provision listed in Schedule 3 and it appears that such person has by that offence caused loss or damage to any organ of state or other person, including the cost incurred or likely to be incurred by an organ of state in rehabilitating the environment or preventing damage to the environment, the court may in the same proceedings at the written request of the Minister or other organ of state or other person concerned, and in the presence of the convicted person, inquire summarily and without pleadings into the amount of the loss or damage so caused.
- (2) Upon proof of such amount, the court may give judgment therefor in favour of the organ of state or other person concerned against the convicted person, and such judgment shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court.
- (3) Whenever a person is convicted of an offence under any provision listed in Schedule 3 the court convicting such person may summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence, and, in addition to any other punishment imposed in respect of that offence, the court may order-
  - (a) the award of damages or compensation or a fine equal to the amount so assessed;  
or
  - (b) that such remedial measures as the court may determine must be undertaken by the convicted person.

[Subs. (3) substituted by s. 22 of Act 14/2009]

- (4) Whenever any person is convicted of an offence under any provision listed in Schedule 3 the court convicting such person may, upon application by the public prosecutor or another organ of state, order such person to pay the reasonable costs incurred by the public prosecutor and the organ of state concerned in the investigation and prosecution of the offence.
- (5) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in Schedule 3 for the employer to do or omit to do, and the act or omission of the manager, agent or employee occurred because the employer failed to take all reasonable steps to prevent the act or omission in question, then the employer shall be guilty of the said offence and, save that no penalty other than a fine may be imposed if a conviction is based on this subsection, liable on conviction to the penalty specified in the relevant law, including an order under subsections (2), (3) and (4), and proof of such act or omission by a manager, agent or employee shall constitute prima facie evidence that the employer is guilty under this subsection.

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- (6) Whenever any manager, agent or employee does or omits to do an act which it had been his or her task to do or to refrain from doing on behalf of the employer and which would be an offence under any provision listed in Schedule 3 for the employer to do or omit to do, he or she shall be liable to be convicted and sentenced in respect thereof as if he or she were the employer.
- (7) Any person who is or was a director of a firm at the time of the commission by that firm of an offence under any provision listed in Schedule 3 shall himself or herself be guilty of the said offence and liable on conviction to the penalty specified in the relevant law, including an order under subsection (2), (3) and (4), if the offence in question resulted from the failure of the director to take all reasonable steps that were necessary under the circumstances to prevent the commission of the offence: Provided that proof of the said offence by the firm shall constitute prima facie evidence that the director is guilty under this subsection.
- (8) Any such manager, agent, employee or director may be so convicted and sentenced in addition to the employer or firm.
- (9) In subsection (7) and (8) -
- (a) "firm" shall mean a body incorporated by or in terms of any law as well as a partnership; and
- (b) "director" shall mean a member of the board, executive committee, or other managing body of a corporate body and, in the case of a close corporation, a member of that close corporation or in the case of a partnership, a member of that partnership.
- (10)
- (a) The Minister may amend Part (a) of Schedule 3 by regulation.
- (b) An MEC may amend Part (b) of Schedule 3 in respect of the province of his or her jurisdiction by regulation.

**34A.**       .....

[S. 34A inserted by s. 7 of Act 46/2003 and repealed by s. 18 of Act 30/2013 w.e.f. 18 December 2013]

**34B. Award of part of fine recovered to informant**

- (1) A court which imposes a fine for an offence in terms of this Act or a specific environmental management Act may order that a sum of not more than one-fourth of the fine be paid to the person whose evidence led to the conviction or who assisted in bringing the offender to justice.

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- (2) A person in the service of an organ of state or engaged in the implementation of this Act or a specific environmental management Act is not entitled to such an award.

[S. 34B inserted by s. 7 of Act 46/2003]

### **34C. Cancellation of permits**

- (1) The court convicting a person of an offence in terms of this Act or a specific environmental management Act may -
- (a) withdraw any permit or other authorisation issued in terms of this Act or a specific environmental management Act to that person, if the rights conferred by the permit or authorisation were abused by that person;
  - (b) disqualify that person from obtaining a permit or other authorisation for a period not exceeding five years;
  - (c) issue an order that all competent authorities authorised to issue permits or other authorisations be notified of any disqualification in terms of paragraph (b).

[S. 34C inserted by s. 7 of Act 46/2003]

### **34D. Forfeiture of items**

- (1) The court convicting a person of an offence in terms of this Act or any of the specific environmental Acts may declare any item including but not limited to any specimen, container, vehicle, vessel, aircraft or document that was used for the purpose of, or in connection with, the commission of the offence and was seized under the provisions of this Part, to be forfeited to the State.

[Subs. (1) substituted by s. 23 of Act 14/2009]

- (2) The provisions of section 35 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), apply to the forfeiture of any item in terms of subsection (1), subject to such modifications as the context may require.
- (3) The Minister must ensure that any specimen forfeited to the State in terms of subsection (1) is -
- (a) repatriated to the country of export or origin as appropriate, at the expense of the person convicted of the offence involving that specimen;
  - (b) deposited in an appropriate institution, collection or museum, if -
    - (i) the specimen is clearly marked as a seized specimen; and

(ii) the person convicted of the offence does not benefit or gain from such deposit;  
or

(c) otherwise disposed of in an appropriate manner.

[S. 34D inserted by s. 7 of Act 46/2003]

#### **34E. Treatment of seized live specimens**

Pending the institution of any criminal proceedings in terms of this Act or a specific environmental management Act or the resolution of such proceedings, a live specimen that has been seized in terms of this Part must be deposited with a suitable institution, rescue centre or facility which is able and willing to house and properly care for it.

[S. 34E inserted by s. 7 of Act 46/2003]

#### **34F. Security for release of vehicles, vessels or aircraft**

- (1) If a vehicle, vessel or aircraft is seized in terms of this Act and is kept for the purposes of criminal proceedings, the owner or agent of the owner may at any time apply to a court for the release of the vehicle, vessel or aircraft.
- (2) A court may order the release of the vehicle, vessel or aircraft on the provision of security determined by the court.
- (3) The amount of the security must at least be equal to the sum of -
  - (a) the market value of the vehicle, vessel or aircraft;
  - (b) the maximum fine that a court may impose for the alleged offence; and
  - (c) costs and expenses incurred or reasonably foreseen to be incurred by the State in connection with prosecuting the offence and recoverable in terms of this Act.
- (4) If the court is satisfied that there are circumstances which warrant a lesser amount of security, it may order the release of the vehicle, vessel or aircraft subject to the provision of security for such lesser amount.

[S. 34F inserted by s. 7 of Act 46/2003]

#### **34G. Admission of guilt fines**

- (1) The Minister may by regulation specify offences in terms of this Act or a specific environmental management Act in respect of which alleged offenders may pay a prescribed admission of guilt fine instead of being tried by a court for the offence.

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- (2) An environmental management inspector who has reason to believe that a person has committed an offence specified in terms of subsection (1) may issue to the alleged offender a written notice referred to in section 56 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- (3) The amount of the fine stipulated in the notice referred to in subsection (2) may not exceed the amount -
  - (a) prescribed for the offence; and
  - (b) which a court would presumably have imposed in the circumstances.
- (4) The provisions of sections 56, 57 and 57A of the Criminal Procedure Act, 1977, apply subject to such modifications as the context may require, to written notices and admission of guilt fines referred to in this section.

[S. 34G inserted by s. 7 of Act 46/2003]

### **34H. Jurisdiction**

- (1) Notwithstanding anything to the contrary in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act or any specific Environmental Management Acts.

[Section renumbered to subs. (1) by s. 19 of Act 30/2013 w.e.f. 18 December 2013]

- (2) Where a competent authority is of the view that a more severe penalty could be considered than those penalties referred to in section 49B, the competent authority may request the National Prosecuting Authority to institute the criminal proceedings in the High Court.

[Subs. (2) added by s. 19 of Act 30/2013 w.e.f. 18 December 2013]

[S. 34H inserted by s. 24 of Act 14/2009]

## **CHAPTER 8**

### **ENVIRONMENTAL MANAGEMENT COOPERATION AGREEMENTS**

#### **35. Conclusion of agreements**

- (1) The Minister and every MEC and municipality, may enter into environmental management cooperation agreements with any person or community for the purpose of promoting compliance with the principles laid down in this Act.

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- (2) Environmental management cooperation agreements must -
- (a) only be entered into with the agreement of -
    - (i) every organ of state which has jurisdiction over any activity to which such environmental management cooperation agreement relates;
    - (ii) the Minister and the MEC concerned;
  - (b) only be entered into after compliance with such procedures for public participation as may be prescribed by the Minister; and
  - (c) comply with such regulations as may be prescribed under section 45.
- (3) Environmental management cooperation agreements may contain -
- (a) an undertaking by the person or community concerned to improve on the standards laid down by law for the protection of the environment which are applicable to the subject matter of the agreement;
  - (b) a set of measurable targets for fulfilling the undertaking in (a), including dates for the achievement of such targets; and
  - (c) provision for -
    - (i) periodic monitoring and reporting of performance against targets;
    - (ii) independent verification of reports;
    - (iii) regular independent monitoring and inspections;
    - (iv) verifiable indicators of compliance with any targets, norms and standards laid down in the agreement as well as any obligations laid down by law;
  - (d) the measures to be taken in the event of non-compliance with commitments in the agreement, including where appropriate penalties for non-compliance and the provision of incentives to the person or community.

**CHAPTER 9**

**ADMINISTRATION OF ACT AND SPECIFIC ENVIRONMENTAL  
MANAGEMENT ACTS**

[Heading substituted by s. 8 of Act 46/2003]

### **36. Expropriation**

- (1) The Minister may purchase or, subject to compensation, expropriate any property for environmental or any other purpose under this Act, if that purpose is a public purpose or is in the public interest.

[Subs. (1) amended by s. 110 of Act 28/2002]

- (2) The Expropriation Act, 1975 (Act No. 63 of 1975) applies to all expropriations under this Act and any reference to the Minister of Public Works in that Act must be read as a reference to the Minister for purposes of such expropriation.
- (3) Notwithstanding the provisions of subsection (2), the amount of compensation and the time and manner of payment must be determined in accordance with section 25(3) of the Constitution, and the owner of the property in question must be given a hearing before any property is expropriated.

### **37. Reservation**

The Minister may reserve State land with the consent of the Minister authorised to dispose of the land, and after consultation with any other Minister concerned, for environmental or other purposes in terms of this Act, if that purpose is a public purpose or is in the public interest.

### **38. Intervention in litigation**

The Minister may intervene in litigation before a court in any matter under this Act.

### **39. Agreements**

The Director-General may enter into agreements with organs of state in order to fulfil his or her responsibilities.

### **39A. Prohibition of certain products**

The Minister may from time to time regulate, prohibit or control the production, sale, distribution, import or export of products that may have a substantial detrimental effect on the environment.

[S. 39A inserted by s. 20 of Act 30/2013 w.e.f. 18 December 2013]

### **40. Appointment of employees on contract**

- (1) The Director-General may appoint employees on contract outside the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), when this is necessary to carry out the functions of the Department.

- (2) The Director-General must, from time to time, and after consultation with the Department of Public Service and Administration, determine the conditions of employment of such employees.
- (3) Such employees must be remunerated from money appropriated for that purpose by Parliament.

#### **41. Assignment of powers**

- (1) In this section "assignment" means an assignment as contemplated in section 99 of the Constitution.
- (2) The Minister must record all assignments referred to in subsection (1) in a Schedule to this Act and may amend that Schedule.

#### **42. Delegation of powers and duties by Minister and Director-General**

- (1) The Minister may delegate a power or duty vested in him or her in terms of this Act or a specific environmental management Act to -
  - (a) the Director- General;
  - (b) an MEC, by agreement with the MEC;
  - (c) the management authority of a protected area; or
  - (d) any organ of state, by agreement with that organ of state.
- (2) A delegation referred to in subsection (1) -
  - (a) must be in writing;
  - (b) may be made subject to conditions;
  - (c) does not prevent the exercise of the power or the performance of the duty by the Minister himself or herself;
  - (d) may include the power to subdelegate; and
  - (e) may be withdrawn by the Minister.
- (2A) The Minister must give notice in the Gazette of any delegation of a power or duty to an MEC, the management authority of a protected area or an organ of state.

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- (2B) The Minister may confirm, vary or revoke any decision taken in consequence of a delegation or subdelegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.
- (2C) The Minister may not delegate a power or duty vested in the Minister in terms of this Act or a specific environmental management Act -
- (a) to make regulations;
  - (b) to publish notices in the Gazette;
  - (c) to appoint a member of a board or committee; or
  - (d) to expropriate private land.
- (3) The Director-General may delegate a power or duty vested in him or her by or under this Act or a specific environmental management Act to -
- (a) the holder of an office in the Department; or
  - (b) after consultation with a provincial head of department, an officer in a provincial administration or municipality.
- (4) The Director-General may permit a person to whom a power or duty has been delegated by the Director-General to delegate further that power or duty.
- (5) A delegation referred to in subsection (3) and the permission referred to in subsection (4) -
- (a) must be in writing;
  - (b) may be subject to conditions;
  - (c) do not prevent the exercise of the power or the performance of the duty by the Director-General himself or herself; and
  - (d) may be withdrawn by the Director-General.

[S. 42 substituted by s. 9 of Act 46/2003]

**42A. Delegation of powers by MEC**

- (1) The MEC of a province may delegate a power or duty vested in or delegated to the MEC in terms of this Act or a specific environmental management Act to -

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- (a) the head of that MEC's department;
  - (b) the management authority of a provincial or local protected area;
  - (c) a municipality, by agreement with the municipality; or
  - (d) any provincial organ of state, by agreement with that organ of state.
- (2) A delegation in terms of subsection (1) -
- (a) must be in writing;
  - (b) may be made subject to conditions;
  - (c) does not prevent the exercise of the power or the performance of the duty by the MEC personally;
  - (d) may include the power to subdelegate; and
  - (e) may be withdrawn by the MEC.
- (3) The MEC may confirm, vary or revoke any decision taken in consequence of a delegation or subdelegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.
- (4) The MEC may not delegate a power or duty vested in the MEC in terms of this Act or a specific environmental management Act -
- (a) to make regulations;
  - (b) to publish notices in the *Gazette*;
  - (c) to appoint a member of a board or committee; or
  - (d) to expropriate private land.
- (5) A provincial head of department may delegate a power or duty vested in him or her or delegated to him or her by the MEC in terms of this Act or a specific environmental management Act to the holder of an office in the department.
- [Subs. (5) added by s. 13 of Act 25/2014 w.e.f. 2 September 2014]
- (6) The delegation in subsection (5)-
- (a) must be in writing;

(b) may be made subject to conditions; and

(c) may be withdrawn by the provincial head of department.

[Subs. (6) added by s. 13 of Act 25/2014 w.e.f. 2 September 2014]

[S. 42A inserted by s. 10 of Act 46/2003]

#### **42B. Delegation by Minister responsible for mineral resources**

(1) The Minister responsible for mineral resources may delegate a function entrusted to him or her in terms of this Act to-

(a) the Director-General of the Department of Minerals and Energy; or

(b) any officer in the Department of Minerals and Energy.

(2) A delegation in terms of subsection (1)-

(a) must be in writing;

(b) may be made subject to any condition;

(c) does not prevent the performance of the function by the Minister himself or herself;  
and

(d) may be withdrawn by the Minister.

[S. 42B inserted by s. 9 of Act 62/2008 with effect from 1 May 2009]

#### **43. Appeals**

(1) Any person may appeal to the Minister against a decision taken by any person acting under a power delegated by the Minister under this Act or a specific environmental management Act.

(1A) Any person may appeal to the Minister against a decision made in terms of this Act or any specific environmental management Act by the Minister responsible for mineral resources or any person acting under his or her delegated authority.

[Subs. (1A) substituted by s. 14 of Act 25/2014 w.e.f. 2 September 2014]

(1B).....

[Subs. (1B) deleted by s. 14 of Act 25/2014 w.e.f. 2 September 2014]

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- (2) Any person may appeal to an MEC against a decision taken by any person acting under a power delegated by that MEC under this Act or a specific environmental management Act.
- (4) An appeal under subsection (1), (1A) or (2) must be noted and must be dealt with in the manner prescribed and upon payment of a prescribed fee.

[Subs. (4) substituted by s. 14 of Act 25/2014 w.e.f. 2 September 2014]

- (5) The Minister or an MEC, as the case may be, may consider and decide an appeal or appoint an appeal panel to consider and advise the Minister or MEC on the appeal.
- (6) The Minister or an MEC may, after considering such an appeal, confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant, or any part thereof, be refunded.
- (7) An appeal under this section suspends an environmental authorisation, exemption, directive, or any other decision made in terms of this Act or any other specific environmental management Act, or any provision or condition attached thereto.

[Subs. (7) substituted by s. 14 of Act 25/2014 w.e.f. 2 September 2014]

- (8) A person who receives a directive in terms of section 28(4) may lodge an appeal against the decision made by the Director-General, the Director-General of the department responsible for mineral resources, or the provincial head of the department to the Minister, the Minister responsible for mineral resources or the MEC, as the case may be, within 30 days of receipt of the directive, or within such longer period as the Minister, the Minister responsible for mineral resources or MEC may determine.

[Subs. (8) added by s. 14 of Act 25/2014 w.e.f. 2 September 2014]

- (9) Notwithstanding subsection (7) and pending the finalisation of the appeal, the Minister, the Minister responsible for mineral resources or MEC, as the case may be, may direct that any part or provision of the directive not be suspended, but only strictly in exceptional circumstances where there is an imminent threat to human health or the environment.

[Subs. (9) added by s. 14 of Act 25/2014 w.e.f. 2 September 2014]

- (10) A person who receives a directive and who wishes to lodge an appeal in terms of subsection (8) may make representations to the Minister, the Minister responsible for mineral resources or MEC, as the case may be, to suspend the operation of the directive or any part of the directive pending the finalisation of the appeal.

[Subs. (10) added by s. 14 of Act 25/2014 w.e.f. 2 September 2014]

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(11) After considering the appeal lodged in terms of subsection (8) and any other relevant information, the Minister, the Minister responsible for mineral resources or MEC, as the case may be-

- (a) may confirm, modify or cancel a directive or any part of a directive; and
- (b) may specify the period within which the person who received the directive must comply with any part of the directive that is confirmed or modified.

[Subs. (11) added by s. 14 of Act 25/2014 w.e.f. 2 September 2014]

[S. 43 substituted by s. 4 of Act 8/2004 and s. 10 of Act 62/2008 with effect from 1 May 2009]

#### **44. Regulations in general**

(1) The Minister may make regulations -

- (a) dealing with any matter which under this Act must be dealt with by regulation;
- (aA) prohibiting, restricting or controlling activities which are likely to have a detrimental effect on the environment;

[Para. (aA) inserted by s. 2 of Act 56/2002 and amended by s. 21 of Act 30/2013 w.e.f. 18 December 2013]

- (aB) dealing with the production, prohibition, control, sale, distribution, import or export of products that may have a substantial detrimental effect on the environment;

[Para. (aB) inserted by s. 21 of Act 30/2013 w.e.f. 18 December 2013]

- (aC) relating to the procedure and criteria to be followed in the determination of an administrative fine in terms of section 24G;

[Para. (aC) inserted by s. 21 of Act 30/2013 w.e.f. 18 December 2013]

- (aD) relating to the procedure to be followed when oral requests are made in terms of section 30A;

[Para. (aD) inserted by s. 21 of Act 30/2013 and amended by s. 15 of Act 25/2014 w.e.f. 2 September 2014]

- (aE) on the assessment and determination of environmental liability;

[Para. (aE) inserted by s. 15 of Act 25/2014 w.e.f. 2 September 2014]

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(aF) auditing and reporting of environmental liability;

[Para. (aF) inserted by s. 15 of Act 25/2014 w.e.f. 2 September 2014]

(aG) the amendment of the financial provision; and

[Para. (aG) inserted by s. 15 of Act 25/2014 w.e.f. 2 September 2014]

(aH) any other matter necessary to facilitate the implementation of the financial provision.

[Para. (aH) inserted by s. 15 of Act 25/2014 w.e.f. 2 September 2014]

(b) generally, to carry out the purposes and the provisions of this Act.

(1A) Any regulation made under subsection (1) must be made after consultation with all Cabinet members whose areas of responsibility will be affected.

[Subs. (1A) inserted by s. 21 of Act 30/2013 w.e.f. 18 December 2013]

(1B) Until such time that the regulations made under subsection (1) have come into effect, the existing standard operating procedure, adopted by the Minister for determining administrative fines in terms of section 24G, applies.

[Subs. (1B) inserted by s. 21 of Act 30/2013 w.e.f. 18 December 2013]

(1C) Regulations made in terms of this Act or any other Act of Parliament that may have the effect of amending the provisions of the Agreement referred to in section 50A must be made by the Minister in concurrence with the Minister responsible for mineral resources and the Minister responsible for water affairs.

[Subs. (1C) inserted by s. 15 of Act 25/2014 w.e.f. 2 September 2014]

(2) The Minister may make different regulations under this Act in respect of different activities, provinces, geographical areas and owners or classes of owners of land.

(3) The Minister may by regulation provide that infringements of certain regulations constitute criminal offences and prescribe penalties for such offences.

**45. Regulations for management cooperation agreements**

(1) The Minister may make regulations concerning -

(a) procedures for the conclusion of environmental management cooperation agreements, which must include procedures for public participation;

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- (b) the duration of agreements;
  - (c) requirements relating to the furnishing of information;
  - (d) general conditions and prohibitions;
  - (e) reporting procedures;
  - (f) monitoring and inspection.
- (2) An MEC or municipal council may substitute his or her or its own regulations or bylaws, as the case may be, for the regulations issued by the Minister under subsection (1) above: Provided that such provincial regulations or municipal bylaws must cover the matters enumerated in subsection (1), and comply with the principles laid down in this Act.

**46. Model environmental management bylaws**

- (1) The Minister may make model bylaws aimed at establishing measures for the management of environmental impacts of any development within the jurisdiction of a municipality, which may be adopted by a municipality as municipal bylaws.
- (2) Any municipality may request the Director-General to assist it with the preparation of bylaws on matters affecting the environment and the Director-General may not unreasonably refuse such a request.
- (3) The Director-General may institute programmes to assist municipalities with the preparation of bylaws for the purposes of implementing this Act.
- (4) The purpose of the model bylaws referred to in subsection (1) must be to -
- (a) mitigate adverse environmental impacts;
  - (b) facilitate the implementation of decisions taken, and conditions imposed as a result of the authorisation of new activities and developments, or through the setting of norms and standards in respect of existing activities and developments; and
  - (c) ensure effective environmental management and conservation of resources and impacts within the jurisdiction of a municipality in cooperation with other organs of state.
- (5) The model bylaws referred to in subsection (1) must include measures for environmental management, which may include -
- (a) auditing, monitoring and ensuring compliance; and

(b) reporting requirements and the furnishing of information.

**47. Procedure for making regulations**

(1) Before making any regulations under this Act, a Minister or MEC must -

(a) publish a notice in the relevant *Gazette* -

(i) setting out the draft regulations; and

(ii) inviting written comments to be submitted on the proposed regulations within a specified period mentioned in the notice; and

(b) consider all comments received in accordance with paragraph (a) (ii).

(2) The Minister must, 30 days before the final publication of any regulations made under this Act, table the regulations in Parliament.

[Subs. (2) substituted by s. 22 of Act 30/2013 w.e.f. 18 December 2013]

(2A) An MEC must, 30 days before the final publication of any regulations made under this Act, table the regulations in the relevant provincial legislature.

[Subs. (2A) inserted by s. 22 of Act 30/2013 w.e.f. 18 December 2013]

(3) .....

[Subs. (3) deleted by s. 5 of Act 8/2004 and inserted by s. 11 of Act 62/2008 with effect from 1 May 2009 and deleted by s. 22 of Act 30/2013 w.e.f. 18 December 2013]

(4) .....

[Subs. (4) deleted by s. 5 of Act 8/2004]

(5) .....

[Subs. (5) deleted by s. 5 of Act 8/2004]

(6) .....

[Subs. (6) deleted by s. 5 of Act 8/2004]

**47A. Regulations, legal documents and steps valid under certain circumstances**

(1) A regulation or notice, or an authorisation, permit or other document, made or issued in terms of this Act or a specific environmental management Act -

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- (a) but which does not comply with any procedural requirement of the relevant Act, is nevertheless valid if the non-compliance is not material and does not prejudice any person;
  - (b) may be amended or replaced without following a procedural requirement of the relevant Act if -
    - (i) the purpose is to correct an error; and
    - (ii) the correction does not change the rights and duties of any person materially.
- (2) The failure to take any steps in terms of this Act or a specific environmental management Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure -
- (a) is not material;
  - (b) does not prejudice any person; and
  - (c) is not procedurally unfair.

[S. 47A inserted by s. 11 of Act 46/2003]

### **47B. Consultation**

When in terms of this Act or a specific environmental management Act the Minister or an MEC is required to consult any person or organ of state, such consultation is regarded as having been satisfied if a formal written notification of intention to act has been made to that person or organ of state and no response has been received within a reasonable time.

[S. 47B inserted by s. 11 of Act 46/2003]

### **47C. Extension of time periods**

The Minister or an MEC may extend, or condone a failure by a person to comply with, a period in terms of this Act or a specific environmental management Act, except a period which binds the Minister or MEC.

[S. 47C inserted by s. 11 of Act 46/2003]

### **47CA. Extension of time periods applicable to appeals relating to prospecting, exploration, mining or production**

The Minister responsible for mineral resources in respect of a decision that relates to prospecting, exploration, mining or production in terms of this Act or any specific

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environmental management Act may only in exceptional circumstances extend or condone a failure by a person to comply with a time period in terms of this Act or a specific environmental management Act, except a time period which binds the Minister responsible for mineral resources.

[S. 47CA inserted by s. 16 of Act 25/2014 w.e.f. 2 September 2014]

### **47CB. Condonation of time periods applicable to appeals relating to prospecting, exploration, mining or production**

- (1) The Minister may only in exceptional circumstances extend or condone a failure by a person to comply with a time period applicable to an appeal contemplated in section 43(1A), except for a time period which binds the Minister.
- (2) The Minister may not accept an application for condonation to submit an appeal contemplated in section 43(1A) after 30 days has lapsed from the date of the decision by the Minister responsible for mineral resources or any person acting under his or her delegated authority.
- (3) When considering an extension or condonation the Minister must consider the following factors:
  - (a) The degree of lateness;
  - (b) a detailed explanation of the reasons for the lateness;
  - (c) whether and to what extent that person or the Minister responsible for mineral resources 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.
- (4) The time period may only be condoned for a maximum period equal to the time period allowed for the action for which condonation is sought in terms of this Act.

[S. 47CB inserted by s. 16 of Act 25/2014 w.e.f. 2 September 2014]

### **47D. Delivery of documents**

- (1) A notice or other document in terms of this Act or a specific environmental management Act may be issued to a person -
  - (a) by delivering it by hand;
  - (b) by sending it by registered mail -

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- (i) to that person's business or residential address; or
- (ii) in the case of a juristic person, to its registered address or principal place of business;

[Subpara. (ii) amended by s. 23 of Act 30/2013 w.e.f. 18 December 2013]

(bA) by faxing a copy of the notice or other document to the person, if the person has a fax number;

[Para. (bA) inserted by s. 23 of Act 30/2013 w.e.f. 18 December 2013]

(bB) by e-mailing a copy of the notice or other document to the person, if the person has an e-mail address; or

[Para. (bB) inserted by s. 23 of Act 30/2013 w.e.f. 18 December 2013]

(bC) by posting a copy of the notice or other document to the person by ordinary mail, if the person has a postal address;

[Para. (bC) inserted by s. 23 of Act 30/2013 w.e.f. 18 December 2013]

(c) where an address is unknown despite reasonable enquiry, by publishing it once in the *Gazette* and once in a local newspaper circulating in the area of that person's last known residential or business address.

(2) A notice or other document issued in terms of subsection (1)(b), (bA), (bB), (bC) or (c) must be regarded as having come to the notice of the person, unless the contrary is proved.

[Subs. (2) substituted by s. 23 of Act 30/2013 w.e.f. 18 December 2013]

[S. 47D inserted by s. 11 of Act 46/2003]

## CHAPTER 10

### GENERAL AND TRANSITIONAL PROVISIONS

**48. ....**

[S. 48 repealed by s. 24 of Act 30/2013 w.e.f. 18 December 2013]

**49. Limitation of liability**

Neither the State nor any other person is liable for any damage or loss caused by -

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- (a) the exercise of any power or the performance of any duty under this Act or any specific environmental management Act; or
- (b) the failure to exercise any power, or perform any duty under this Act or any specific environmental management Act,

unless the exercise of or failure to exercise the power, or performance of or failure to perform the duty was unlawful, negligent or in bad faith.

[S. 49 substituted by s. 12 of Act 46/2003]

**49A. Offences**

- (1) A person is guilty of an offence if that person-
  - (a) commences with an activity in contravention of section 24F(1);
  - (b) fails to comply with any applicable norm or standard contemplated in section 24(2)(d);
  - (c) fails to comply with or contravenes a condition of an environmental authorisation granted for a listed activity or specified activity or an approved environmental management programme;
  - (d) commences or continues with an activity in terms of section 24(2)(c), (d) or (e) unless he or she complies with the procedures, criteria or conditions specified by the Minister or MEC in any regulation made under section 24(5)(bB);
  - (e) unlawfully and intentionally or negligently commits any act or omission which causes significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment;
  - (f) unlawfully and intentionally or negligently commit any act or omission which detrimentally affects or is likely to detrimentally affect the environment;
  - (g) fails to comply with a directive issued in terms of this Act;
  - (h) fails to comply with or contravenes any condition applicable to an exemption granted in terms of section 24M;
  - (i) fails to comply with section 30(3), (4), (5) or (6); (j) contravenes section 31(7) or (8);
  - (k) fails to comply with or contravenes a compliance notice issued in terms of section 31L;
  - (l) discloses information about any other person if that information was acquired while exercising or performing any power or duty in terms of section 31Q(1);

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- (m) hinders or interferes with an environmental management inspector in the execution of that inspector's official duties;
  - (n) pretends to be an environmental management inspector, or the interpreter or assistant of such an inspector;
  - (o) furnishes false or misleading information when complying with a request of an environmental management inspector;
  - (p) fails to comply with a request of an environmental management inspector.
- (2) It is a defence to a charge in terms of subsection (1)(a) to show that the activity was commenced or continued with in response to an incident or emergency situation contemplated in section 30 or section 30A, as the case may be, so as to protect human life, property or environment: Provided that-
- (a) in the case of an incident, the response is in compliance with the obligations contemplated in section 30(4) and was necessary and proportionate in relation to the threat to human life, property or environment; and
  - (b) in the case of an emergency situation contemplated in section 30A, the response is in compliance with a directive issued in terms of section 30A.

[S. 49A inserted by s. 25 of Act 30/2013 w.e.f. 18 December 2013]

### **49B. Penalties**

- (1) A person convicted of an offence in terms of section 49A(1)(a), (b), (c), (d), (e), (f) or (g) is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment.
- (2) A person convicted of an offence in terms of section 49A(1)(i), (j) or (k) is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment.
- (3) A person convicted of an offence in terms of section 49A(1)(h), (l), (m), (n), (o) or (p) is liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

[S. 49B inserted by s. 25 of Act 30/2013 w.e.f. 18 December 2013]

**50. Repeal of laws**

- (1) Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14A, 14B, 14C, 15, 27A and 38 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), are hereby repealed.
- (2) Sections 21, 22 and 26 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) and the notices and regulations issued pursuant to sections 21 and 22 and in force on the commencement date of this Act are repealed with effect from a date to be published by the Minister in the *Gazette*, which date may not be earlier than the date on which regulations or notices made or issued under section 24 of this Act are promulgated and the Minister is satisfied that the regulations and notices under sections 21 and 22 have become redundant.
- (3) Any application made in terms of section 21, 22 or 26 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), that has been submitted but not finalised when those sections are repealed, must be finalised as if those sections had not been repealed.

[Subs. (3) added by s. 6 of Act 8/2004]

- (4) In order to ensure that the transition between the legal requirements of sections 21, 22 and 26 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), and the requirements of this Act is efficient, the Minister may by notice in the *Gazette* list activities included in Government Notice R1182 of 5 September 1997 that will remain valid until such time as an MEC promulgates a list of activities for that province.

[Subs. (4) added by s. 6 of Act 8/2004]

**50A. Future amendments in respect of environmental matters in so far as it relates to the Agreement**

- (1)
  - (a) Any proposed amendments to the provisions relating to prospecting, exploration, mining or production in this Act, the National Environmental Management Amendment Act, 2008 (Act No. 62 of 2008), a specific environmental management Act or any other Act of Parliament that may have the effect of amending the provisions of the Agreement, must be subject to concurrence between the Minister, the Minister responsible for water affairs and the Minister responsible for mineral resources.
  - (b) Any intervention contemplated in paragraph (a) that may lead to the amendment of the provisions of the Agreement must be tabled in Parliament prior to any steps being taken to effect those changes, and Parliament may express its view on the proposed amendment of the Agreement.

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- (2) Agreement for the purpose of subsection (1) means the Agreement reached between the the Minister, the Minister responsible for water affairs and the Minister responsible for mineral resources titled *One Environmental System* for the country with respect to mining, which entails-
- (a) that all environment related aspects would be regulated through one environmental system which is the principal Act and that all environmental provisions would be repealed from the Mineral and Petroleum Resources Development Act, 2002;
  - (b) that the Minister sets the regulatory framework and norms and standards, and that the Minister responsible for Mineral Resources will implement the provisions of the principal Act and the subordinate legislation as far as it relates to prospecting, exploration, mining or operations;
  - (c) that the Minister responsible for Mineral Resources will issue environmental authorisations in terms of the principal Act for prospecting, exploration, mining or operations, and that the Minister will be the appeal authority for these authorisations; and
  - (d) that the Minister, the Minister responsible for Mineral Resources and the Minister responsible for Water Affairs agree on fixed time- frames for the consideration and issuing of the authorisations in their respective legislation and agree to synchronise the time frames.

[S. 50A inserted by s. 17 of Act 25/2014 w.e.f. 2 September 2014]

### **51. Savings**

Anything done or deemed to have been done under a provision repealed by this Act -

- (a) remains valid to the extent that it is consistent with this Act until anything done under this Act overrides it; and
- (b) subject to paragraph (a) is considered to be an action under the corresponding provision of this Act.

### **52. Short title**

This Act is called the National Environmental Management Act, 1998.

### **53. Commencement**

This Act comes into operation on a date fixed by the President in the *Gazette*.

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**Schedule 1**

Section 11(1)

National departments exercising functions which may affect the environment

\*Department of Environmental Affairs

\*Department of Rural Development and Land Reform

\*Department of Agriculture, Forestry and Fisheries

\*Department of Human Settlements

\*Department of Trade and Industry

\*Department of Water Affairs

\*Department of Transport

\*Department of Tourism

\*Department of Defence

\*Department of Public Enterprises

\*Department of Public Works

[Schedule 1 amended by GN 152/2014]

**Schedule 2**

Section 11(2)

National departments exercising functions that involve the management of the environment

\*Department of Environmental Affairs

\*Department of Water Affairs

\*Department of Mineral Resources

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\*Department of Energy

\*Department Rural Development and Land Reform

\*Department of Health

\*Department of Labour

[Schedule 2 amended by GN 152/2014]

**Schedule 3**

(Section 34)

Part (a): National Legislation

<b>No. and year of law</b>	<b>Short title</b>	<b>Relevant provisions</b>
Act No. 36 of 1947	Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947	Section 18(1)(i) in so far as it relates to contraventions of sections 7 and 7bis
Act No. 71 of 1962	Animals Protection Act, 1962	Sections 2(1) and 2A
Act No. 63 of 1970	Mountain Catchment Areas Act, 1979	Section 14 in so far as it relates to contraventions of section 3
Act No. 15 of 1973	Hazardous Substances Act, 1973	Section 19(1)(a) and (b) in so far as it relates to contraventions of sections 3 and 3A
Act No. 63 of 1977	Health Act, 1977	Section 27
Act No. 73 of 1980	Dumping at Sea Control Act, 1980	Sections 2(1)(a) and (b)
Act No. 6 of 1981	Marine Pollution (Control and Civil Liability) Act, 1981	Section 2(1)
Act No. 43 of 1983	Conservation of Agricultural Resources Act, 1983	Sections 6 and 7

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Act No. 2 of 1986	Marine Pollution (Prevention of Pollution from Ships) Act, 1986	Section 3A
Act No. 73 of 1989	Environment Conservation Act, 1989	Sections 19(1) and 19A read with 29(3), 20(1) and (9) read with section 29(4), 29(2)(a), 31A and 41A read with 29(3)
Act No. 18 of 1998	Marine Living Resources Act, 1998	Section 58(1) in so far as it relates to contraventions of sections 43(2), 45 and 47, and section 58(2) in so far as it relates to contraventions of international conservation and management measures
Act No. 36 of 1998	National Water Act, 1998	Section 151(1)(i) and (j)
Act No. 84 of 1998	National Forests Act, 1998	Sections 4(8), 7(1), 10(1), 11(2)(b), 15(1) (a) and (b), 17(3) and (4), 20(3), 21(2), 21(5), 24(8), 63(1)(a), (d), (e) and (f), 63(2)(a) and (b), 63(3) to (5), 64(1) and (2)
Act No. 101 of 1998	National Veld and Forest Fire Act, 1998	Sections 10(2), 12(1), 12(2)(b), 12(14) (a), (4), 17(1), 18(1)(a), 18(2), 18(3)(b), 18(4), 18(4)(b),  (25(2)(a) to (e), 25(5), (6) and (7)
Act No. 107 of 1998	National Environmental Management Act, 1998	Section 49A
Act No. 25 of 1999	National Heritage Resources Act, 1999	Sections 27(18) and (22), (23)(b), 28(3), 29(10), 32(13), (15), (16), (17), (19) and (20) 33(1) and (2), 34(1), 35(3), (4), (6) and (7)(a) 36(3), 44(2) and (3), 50(5) and (12) and 51(8)
Act No. 57 of 2003	National Environmental Management : Protected Areas Act, 2003	Sections 45(1), 46(1), 47(2), 47(3), 48(1), 50(5), read with sections 89(1), 89(1) (b), (c) and (d) and 50A

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Act No. 10 of 2004	National Environmental Management : Biodiversity Act, 2004	Sections 57(1) read with 101(1)(a), 65(1) read with 101(1)(a), 67(2) read with 101(1)(a), 71(1) read with 101(1)(a), 81(1)
Act No. 39 of 2004	National Environmental Management : Air Quality Act, 2004	Sections 51(1)(a) to (h), 51(2) and (3)
Act No. 59 of 2008	National Environmental Management : Waste Act, 2008	Sections 15(1) and (2), read with 67(1)(a), 16(1)(c), (d), (e), (f) read with 67(1)(a). 20 (a) and (b), read with 67(1)(a), 26(1) (a) and (b), read with 67(1)(a), 38 (2) and (3), read with 67(1)(a), 17(2) read with 67(1)(a), 18(1) read with 67(1)(a), 21 read with 67(1)(b), 22(1) read with 67(1)(b), 24 read with 67(1)(b), 27(2) read with 67(1)(b), 36(5) read with 67(1)(b), 40(1) read with 67(1)(b), 67(1) (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), 67(2)(a), (b), (c), (d), (e)
Act No. 24 of 2008	National Environmental Management : Integrated Coastal Management Act, 2008	Sections 69 read with 79(1) (a), 70(1) read with 79(1) (b), (c), (d), (e), 79(1) (f), (g), (h), (i), 79(2) (a), (b), (c), 79(3) (a), (b), (c), 79(4) (a), (b)

[Part (a) substituted by s. 8 of Act 8/2004, s. 25 of Act 14/2009, GN 731/2012 and s. 27 of Act 30/2013 w.e.f. 18 December 2013]

Part (b): Provincial Legislation

No. and year of law	Short title	Relevant provisions
Ordinance No. 8 of 1969	Orange Free State Conservation	Section 40(1)(a) in so far as it relates to contraventions of sections 2(3), 14(2), 15(a), 16(a) and 33
Ordinance No. 9 of 1969	Orange Free State Townships	Section 40(1)(a)(ii)

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Ordinance No. 15 of 1974	Natal Nature Conservation	Section 55 in so far as it relates to section 37(1), to section 49 in respect of specially protected game and to section 51 in respect of specially protected game, section 109 in so far as it relates to section 101, to section 102 and to section 104, section 154 in so far as it relates to section 152; section 185 in so far as it relates to section 183, and section 208 in so far as it relates to section 194 and to section 200
Ordinance No. 19 of 1974	Nature and Environmental Conservation Ordinance	Section 86(1) in so far as it relates to contraventions of sections 41(1)(b)(ii) and (c) to (e), 52(a), 57(a), 58(b) and 62(1)
Ordinance No. 12 of 1983	Gauteng Nature Conservation	Sections 16A, 17 to 45, 47, 48, 51, 52, 54, 66, 71 to 78, 79, 80, 81, 83, 84, 85, 87, 88 to 93, 95, 96 98, 99, 100 and 107
Ordinance No. 15 of 1985	Cape Land Use Planning	Section 46(1) in so far as it relates to sections 23(1) and 39(2)
Ordinance No. 15 of 1986	Transvaal Town Planning and Townships	Sections 42, 93 and 115
Act No. 5 of 1998	KwaZulu Natal Planning and Development	Section 48
Act No. 29 of 1992	KwaZulu Nature Conservation	Section 67 in so far as it relates to sections 59(1), 59(2), 60(1) and 62(1); section 86 in so far as it relates to sections 76, 77 and 82; and section 110 in so far as it relates to section 109

[Part (b) substituted by s. 25 of Act 14/2009]

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

**GNR 494 OF 2 JUNE 2006**

**REGULATIONS RELATING TO QUALIFICATION CRITERIA,  
TRAINING AND IDENTIFICATION OF, AND FORMS TO BE USED BY,  
ENVIRONMENTAL MANAGEMENT INSPECTORS**

**SCHEDULE**

1. Definitions
2. Qualification criteria and training for environmental management inspectors
3. Mandates
4. Issue of identity cards
5. Contents and period of validity of identity cards
6. Duties of Department
7. Format of section 31H(1)(b) written notices
8. Section 31L compliance notices

**1. Definitions**

In these Regulations a word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates: -

**“designating authority”** means -

- (a) a person to whom the Minister’s power under section 31B of the Act to designate persons as environmental management inspectors has been delegated in terms of section 42 of the Act;
- (b) an MEC acting in terms of section 31C of the Act; or
- (c) a person to whom the MEC’s power contained in section 31C of the Act to designate persons as environmental management inspectors has been delegated in terms of section 42A of the Act.

**“the Act”** means the National Environmental Management Act 1998 (Act No.107 of 1998);

**2. Qualification criteria and training for environmental management inspectors**

- (1) Designating authorities may designate persons referred to in section 31B or 31C of the Act as environmental management inspectors only if such persons have completed any relevant training course approved by the Director-General.

REGULATIONS RELATING TO QUALIFICATION CRITERIA, TRAINING AND IDENTIFICATION OF,  
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- (2) Until any relevant approved training course referred to in subregulation (1) is available, designating authorities may despite that subregulation designate persons referred to in section 31B or 31C of the Act as environmental management inspectors, but only subject thereto that they have -
- (a) completed at least one year's practical experience in monitoring compliance with and enforcing legislation;
  - (b) completed any relevant training requirements for designation as peace officers in terms of section 334(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
  - (c) completed an orientation course recognised by the Director-General in the application of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); in the case of officials on whom the power to issue compliance notices in terms of section 31L is to be conferred,

Provided that paragraphs (a), (b) and (c) do not apply to the designation of employees of South African National Parks as environmental management inspectors.

- (3) When any relevant training course referred to in subregulation (1) becomes available, all persons designated as environmental management inspectors in terms of subregulation (2), including those referred to in the proviso to that subregulation, must commence with and complete the training course as soon as is reasonably possible.

### **3. Mandates**

- (1) When specifying the powers of an environmental management inspector in terms of section 31D(3) of the Act, a designating authority acting under a delegation in terms of section 42 of the Act may select only the powers for an environmental management inspector as are -
- (a) necessary for the inspector's mandate; and
  - (b) set out in respect of the inspector's grade in Annexure 1
- (2) Subregulation (1) does not bind an MEC, but an MEC must take Annexure 1 into account when -
- (a) specifying the powers of an environmental management inspector in terms of section 31D(3) of the Act; or
  - (b) delegating to another person the power contained in section 31D(3) to specify the powers of an environmental management inspector.

REGULATIONS RELATING TO QUALIFICATION CRITERIA, TRAINING AND IDENTIFICATION OF,  
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**4. Issue of identity cards**

- (1) The identity card contemplated in section 31F of the Act -
  - (a) must comply with regulation 5; and
  - (b) may be issued only by -
    - (i) the Director-General or an official of the Department designated by the Director-General; or
    - (ii) another organ of state authorised to do so in writing by the Director-General; and
  - (c) must be in the standard format and layout approved by the Director-General.
- (2) An organ of state authorised in terms of subregulation (1)(b)(ii) to issue identity cards may issue such cards only to its own employees designated as environmental management inspectors by the Minister or a designating authority.

**5. Contents and period of validity of identity cards**

- (1) An identity card must contain -
  - (a) the full names and ID number of the person designated as an environmental management inspector;
  - (b) a recent photograph of that person;
  - (c) the name of the organ of state of which that person is an employee and the employee number of that person;
  - (d) particulars of the mandate of that person in terms of section 31D(1) or (2) of the Act and must indicate for which legislation that person is designated as an environmental management inspector;
  - (e) the full names and post description of the designating authority who designated the person as an environmental management inspector;
  - (f) the signature of the designating authority; and
  - (g) the date on which the person was designated as an environmental management inspector.
- (2) An identity card lapses when the designation of the cardholder as an environmental management inspector is withdrawn in terms of section 31B(1)(b) or 31C(1)(b) of the Act, and the cardholder must promptly return the identity card to the Department.

## **6. Duties of Department**

- (1) The Department must issue an identity card on request from the Minister or a designating authority and on receipt of the information detailed in regulation 5(1)(a), (b), (c), (d), (e), (f) and (g).
- (2) The Department must keep a detailed record of -
  - (a) all persons in respect of whom an identity card is issued; and
  - (b) all persons whose designation as environmental management inspectors has been withdrawn.

## **7. Format of section 31H(1)(b) written notices**

A written notice referred to in section 31H(1)(b) of the Act must be in the form set out in Annexure 2.

## **8. Section 31L compliance notices**

- (1) A compliance notice issued in terms of section 31L of the Act must be in the form set out in Annexure 3.
- (2) Before issuing a compliance notice in terms of section 31L of the Act, an environmental management inspector must give the person to whom the inspector intends to issue the compliance notice -
  - (a) advance notice in writing of his or her intention to issue such compliance notice; and
  - (b) a reasonable opportunity to make representations in writing to the environmental management inspector why he or she should not issue the compliance notice as intended.
- (3)
  - (a) If an environmental management inspector has reason to believe that giving written notice in accordance with subregulation (2) of the intention to issue a compliance notice, will cause a delay resulting in significant and irreversible harm to the environment, the inspector may issue a compliance notice without complying with subregulation (2).
  - (b) A compliance notice issued in terms of paragraph (a) must explain the environmental management inspector's reasons for not complying with subregulation (2).

REGULATIONS RELATING TO QUALIFICATION CRITERIA, TRAINING AND IDENTIFICATION OF,  
AND FORMS TO BE USED BY, ENVIRONMENTAL MANAGEMENT INSPECTORS

**ANNEXURE 1**

	<b>Grade 5 environmental management inspector</b>	<b>Grade 4 environmental management inspector</b>	<b>Grade 3 environmental management inspector</b>	<b>Grade 2 environmental management inspector</b>	<b>Grade 1 environmental management inspector</b>
<b>Powers that may be conferred in terms of section 31D (3)</b>	Powers in terms of section 31H, section 31I (3) and section 31J of the Act.	All the powers given to environmental management inspectors under the Act, except for the power under sections 31H (1) (b), 31H (5), 31I (3), 31J, 31L and 34G (2) of the Act.	All the powers given to environmental management inspectors under the Act, except for the power under sections 31H (5) and 31L of the Act.	All the powers given to environmental management inspectors under the Act, except for the power under section 31L of the Act.	All the powers given to environmental management inspectors under the Act.

**ANNEXURE 2**

NOTICE TO ANSWER QUESTIONS IN TERMS OF SECTION 31H (1) (b) AS READ WITH SECTION 31H (2) AND (3) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)

To: .....  
Address: .....

**Notice to answer questions in terms of section 31H (1) (b) as read with section 31H (2) and (3) of the National Environmental Management Act, 1998 (Act No. 107 of 1998)**

1. I, ....., in my capacity as an environmental management inspector, hereby issue with a notice to answer questions in terms of 31H (1) (b) as read with section 31H (2) and (3) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), hereinafter referred to as "NEMA".
2. The questions in paragraph 4 below must be answered either –  
(a) orally, either alone or in the presence of a witness, before ..... (name of environmental management inspector) on ..... (date) at ..... (address);  
or  
(b) in writing to ..... (name and address of environmental management inspector) before ..... (date and time).
3. The questions in paragraph 4 below must be answered under oath or affirmation.
4. The questions are the following:  
(a) [DETAILED QUESTIONS]
5. (Any other information/explanations added by the environmental management inspector).
6. Your attention is drawn to the provisions of section 31H (3) of NEMA, which provides that a person who receives a written notice in terms of section 31H (1) (b) of NEMA must answer all questions put to him or her truthfully and to the best of his or her ability, notwithstanding that an answer might incriminate him or her, but any answer that incriminates such person may not be used against him or her in any subsequent criminal proceedings for an offence in terms of NEMA or a specific environmental management Act as defined in section 1 of NEMA.

Signed on this ..... day of ..... at .....(place)

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**Environmental Management Inspector**

### ANNEXURE 3

#### COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (Act No. 107 OF 1998)

To: .....

Address: .....

#### **Compliance notice in terms of the National Environmental Management Act ,1998**

I ....., in my capacity as an environmental management inspector, hereby issue with a compliance notice in terms of section 31L of the National Environmental Management Act, 1998 (Act No. 107 of 1998), hereinafter referred to as "NEMA".

This compliance notice relates to the non-compliance with the provisions of .....  
[PROVIDE DETAIL OF THE LAW/PERMIT, AUTHORISATION OR OTHER INSTRUMENT TO WHICH THE NOTICE RELATES]

#### **1. Details of conduct constituting non-compliance**

[THE DETAIL INSERTED MUST PROVIDE PARTICULARS OF

- a. The specific obligations imposed by the law/permit, authorisation or other instrument which are relevant to the notice;
- b. the conduct constituting non-compliance; and
- c. the date or period and place of such non-compliance.

#### **2. Steps to be taken**

[THE DETAIL INSERTED MUST PROVIDE PARTICULARS OF

- a. The steps to be taken by the party accused of non-compliance; and
- b. the period in which those steps must be taken.

#### **3. Prohibited Conduct**

[THE DETAIL INSERTED MUST PROVIDE PARTICULARS OF

- a. Any acts which may not be performed by the party accused of non-compliance; and
- b. the period in which this prohibition will remain in force.

#### **4. Procedure for lodging an objection to this compliance notice (sections 31L and 31M of NEMA)**

- 1.1 If you would like me to vary this compliance notice or to extend the period to which it relates, you may make representations to me to do so.
- 1.2 If you wish to lodge an objection to this compliance notice, you may do so by making representations, in writing, to the Minister of Environmental Affairs and Tourism (the Minister) or the Member of the Executive Council (the MEC) within 30 days of receipt of this notice.

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- 1.3 You may also make representations to the Minister or the MEC to suspend the operation of the compliance notice pending finalisation of the objection.
- 1.4 Irrespective of any representations you may make to me or to the Minister or the MEC, you must comply with this compliance notice within the time period stated in the notice unless the Minister or the MEC agrees to suspend the operation of the compliance notice

**5. Failure to comply with this compliance notice (section 31N of NEMA)**

- 1.1 It is an offence to fail to comply with this notice.
- 1.2 Any non-compliance with this notice will be reported to the Minister or the MEC, who may then—
  - a. report the matter to a Director of Public Prosecutions;
  - b. revoke any permit or authorization to which this notice relates; and
  - c. on your behalf, take any step necessary to ensure compliance with the provisions of the law, permit or authorization to which this notice relates and recover from you the cost of doing so.

**6. Reason or reasons why advance notice in writing of my intention to issue this compliance notice should not be given**

[PROVIDE PARTICULARS OF REASON/S WHY INSPECTOR BELIEVES THAT THE DELAY CAUSED BY GIVING WRITTEN NOTICE OF THE INTENTION TO ISSUE A COMPLIANCE NOTICE WILL CAUSE SIGNIFICANT AND IRREVERSIBLE HARM TO THE ENVIRONMENT.]

[INCLUDE ONLY IN CASES OF NON-COMPLIANCE WITH SUBREGULATION 8 (2)]

Signed on this ..... day of ..... at .....(place)

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**Environmental Management Inspector**

(Environmental management inspector to provide his or her name, address and other contact details)

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

**GNR 574 OF 15 JULY 2011**

**PROTECTED AREAS ACT:  
ADMISSION OF GUILT FINES REGULATIONS, 2011**

**SCHEDULE**

**1. Definitions**

In these Regulations any word or expression to which a meaning has been assigned in the Act, the Protected Areas Act or the Protected Areas Regulations, as the case may be, shall have the meaning so assigned and, unless the contents otherwise indicates-

“**Protected Areas Act**” means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

“**Protected Areas Regulations**” means the Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites promulgated under section 86 of the Protected Areas Act and published in *Government Gazette* No. R. 1061 of 28 October 2005;

“**the Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

**2. Offences under the Protected Areas Regulations**

The offences in terms of regulation 61 of the Protected Areas Regulations are, to the extent specified in columns 1 and 2 of Table 1 to this Schedule hereby specified as offences in respect of which an admission of guilt fine, stipulated in column 3 of the said Table, may be paid.

**3. Short title and commencement**

These Regulations are called the Protected Areas Act: Admission of Guilt Fines Regulations, 2011 and take effect on the date of publication thereof in the *Gazette*.

**TABLE 1**

**OFFENCES IN TERMS OF PROTECTED AREAS REGULATIONS**

<b>1</b>	<b>2</b>	<b>3</b>
<b>Regulation</b>	<b>Description of offence</b>	<b>Fine</b>
4 (1) (a)	Introduction of any species or specimen, or part thereof, into a special nature reserve, national park or world heritage site without prior written consent of a management authority, license, permit or receipt.	R 1500,00
4 (1) (c)	Intentionally disturbing any species or specimen in a special nature reserve, national park or world heritage site without prior written consent of a management authority, license, permit or receipt.	R 1000,00
4 (1) (d)	Feeding any species or specimen in a special nature reserve, national park or world heritage site without prior written consent of a management authority, license, permit or receipt.	R 500,00
4 (1) (f)	Removal of any wood, sand, gravel, stone, sea shell, guano or other material without prior written consent of a management authority, license, permit or receipt.	R 2500,00
4 (1) (i)	Significantly altering or changing the sense of place, or any environmental, cultural or spiritual values in a special nature reserve, national park or world heritage site without prior written consent of a management authority, license, permit or receipt.	R 1500,00
8 (3)	Entering or remaining in a special nature reserve, national park or world heritage site that has been closed without the permission of the management authority.	R 1000,00
9 (1)	Entering or remaining in a special nature reserve, national park or world heritage site or part thereof without paying an entrance fee as determined by the management authority.	R 1000,00
9 (2)	Entering or remaining within the boundaries of accommodation or recreational facilities in a special nature reserve, national park or world heritage site without paying the fees determined for such accommodation or facilities or without the permission of the management authority.	R 1000,00
10 (1)	Entering or leaving a special nature reserve, national park or world heritage site at any place other than through an official point of entry or exit without the written permission of the management authority.	R 1500,00
11 (1)	Failing to display receipt for the entrance fee or the permit authorising entry into the special nature reserve, national park or world heritage site.	R 500,00

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11 (2)	Failing to display, in their vehicle, a permit for camping in a special nature reserve, national park or world heritage site.	R 500,00
13 (1) (a)	Staying overnight in a special nature reserve, national park or world heritage site without the permission of the management authority.	R 1500,00
13 (1) (b)	Staying overnight in a special nature reserve, national park or world heritage site without payment of the applicable fees as determined by the management authority.	R 1500,00
13 (1) (c)	Staying overnight in a special nature reserve, national park or world heritage site without first reporting to the designated reception office or to an authorised official assigned to perform escort duty.	R 1500,00
13 (1) (d)	Staying overnight in a special nature reserve, national park or world heritage site if no accommodation has been reserved or is available for that person.	R 1500,00
13 (1) (e)	Staying overnight in a special nature reserve, national park or world heritage site on a houseboat or any other vessel without the permission of the management authority.	R 1500,00
13 (1) (f)	Staying overnight in a special nature reserve, national park or world heritage site at any place other than a place designated by the management authority.	R 1500,00
13 (2)	Camping in a special nature reserve, national park or world heritage site at an area other than an area set aside for that purpose by the management authority.	R 1500,00
14	Entering, leaving or travelling in a special nature reserve, national park or world heritage site at any time other than the times determined by the management authority.	R 500,00
15	Entering or travelling in a special nature reserve, national park or world heritage site in a vehicle that does not conform to the dimensions and other requirements determined by the management authority from time to time.	R 1000,00
16 (1) (a)	Driving, parking or stopping a vehicle in a special nature reserve, national park or world heritage site in a way that constitutes a nuisance, disturbance or danger to any other person.	R 2000,00
16 (1) (b)	Driving in a special nature reserve, national park or world heritage site in a way that causes an obstruction or blocks the pathway of a management operation or emergency vehicle.	R 1500,00
16 (1) (c)	Parking a vehicle in a special nature reserve, national park or world heritage site in a place other than a place designated for that purpose.	R 500,00
16 (1) (d)	Driving or parking in a special nature reserve, national park or world heritage site in an area other than a designated road or place.	R 1000,00

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16 (1) (e)	Driving a vehicle in a special nature reserve, national park or world heritage site causing damaging or acting in a manner that could cause damage of any nature whatsoever, including damage to any roads, plants or animals.	R 1000,00
16 (2)	Entering or being in a special nature reserve, national park or world heritage site in a vessel that does not comply with requirements of management authority's internal rules, subject to the provisions of the Merchant Shipping Act.	R 2500,00
17	Using a vessel in a water area of a special nature reserve, national park or world heritage site without obtaining a permit from the management authority.	R 2500,00
18 (1)	Using a vehicle or vessel which is propelled by a propeller above the water in a water area.	R 2500,00
18 (2)	Painting a vessel in a water area without the prior written approval of the management authority.	R 1000,00
18 (3)	Disposing of any liquid or solid waste, including motor oil, into a water area other than in places specifically designated by the management authority therefore.	R 2500,00
18 (4)	Intentionally obstructing, disturbing, interrupting or annoying any other person engaged in the proper use of the special nature reserve, national park or world heritage site.	R 1000,00
18 (5)	Throwing, rolling or discharging a stone, substance or missile, in a special nature reserve, national park or world heritage site, to endanger any person, specimen or species in the a special nature reserve, national park or world heritage site.	R 1000,00
(Editorial Note: Wording as per original <i>Government Gazette</i> . It is suggested that the phrase "in the a special" is intended to be "in the special".)		
18 (6)	Defacing, painting, writing on, cutting names or letters in, or otherwise making marks or affixing bills on trees, rocks, gates, fences, buildings, signs or other property, or in any other manner spoiling features, buildings or facilities in a special nature reserve, national park or world heritage site without written permission of the management authority.	R 2500,00
18 (7)	Moving, defacing or otherwise interfering with a Protected Areas Notice, notice board or other sign board put onto, affixed to or placed in a special nature reserve, national park or world heritage site by a management authority or by a life-guard, without being duly authorised thereto by a management authority.	R 2000,00
20 (1) (a)	Filming and simultaneously transmitting photographic images, in a special nature reserve, national park or world heritage site by the use of a webcam or other image recording or transmitting device without a license, permit or agreement with the management authority.	R 2500,00

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20 (1) (b)	Conducting a tour, in a special nature reserve, national park or world heritage site without a license, permit or agreement with the management authority.	R 2000,00
20 (1) (c)	Conducting any kind of competition in a special nature reserve, national park or world heritage site without a license, permit or agreement with the management authority.	R 1500,00
20 (1) (d)	Selling or hiring of goods or the offering of goods for sale or hire in a special nature reserve, national park or world heritage site without a license, permit or agreement with the management authority.	R 1000,00
20 (1) (e)	Providing or offering to provide any service for a fee or reward in a special nature reserve, national park or world heritage site without a license, permit or agreement with the management authority.	R 1000,00
20 (1) (g)	Conducting research in a special nature reserve, national park or world heritage site without a license, permit or agreement with the management authority.	R 1500,00
20 (1) (h)	Conducting an activity of any kind for the purpose of fund raising, personal gain or making a profit in a special nature reserve, national park or world heritage site without a license, permit or agreement with the management authority.	R 1500,00
20 (1) (i)	Undertaking any organized or special event in a special nature reserve, national park or world heritage site, including sporting or cultural events without a license, permit or agreement with the management authority.	R 1500,00
20 (1) (j)	Visual imaging of animals in a special nature reserve, national park or world heritage site for the purpose of virtual hunting or other similar activities without a license, permit or agreement with the management authority.	R 1500,00
22 (a)	Using or causing to be used, any loud speaker or similar device or other noisy equipment in a special nature reserve, national park or world heritage site without the written permission of the management authority.	R 2000,00
22 (b)	Constructing or erecting any booth, marquee or other structure in a special nature reserve, national park or world heritage site without the written permission of the management authority.	R 1000,00
22 (c)	Organizing or causing to be organized, attending or participating in any public meeting, demonstration or gathering in a special nature reserve, national park or world heritage site without the written permission of the management authority.	R 2500,00

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25 (2)	Launching, or using a vessel on a dam, reservoir, lake, river, or other body of water in a special nature reserve, national park or world heritage site without the permission of the management authority.	R 1500,00
26 (a)	Bathing, swimming or diving in any area in a special nature reserve, national park or world heritage where such bathing, swimming or diving is not permitted.	R 1000,00
28	Handling, touching or using in any manner a life-saving rope, buoy or other life-saving apparatus installed in or maintained in or at a water area, or doing anything which will impede the proper working of such life-saving apparatus.	R 500,00
29 (1)	Water skiing in a water area other than in a place and at times permitted by the management authority.	R 1500,00
30 (a)	Engaging in sport of climbing rock faces in a national park or world heritage site without the written permission of the management authority.	R 2500,00
30 (b)	Engaging in the sport of parachuting or abseiling in a national park or world heritage site without the written permission of the management authority.	R 2500,00
30 (c)	Using a hang glider or any other kind of glider in a national park or world heritage site without the written permission of the management authority.	R 2500,00
30 (d)	Launching or flying a hot air balloon in a national park or world heritage site without the written permission of the management authority.	R 2500,00
30 (e)	Flying model planes or gliders in a national park or world heritage site without the written permission of the management authority.	R 2500,00
30 (f)	Engaging in the sport of any kind of boarding in a national park or world heritage site without the written permission of the management authority.	R 2500,00
30 (h)	Driving a vehicle off-road or off designated roads or tracks in a national park or world heritage site without the written permission of the management authority.	R 2500,00
34 (1)	Conducting scientific research in a special nature reserve, national park or world heritage site without the written permission of the management authority.	R 1500,00
36	Interfering with, putting into operation, damaging, climbing on or boarding any vehicle, vessel, dredging apparatus or any other implement which is the property of or in use by a management authority or its agent, without the permission of the management authority, or its agent.	R 2000,00

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37 (1)	Interfering with, misusing, damaging, using in conflict with any management authority directions any building, signage, convenience shelter, changing room, pier, landing stage, raft, buoy or other facility or structure provided or erected by the management authority.	R 1000,00
37 (2)	Failing to comply with directions of any notice affixed to a building, structure or facility referred to in regulation 37 (1).	R 500,00
37 (3)	Blocking or restricting access to any road or other point of entry to or within any special nature reserve, national park or world heritage site.	R 2500,00
(39) (1) (a) (ii)	Removing wood, mulch or other dead vegetation from a special nature reserve, national park or world heritage site without the prior written permission of the management authority.	R 2500,00
39 (1) (a) (v)	Removing coral or shells from a special nature reserve, national park or world heritage site without the prior written permission of the management authority.	R 2500,00
39 (1) (b)	Digging or intentionally disturbing any soil or similar material in a special nature reserve, national park or world heritage site without the prior written permission of the management authority.	R 500,00 (2500)
39 (1) (c) (i)	Intentionally disturbing any wood, mulch, peat or other dead vegetation or animal in a special nature reserve, national park or world heritage site without the prior written permission of the management authority.	R 500,00
39 (1) (c) (ii)	Intentionally disturbing termite mounds in a special nature reserve, national park or world heritage site without the prior written permission of the management authority.	R 1500,00
39 (1) (c) (iii)	Intentionally disturbing fossil, shell midden, archaeological remains or paleontological specimens or meteorites in a special nature reserve, national park or world heritage site without the prior written permission of the management authority.	R 1500,00 (2500)
39 (1) (c) (iv)	Intentionally disturbing any of the marine components contemplated in regulation 39 (1) (a).	R 1000,00
39 (2)	Constructing an impoundment or weir on any river or river bed or abstracting any water from any impoundment or weir on any river or in any river bed within a special nature reserve, national park or world heritage site, or abstracting any water by means of pump, pipes, gravitation or any other means, located outside the boundary of a special nature reserve, national park or world heritage site, from any river or river bed forming a boundary with a special nature reserve, national park or world heritage site without the written permission of the management authority and without conducting an environmental impact assessment.	R 2500,00

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40 (a)	Depositing or leaving, in a special nature reserve, national park or world heritage site, any litter, bottle, broken glass, china, pottery, plastic articles, rubbish, refuse, seeds, fruit or vegetable matter or other waste material in an area or receptacle other than an area or receptacle provided for that purpose.	R 2000,00
40 (b)	Depositing, discharging or leaving any noxious, smelly, offensive or polluting substance, matter or thing in a special nature reserve, national park or world heritage site.	R 2500,00
40 (c)	Depositing or leaving any offal, dead species or specimen or dung in a special nature reserve, national park or world heritage site.	R 2000,00
40 (d)	Depositing any domestic garbage, in a special nature reserve, national park or world heritage site, in a receptacle other than in any receptacle provided for litter.	R 2000,00
40 (e)	Intentionally breaking any article of glass, china, pottery, plastic or other brittle material in a special nature reserve, national park or world heritage site.	R 2000,00
43 (a)	Offering any show or entertainment, conducting any business or trade or collecting any money from the public, in a special nature reserve, national park or world heritage site without the prior written consent of the management authority.	R 2000,00
43 (e)	Lighting or causing any open fire to be started or making use of an open fire in the special nature reserve, national park or world heritage site, other than in a fireplace or container made available for that purpose by the management authority or without the authority of the management authority.	R 2500,00
43 (f)	Placing, throwing, dumping or letting out any refuse, rubbish or used containers in a special nature reserve, national park or world heritage site.	R 2000,00
43 (h)	Carrying on any agricultural or gardening activities in a special nature reserve, national park or world heritage site without prior written approval of management authority.	R 2500,00
43 (i)	Allowing any species or specimen to graze in or enter upon a special nature reserve, national park or world heritage site without the prior written approval of the management authority.	R 1500,00 (2500)
43 (j)	Placing, displaying or distributing any advertisement, promotional material or notice anywhere in a special nature reserve, national park or world heritage site without the prior written permission of the management authority.	R 1500,00

PROTECTED AREAS ACT: ADMISSION OF GUILT FINES REGULATIONS, 2011

43 (k)	Affixing to or, in any manner whatsoever, making on any tree or object not belonging to that person any name, letter, figure, symbol, mark, picture, sign or notice or otherwise damaging any tree or other object, in a special nature reserve, national park or world heritage site.	R 2500,00
43 (m)	Playing any radio, compact disc player, music system, musical instrument or in any way causing any noise in a manner likely to disturb any species or specimen or other person in a special nature reserve, national park or world heritage site.	R 2000,00
43 (n)	Behaving in an offensive, improper, indecent or disorderly manner in a special nature reserve, national park or world heritage site.	R 1500,00
45 (2) (b) (ii)	Possessing or exercising control over a specimen of an alien or listed invasive species in a special nature reserve, national park or world heritage site without the written authorisation of the management authority.	R2500,00
45 (2) (b) (iv)	Conveying, moving or otherwise translocating any specimen of an alien or listed invasive species in a special nature reserve, national park or world heritage site without the written permission of the management authority.	R 2500,00
49 (1)	Bringing a dog, cat or other pet belong to such person or under such persons care into a special nature reserve, national park or world heritage site other than on the conditions determined by the management authority.	R 1000,00
(Editorial Note: Wording as per original <i>Government Gazette</i> . It is suggested that the phrase "other pet belong to" is intended to be "other pet belonging to".)		
61 (b)	Failing to comply with a Protected Area Notice, an internal rule or any other document issued or displayed in terms of the Protected Areas Regulations.	R 500,00
62 (b)	In failing to comply with any internal rule, violates, refuses or fails to obey or comply with any prohibition, request or instruction imposed by the Protected Areas Regulations or by the management authority or authorised official.	R 2500,00
63 (2)	Failing to hand over a permit or proof of entry on demand for endorsement indicating withdrawal of permission to enter a special nature reserve, national park or world heritage site, when requested to leave.	R 1500,00



**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

**GNR 982 OF 4 DECEMBER 2014**

**ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014**

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## CHAPTER 1

### INTERPRETATION AND PURPOSE OF REGULATIONS

#### 1. Interpretation

(1) In these Regulations any word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context requires otherwise-

**“activity”** means an activity identified in any notice published by the Minister or MEC in terms of section 24D(1)(a) of the Act as a listed activity or specified activity;

**“Agreement”**, for the purpose of regulation 1(3) and (4) means the Agreement as contemplated in section 50A(2) of the Act;

**“alternatives”**, in relation to a proposed activity, means different means of meeting the general purpose and requirements of the activity, which may include alternatives to the-

- (a) property on which or location where the activity is proposed to be undertaken;
- (b) type of activity to be undertaken;
- (c) design or layout of the activity;
- (d) technology to be used in the activity; or
- (e) operational aspects of the activity;

and includes the option of not implementing the activity;

**“application”** means an application for an-

- (a) environmental authorisation in terms of Chapter 4 of these Regulations;
- (b) amendment to an environmental authorisation in terms of Chapter 5 of these Regulations;
- (c) amendment to an EMPr in terms of Chapter 5 of these Regulations; or
- (d) amendment of a closure plan in terms of Chapter 5 of these Regulations;

**“basic assessment report”** means a report contemplated in regulation 19;

**“closure plan”** means a plan contemplated in regulation 19;

**“cumulative impact”**, in relation to an activity, means the past, current and reasonably foreseeable future impact of an activity, considered together with the impact of activities associated with that activity, that in itself may not be significant, but may become significant when added to the existing and reasonably foreseeable impacts eventuating from similar or diverse activities;

**“EAP”** means an environmental assessment practitioner as defined in section 1 of the Act;

**“EMPr”** means an environmental management programme contemplated in regulations 19 and 23;

**“environmental audit report”** means a report contemplated in regulation 34;

**“environmental impact assessment”**, means a systematic process of identifying, assessing and reporting environmental impacts associated with an activity and includes basic assessment and S&EIR;

**“environmental impact assessment report”** means a report contemplated in regulation 23;

**“independent”**, in relation to an EAP, a specialist or the person responsible for the preparation of an environmental audit report, means-

- (a) that such EAP, specialist or person has no business, financial, personal or other interest in the activity or application in respect of which that EAP, specialist or person is appointed in terms of these Regulations; or
- (b) that there are no circumstances that may compromise the objectivity of that EAP, specialist or person in performing such work;

excluding-

- (i) normal remuneration for a specialist permanently employed by the EAP; or
- (ii) fair remuneration for work performed in connection with that activity, application or environmental audit;

**“linear activity”** means an activity that is arranged in or extending along one or more properties and which affects the environment or any aspect of the environment along the course of the activity, and includes railways, roads, canals, channels, funiculars, pipelines, conveyor belts, cableways, power lines, fences, runways, aircraft landing strips, and telecommunication lines;

**“minimum information requirements”** means the minimum information requirements contemplated in section 24(5)(bA)(viiiA), if any are applicable at the time of the application;

**“mitigation”** means to anticipate and prevent negative impacts and risks, then to minimise them, rehabilitate or repair impacts to the extent feasible;

**“National Appeal Regulations”** means the national appeal regulations published in terms of section 43(4) and 44 of the Act;

**“ocean-based activity”** means an activity in the territorial waters of the Republic of South Africa;

**“plan of study for environmental impact assessment”** means a study contemplated in regulation 22 which forms part of a scoping report and sets out how an environmental impact assessment will be conducted;

**“proponent”** means a person intending to submit an application for environmental authorisation and is referred to as an applicant once such application for environmental authorisation has been submitted;

**“receipt”** means receipt on the date indicated-

- (a) on a receipt form if the application or document was hand delivered or sent via registered mail;
- (b) in an automated or computer generated acknowledgment of receipt;
- (c) on an acknowledgement in writing from the competent authority as the date of receipt if the application or document was sent via ordinary mail; or
- (d) on an automated or computer generated proof of transmission in the case of a facsimile message.

**“registered environmental assessment practitioner or registered EAP”** means an environmental assessment practitioner registered with an appointed registration authority contemplated in section 24H of the Act;

**“registered interested and affected party”**, in relation to an application, means an interested and affected party whose name is recorded in the register opened for that application in terms of regulation 42;

**“scoping report”** means a report contemplated in regulation 21;

**“S&EIR”** means the scoping and environmental impact reporting process contemplated in regulation 21 to regulation 24;

**“significant impact”** means an impact that may have a notable effect on one or more aspects of the environment or may result in non-compliance with accepted environmental quality standards, thresholds or targets and is determined through rating the positive and negative effects of an impact on the environment based on criteria such as duration, magnitude, intensity and probability of occurrence;

“**specialist**” means a person that is generally recognised within the scientific community as having the capability of undertaking, in conformance with generally recognised scientific principles, specialist studies or preparing specialist reports, including due diligence studies and socio-economic studies;

“**State department**” means any department or administration in the national or provincial sphere of government exercising functions that involve the management of the environment; and

“**the Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

- (2) Any reference in these Regulations to an environmental assessment practitioner will, from a date to be determined by the Minister by notice in the *Gazette*, be deemed to be a reference to a registered environmental assessment practitioner, as defined.

## **2. Purpose of Regulations**

The purpose of these Regulations is to regulate the procedure and criteria as contemplated in Chapter 5 of the Act relating to the preparation, evaluation, submission, processing and consideration of, and decision on, applications for environmental authorisations for the commencement of activities, subjected to environmental impact assessment, in order to avoid or mitigate detrimental impacts on the environment, and to optimise positive environmental impacts, and for matters pertaining thereto.

## **CHAPTER 2**

### **TIMEFRAMES**

#### **3. Timeframes**

- (1) Subject to subregulations (2) and (3), when a period of days must in terms of these Regulations be reckoned from or after a particular day, that 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.
- (2) For any action contemplated in terms of these Regulations for which a timeframe is prescribed, the period of 15 December to 5 January must be excluded in the reckoning of days.
- (3) Unless justified by exceptional circumstances, as agreed to by the competent authority, the proponent and applicant must refrain from conducting any public participation process during the period of 15 December to 5 January.

- (4) When a State department is requested to comment in terms of these Regulations, such State department must submit its comments in writing within 30 days from the date on which it was requested to submit comments and if such State department fails to submit comments within such 30 days, it will be regarded that such State department has no comments.
- (5) 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) The competent authority must acknowledge receipt of all applications and documents contemplated in regulations 16, 19, 21, 23, 29, 30, 31, 32 and 34 within ten days of receipt thereof.
- (7) In the event where the scope of work must be expanded based on the outcome of an assessment done in accordance with these Regulations, which outcome could not be anticipated prior to the undertaking of the assessment, or in the event where exceptional circumstances can be demonstrated, the competent authority may, prior to the lapsing of the relevant prescribed timeframe, in writing, extend the relevant prescribed timeframe and agree with the applicant on the length of such extension.
- (8) Any public participation process must be conducted for a period of at least 30 days.

#### **4. Notification of decision on application**

- (1) Unless indicated otherwise, after a competent authority has reached a decision on an application, the competent authority must, in writing and within five days-
  - (a) provide the applicant with the decision;
  - (b) give reasons for the decision to the applicant; and
  - (c) where applicable, draw the attention of the applicant to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, if such appeal is available in the circumstances of the decision.
- (2) The applicant must, in writing, within fourteen days of the date of the decision on the application ensure that-
  - (a) all registered interested and affected parties are provided with access to the decision and the reasons for such decision; and
  - (b) the attention of all registered interested and affected parties is drawn to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, if such appeal is available in the circumstances of the decision.

- (3) For the purpose of this regulation, the decision includes the complete environmental authorisation granted or refused.

## **CHAPTER 3**

### **GENERAL REQUIREMENTS FOR APPLICATIONS**

#### **5. General**

- (1) All applications in terms of these Regulations must be decided upon by a competent authority.
- (2) The competent authority, who must consider and decide upon an application in respect of a listed activity or specified activity, must be determined with reference to the notice published under section 24D(1) and any agreement in terms of section 24C(3) of the Act.
- (3) A competent authority must keep-
  - (a) a register of all applications received by the competent authority in terms of these Regulations;
  - (b) a register of all decisions in respect of environmental authorisations;
  - (c) copies of all applications; and
  - (d) copies of all decisions.
- (4) When a national electronic system is provided for the recording of applications for environmental authorisation, this system must be used by all competent authorities to keep the records referred to in subregulation (3)(a) and (b).
- (5) When a national electronic system is provided for the submission of applications for environmental authorisation, this system must be used by all applicants.
- (6) When providing coordinates as part of the information submitted regarding the location of an activity as part of an application for environmental authorisation, such coordinates must be provided in degrees, minutes and seconds using the Hartebeesthoek94 WGS84 co-ordinate system.

#### **6. Where to submit application**

- (1) An application for an environmental authorisation or environmental authorisations for the commencement of an activity must be made to the competent authority referred to in regulation 5.

- (2) If the Minister is the competent authority in respect of an application, the application must be submitted to the Department.
- (3) If an MEC is the competent authority in respect of an application, the application must be submitted to the provincial department responsible for environmental affairs in that province.
- (4) If the Minister, Minister responsible for mineral resources or MEC has, in terms of section 42, 42B or 42A respectively of the Act, delegated any powers or duties of a competent authority in relation to an application, the application must be submitted to the person or authority to whom the powers had been delegated.
- (5) If the Minister responsible for mineral resources is the competent authority in respect of an application, the application must be submitted to the relevant office of the Department responsible for mineral resources as identified by that Department.

***Part 1: Duties of competent authority***

**7. Consultation between competent authority and organs of state administering a law relating to a matter affecting the environment**

- (1) Where an agreement has been reached in order to give effect to Chapter 3 of the Constitution of the Republic of South Africa, 1996 and sections 24(4)(a)(i), 24K and 24L of the Act, and where such agreement is applicable to an application, such application must be dealt with in accordance with such agreement.
- (2) The competent authority or EAP must consult with every organ of state that administers a law relating to a matter affecting the environment relevant to that application for an environmental authorisation when such competent authority considers the application and unless agreement to the contrary has been reached the EAP will be responsible for such consultation.
- (3) Where an applicant submits an application for environmental authorisation in terms of these Regulations and an application for an authorisation, permit or licence in terms of a specific environmental management Act or any other legislation, the competent authority and the authority empowered under such specific environmental management Act or other legislation must manage the respective processes in a cooperative governance manner.
- (4) Where the processes prescribed in terms of these Regulations are used to inform applications in terms of other legislation, application processes must be aligned to run concurrently.
- (5) Where a competent authority is requested by an applicant to comment in terms of these Regulations, such competent authority must submit its comments within 30 days.

## **8. Guidance by competent authority to proponent or applicant**

A competent authority, subject to the payment of any reasonable charges, if applicable-

- (a) may advise or instruct the proponent or applicant of the nature and extent of any of the processes that may or must be followed or decision support tools that must be used in order to comply with the Act and these Regulations;
- (b) must advise the proponent or applicant of any matter that may prejudice the success of an application;
- (c) must, on written request, furnish the proponent or applicant with officially adopted minutes of any official meeting held between the competent authority and the proponent, applicant or EAP; and
- (d) must, on written request, provide access to the officially adopted minutes of meetings contemplated in paragraph (c), to any registered interested or affected party.

## **9. Format of forms**

The format of any application form must be determined by the competent authority and must include, once established, the national sector classification of the activity applied for.

### ***Part 2: Duties of proponents and applicants***

## **10. Competent authorities' right of access to information**

An applicant must-

- (a) use the application form contemplated in regulation 9 when submitting an application in terms of these Regulations;
- (b) comply with any minimum information requirements for the application; and
- (c) provide the competent authority with all information that reasonably has or may have the potential of influencing any decision with regard to an application.

## **11. Combination of applications**

- (1) If a proponent or proponents intend to undertake one or more than one activity of the same type at different locations within the area of jurisdiction of a competent authority, the competent authority may, on written request, grant permission for the submission of a single application.
- (2) If the competent authority grants permission in terms of subregulation (1), the application must be dealt with as a consolidated assessment process, but the potential environmental

impacts of each activity must be considered in terms of the location where the activity is to be undertaken.

- (3) If a proponent or applicant intends undertaking more than one activity as part of the same development within the area of jurisdiction of a competent authority, a single application must be submitted for such development and the assessment of impacts, including cumulative impacts, where applicable, and consideration of the application, undertaken in terms of these Regulations, will include an assessment of all such activities forming part of the development.
- (4) If one or more proponents intend undertaking interrelated activities at the same or different locations within the area of jurisdiction of a competent authority, the competent authority may, in writing, agree that the proponent or proponents submit a single application in respect of all of those activities and to conduct a consolidated assessment process but the potential environmental impacts of each activity, including its cumulative impacts, must be considered in terms of the location where the activity is to be undertaken.
- (5) Where a combined application is submitted as contemplated in these Regulations, the proponent must, prior to submission of the application, confirm with the competent authority the fee payable in terms of the applicable regulations for such combined application.

## **12. Appointment of EAPs and specialists**

- (1) A proponent or applicant must appoint an EAP at own cost to manage the application.
- (2) In addition to the appointment of an EAP, a specialist may be appointed, at the cost of the proponent or applicant, if the level of assessment is of a nature requiring the appointment of a specialist.
- (3) The proponent or applicant must-
  - (a) take all reasonable steps to verify whether the EAP and specialist complies with regulation 13(1)(a) and (b); and
  - (b) provide the EAP and specialist with access to all information at the disposal of the proponent or applicant regarding the application, whether or not such information is favourable to the application.

## **13. General requirements for EAPs and specialists**

- (1) An EAP and a specialist, appointed in terms of regulation 12(1) or 12(2), must-
  - (a) be independent;

- (b) have expertise in conducting environmental impact assessments or undertaking specialist work as required, including knowledge of the Act, these Regulations and any guidelines that have relevance to the proposed activity;
- (c) ensure compliance with these Regulations;
- (d) perform the work relating to the application in an objective manner, even if this results in views and findings that are not favourable to the application;
- (e) take into account, to the extent possible, the matters referred to in regulation 18 when preparing the application and any report, plan or document relating to the application; and
- (f) disclose to the proponent or applicant, registered interested and affected parties and the competent authority all material information in the possession of the EAP and, where applicable, the specialist, that reasonably has or may have the potential of influencing
  - (i) any decision to be taken with respect to the application by the competent authority in terms of these Regulations; or
  - (ii) the objectivity of any report, plan or document to be prepared by the EAP or specialist, in terms of these Regulations for submission to the competent authority;

unless access to that information is protected by law, in which case it must be indicated that such protected information exists and is only provided to the competent authority.

- (2) In the event where the EAP or specialist does not comply with subregulation (1)(a), the proponent or applicant must, prior to conducting public participation as contemplated in chapter 5 of these Regulations, appoint another EAP or specialist to externally review all work undertaken by the EAP or specialist, at the applicant's cost.
- (3) An EAP or specialist appointed to externally review the work of an EAP or specialist as contemplated in subregulation (2), must comply with subregulation (1).

#### **14. Disqualification of EAPs and specialists**

- (1) If the competent authority at any stage of considering an application has reason to believe that the EAP or specialist is not complying or has not complied with the requirements of regulation 13 in respect of the application, other than circumstances where the requirement of independence in regulation 13(1)(a) has been met by compliance with regulation 13(2) and (3), the competent authority may-
  - (a) notify the EAP or specialist and the applicant of the reasons therefore, that the application is suspended until the matter is resolved and the extended timeframe for the processing of the application; and

- (b) afford the EAP or specialist and the applicant an opportunity to make representations to the competent authority regarding the suspected non-compliance with the requirements of regulation 13 of the EAP or specialist, in writing.
- (2) Other than circumstances where the requirement of independence in regulation 13(1)(a) has been met by compliance with regulation 13(2) and (3), an interested and affected party may notify the competent authority of any suspected non-compliance with regulation 13.
- (3) Where an interested and affected party notifies the competent authority of suspected non-compliance in terms of subregulation (2), the competent authority must investigate the allegation promptly.
- (4) The notification referred to in subregulation (2) must be submitted in writing and must contain documentation supporting the allegation, which is referred to in the notification.
- (5) If, after considering the matter, there is reason for the competent authority to believe that there is non-compliance with regulation 13 by the EAP or specialist, the competent authority must, in writing, inform the interested and affected party who notified the competent authority in terms of subregulation (2), the EAP or specialist and the applicant accordingly and may-
  - (a) refuse to accept any further reports, plans, documents or input from the EAP or specialist in respect of the application in question;
  - (b) request the applicant to –
    - (i) commission, at own cost, an external review, by another EAP or specialist that complies with the requirements of regulation 13, of any reports, plans or documents prepared or processes conducted in connection with the application;
    - (ii) appoint another EAP or specialist that complies with the requirements of regulation 13 to redo any specific aspects of the work done by the previous EAP or specialist in connection with the application or to complete any unfinished work in connection with the application; or
    - (iii) take such action as the competent authority requires to remedy the defects.
- (6) If the application has reached a stage where a register of interested and affected parties has been opened in terms of regulation 42, the applicant must, within 7 days from the suspension in terms of sub-regulation (1)(a) or decision in terms of subregulation (5), inform all registered interested and affected parties of such suspension or decision.

#### **15. Determination of assessment process applicable to application**

- (1) An EAP must identify whether basic assessment or S&EIR must be applied to the application, taking into account-

- (a) any notices published in terms of section 24D of the Act;
  - (b) any guidelines applicable to the application process or activity which is the subject of the application; and
  - (c) any advice given by the competent authority in terms of regulation 8.
- (2) An application must be managed in accordance with-
- (a) regulation 19 and 20 if basic assessment must be applied to the application; or
  - (b) regulation 21 to 24 if S&EIR must be applied to the application.
- (3) S&EIR must be applied to an application if the application is for two or more activities as part of the same development for which S&EIR must already be applied in respect of any of the activities.

## CHAPTER 4

### APPLICATION FOR ENVIRONMENTAL AUTHORISATION

#### ***Part 1: General***

#### **16. General application requirements**

- (1) An application for an environmental authorisation must-
- (a) be made on an official application form obtainable from the relevant competent authority; and
  - (b) when submitted in terms of regulation 19 or 21, be accompanied by-
    - (i) unless regulation 39(2) applies, the written consent referred to in regulation 39(1), if the applicant is not the owner or person in control of the land on which the activity is to be undertaken;
    - (ii) proof of payment of the prescribed application fee, if any;
    - (iii) a declaration of interest by the EAP or specialist, which EAP or specialist meets all the requirements contemplated in regulation 13;
    - (iv) an undertaking under oath or affirmation that all the information submitted or to be submitted for the purposes of the application is true and correct;

- (v) the report generated by the national web based environmental screening tool, once this tool is operational;
  - (vi) a description of the location of the activity, including
    - (aa) the 21 digit Surveyor General code of each cadastral land parcel,
    - (bb) where available, the physical address or farm name,
    - (cc) where the required information in sub-regulation (aa) and (bb) is not available, the coordinates of the boundary of the property or properties,
  - (vii) a plan which locates the proposed activity or activities applied for at an appropriate scale, or if it is-
    - (aa) a linear activity, a description and coordinates of the corridor in which the proposed activity or activities is proposed; or
    - (bb) on land where the property has not been defined, the coordinates of the area within which the activity is proposed;
  - (viii) any minimum information requirements for the application; and
  - (ix) where applicable, proof of acceptance of an application for any right or permit in terms of the Mineral and Petroleum Resources Development Act, 2002.
- (2) An application for an environmental authorisation may-
- (a) where applicable, only be submitted after the acceptance of an application for any right or permit in terms of the Mineral and Petroleum Resources Development Act, 2002;
  - (b) where section 24L of the Act applies, be submitted in the manner as agreed to by the relevant authorities.
- (3) Any report, plan or document submitted as part of an application must -
- (a) comply with any minimum information requirements for the application;
  - (b) be prepared in a format that may be determined by the competent authority; and
  - (c) take into account any applicable government policies and plans, guidelines, environmental management instruments and other decision making instruments that have been adopted by the competent authority in respect of the application process or the kind of activity which is the subject of the application and indicate how the relevant information has been considered, incorporated and utilised.

**17. Checking of application for compliance with formal requirements**

Upon receipt of an application, the competent authority must check whether the application-

- (a) is properly completed and that it contains the information required in the application form;
- (b) is accompanied by any other documents as required in terms of these Regulations; and-
- (c) has taken into account any minimum information requirements for the application or instructions or guidance provided by the competent authority to the submission of applications.

**18. Criteria to be taken into account by competent authorities when considering applications**

When considering an application the competent authority must have regard to section 24O and 24(4) of the Act, the need for and desirability of the undertaking of the proposed activity, any guideline published in terms of section 24J of the Act and any minimum information requirements for the application.

***Part 2: Basic assessment***

**19. Submission of basic assessment report and environmental management programme, and where applicable closure plan, to competent authority**

- (1) Where basic assessment must be applied to an application, the applicant must, within 90 days of receipt of the application by the competent authority, submit to the competent authority –
  - (a) a basic assessment report, inclusive of specialist reports, an EMPr, and where applicable a closure plan, which have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority; or
  - (b) a notification in writing that the basic assessment report, inclusive of specialist reports an EMPr, and where applicable, a closure plan, will be submitted within 140 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the basic assessment report or EMPr or, where applicable, a closure plan, which changes or information was not contained in the reports or plans consulted on during the initial public participation process contemplated in subregulation (1)(a) and that the revised reports or, EMPr or, where applicable, a closure plan will be subjected to another public participation process of at least 30 days.

- (2) In the event where subregulation (1)(b) applies, the basic assessment report inclusive of specialist reports, an EMPr, and where applicable, the closure plan, which reflects the incorporation of comments received, including any comments of the competent authority, must be submitted to the competent authority within 140 days of receipt of the application by the competent authority.
- (3) A basic assessment report must contain the information set out in Appendix 1 to these Regulations and, where the application for an environmental authorisation is for prospecting, exploration, extraction and primary processing of a mineral or petroleum resource or activities directly related thereto, the basic assessment report must address the requirements as determined in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, mining or production operations, made in terms of the Act.
- (4) An EMPr must contain the information set out in Appendix 4 to these Regulations and, where the application for an environmental authorisation is for prospecting, exploration, extraction and primary processing of a mineral or petroleum resource or activities directly related thereto, the EMPr must address the requirements as determined in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, mining or production operations, made in terms of the Act.
- (5) A closure plan is required where the application for an environmental authorisation relates to the decommissioning or closure of a facility.
- (6) A closure plan must contain the information set out in Appendix 5 to these Regulations, and, where the application for an environmental authorisation is for prospecting, exploration, extraction and primary processing of a mineral or petroleum resource or activities directly related thereto, the closure plan must address the requirements as set in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, mining or production operations, made in terms of the Act.
- (7) The content of a closure plan may be combined with the content of an EMPr on condition that the requirements of both Appendices 5 and 4, respectively, are met.
- (8) A specialist report must contain all information set out in Appendix 6 to these Regulations.

## **20. Decision on basic assessment application**

- (1) The competent authority must within 107 days of receipt of the basic assessment report and EMPr, or where relevant the closure plan, in writing-
  - (a) grant environmental authorisation in respect of all or part of the activity applied for; or
  - (b) refuse environmental authorisation.

- (2) To the extent that authorisation is granted for an alternative, such alternative must, for the purposes of subregulation (1), be regarded as having been applied for, consulted on and its impacts investigated.
- (3) On having reached a decision, the competent authority must comply with regulation 4(1), after which the applicant must comply with regulation 4(2).
- (4) The Minister responsible for mineral resources may only issue an environmental authorisation if the provisions of section 24P(1) of the Act have been complied with.

**Part 3: S&EIR**

**21. Submission of scoping report to competent authority**

- (1) If S&EIR must be applied to an application, the applicant must, within 44 days of receipt of the application by the competent authority, submit to the competent authority a scoping report which has been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority.
- (2) Subject to regulation 46, and if the findings of the scoping report is still valid and the environmental context has not changed, the submission of a scoping report as contemplated in subregulation (1) need not be complied with-
  - (a) in cases where a scoping report was accepted as part of a previous application for environmental authorisation and the application was refused because of insufficient information;
  - (b) on condition that regulation 16 is complied with and that such application is accompanied by proof that registered interested and affected parties, who participated in the public participation process conducted as part of the previous application, have been notified of this intended resubmission of the application prior to submission of such application;
  - (c) if the application contemplated in paragraph (b) is submitted by the same applicant for the same development, as applied for and refused as contemplated in paragraph (a); and
  - (d) if an environmental impact assessment report inclusive of specialist reports and an EMPr, which must have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority, is submitted within a period of two years from the date of the acceptance of the scoping report contemplated in paragraph (a).
- (3) A scoping report must contain all information set out in Appendix 2 to these Regulations.

## **22. Consideration of scoping report**

The competent authority must, within 43 days of receipt of a scoping report-

- (a) accept the scoping report, with or without conditions, and advise the applicant to proceed or continue with the tasks contemplated in the plan of study for environmental impact assessment; or
- (b) refuse environmental authorisation if-
  - (i) the proposed activity is in conflict with a prohibition contained in legislation; or
  - (ii) if the scoping report does not substantially comply with Appendix 2 to these Regulations and the applicant is unwilling or unable to ensure compliance with these requirements within the prescribed timeframe.

## **23. Submission and consideration of environmental impact assessment report and environmental management programme**

- (1) The applicant must within 106 days of the acceptance of the scoping report submit to the competent authority-
  - (a) an environmental impact report inclusive of any specialist reports, and an EMPr, which must have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority; or
  - (b) a notification in writing that the environmental impact report inclusive of any specialist reports, and an EMPr, will be submitted within 156 days of acceptance of the scoping report by the competent authority, as significant changes have been made or significant new information has been added to the environmental impact report or EMPr, which changes or information was not contained in the reports consulted on during the initial public participation process contemplated in subregulation (1) (a), and that the revised environmental impact report or EMPr will be subjected to another public participation process of at least 30 days.
- (2) In the event where subregulation (1)(b) applies, the environmental impact report inclusive of specialist reports and EMPr, which reflects the incorporation of comments received, including any comments of the competent authority, must be submitted to the competent authority within 156 days of receipt of the application by the competent authority.
- (3) An environmental impact report must contain all information set out in Appendix 3 to these Regulations and, where the application is for an environmental authorisation for prospecting, exploration, extraction and primary processing of a mineral or petroleum resource or activities directly related thereto, the environmental impact report must

address the requirements as determined in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, mining or production operations, made in terms of the Act.

- (4) An EMPr must contain all information set out in Appendix 4 to these Regulations and, where the application is for an environmental authorisation is for prospecting, exploration, extraction and primary processing of a mineral or petroleum resource or activities directly related thereto, the EMPr must address the requirements as determined in the regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, mining or production operations, made in terms of the Act.
- (5) A specialist report must contain all information set out in Appendix 6 to these Regulations.

#### **24. Decision on S&EIR application**

- (1) The competent authority must within 107 days of receipt of the environmental impact report and EMPr, in writing,-
  - (a) grant environmental authorisation in respect of all or part of the activity applied for; or
  - (b) refuse environmental authorisation.
- (2) To the extent that authorisation is granted for an alternative, such alternative must for the purposes of subregulation (1) be regarded as having been applied for, consulted on and its impacts investigated.
- (3) On having reached a decision, the competent authority must comply with regulation 4(1), after which an applicant must comply with regulation 4(2).
- (4) The Minister responsible for Mineral Resources may only issue an authorization if the provisions of section 24P(1) of the Act have been complied with.

#### ***Part 4: Environmental authorisation***

#### **25. Issue of environmental authorisation**

- (1) If the competent authority decides to grant authorisation, the competent authority must issue an environmental authorisation or environmental authorisations complying with regulation 26 to, and in the name of, the applicant or applicants.
- (2) If the competent authority decides to grant authorisation in respect of an application, the competent authority may issue a single environmental authorisation or multiple environmental authorisations in the name of the same or different applicants covering all aspects for which authorisation is granted.

- (3) A competent authority may issue an integrated environmental authorisation as contemplated in section 24L of the Act.
- (4) The competent authority may replace an existing valid environmental authorisation with an environmental authorisation contemplated in this regulation, indicating the extent of replacement in the environmental authorisation, if the existing valid environmental authorisation is directly related to the application for environmental authorisation.

## **26. Content of environmental authorisation**

An environmental authorisation must specify-

- (a) the name, address and contact details of the person to whom the environmental authorisation is issued;
- (b) a description of the activity that is authorised;
- (c) a description of the location of the activity, including
  - (i) the 21 digit Surveyor General code of each cadastral land parcel,
  - (ii) where available, the physical address or farm name,
  - (iii) where the required information in sub-regulation (i) and (ii) is not available, the coordinates of the boundary of the property or properties,
  - (iv) a plan which locates the proposed activity or activities authorised at an appropriate scale, or, if it is-
    - (aa) a linear activity, a description and coordinates of the approved corridor of the activity or activities; or
    - (bb) on land where the property has not been defined, the coordinates of the area within which the activity is to be undertaken;
- (d) the conditions subject to which the activity may be undertaken, including conditions determining-
  - (i) the period within which commencement must occur, which period may not exceed 10 years and may not be extended beyond such 10 year period, unless the process to amend the environmental authorisation contemplated in regulation 32 is followed;
  - (ii) the period for which the environmental authorisation is granted and the date on which the activity is deemed to have been concluded, where the environmental authorisation does not include operational aspects;

- (iii) a distinction between the portions of the environmental authorisation that deal with operational and non-operational aspects respectively and the respective periods for which the distinct portions of the environmental authorisation is granted, where the environmental authorisation contains operational and non-operational aspects;
- (iv) requirements for the avoidance, management, mitigation, monitoring and reporting of the impacts of the activity on the environment throughout the life of the activity additional to those contained in the approved EMPr, and where applicable the closure plan; and
- (e) the frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, and where applicable the closure plan, in order to determine whether such EMPr and closure plan continuously meet mitigation requirements and addresses environmental impacts, taking into account processes for such auditing prescribed in terms of these Regulations: provided that the frequency of the auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr may not exceed intervals of five years;
- (f) the frequency of submission of an environmental audit report to the competent authority, including the timeframe within which a final environmental audit report must be submitted to the competent authority;
- (g) the frequency of updating the EMPr, and where applicable the closure plan, and the manner in which the updated EMPr and closure plan will be approved, taking into account processes for such amendments prescribed in terms of these Regulations;
- (h) a requirement that the environmental authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, where applicable, audit reports including the environmental audit report contemplated by regulation 34, and all compliance monitoring reports be made available for inspection and copying-
  - (i) at the site of the authorised activity;
  - (ii) to anyone on request; and
  - (iii) where the holder of the environmental authorisation has a website, on such publicly accessible website; and
  - (iv) any relevant conditions which the competent authority deems appropriate.

## CHAPTER 5

### AMENDMENT, SUSPENSION, WITHDRAWAL AND AUDITING OF COMPLIANCE WITH ENVIRONMENTAL AUTHORISATION AND ENVIRONMENTAL MANAGEMENT PROGRAMME

#### 27. General

- (1) The competent authority that issued an environmental authorisation has jurisdiction in all matters pertaining to the amendment of that environmental authorisation as long as the environmental authorisation is still valid, provided that the competent authority that issued such environmental authorisation still has jurisdiction in terms of the Act.
- (2) Where the competent authority decides to amend an environmental authorisation, the competent authority must-
  - (a) issue an amendment to the environmental authorisation either by way of a new environmental authorisation or new environmental authorisations or an addendum to the relevant environmental authorisation; or
  - (b) replace an existing valid environmental authorisation with an environmental authorisation contemplated in this regulation, indicating the extent of replacement in the environmental authorisation, if the existing environmental authorisation is directly related to the amendment required.
- (3) Where an environmental authorisation granted in terms of these Regulations does not include operational aspects and the activity has been commenced with, the period for which such environmental authorisation is granted may only be extended for a maximum further period of five years.
- (4) An environmental authorisation may be amended or replaced without following a procedural requirement contained in these Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially.

#### 28. Application for amendment

- (1) The holder of an environmental authorisation may, at least three months prior to the expiry of the validity period of an environmental authorisation, apply to the relevant competent authority for the amendment of the environmental authorisation in terms of Part 1 of this Chapter.
- (2) Failure to lodge an application for amendment of an environmental authorisation at least three months prior to expiry may result in the competent authority not being able to process the application for amendment in time and in the lapsing of the environmental authorisation.

- (3) An application in terms of subregulation (1) must be in writing and accompanied by a motivation for such amendment.

***Part 1: Amendments where no change in scope or a change of ownership occur***

**29. Amendments to be applied for in terms of Part 1**

An environmental authorisation may be amended by following the process prescribed in this Part if the amendment-

- (a) will not change the scope of a valid environmental authorisation nor increase the level or nature of the impact, which impact was initially assessed and considered when application was made for an environmental authorisation; or
- (b) relates to the change of ownership or transfer of rights and obligations.

**30. Process and consideration of application for amendment and decision**

- (1) Upon receipt of an application made in terms of regulation 29 the competent authority-
- (a) may request the holder to furnish additional information and such request must accompany the acknowledgement of receipt of the application; and
  - (b) must refuse the application for amendment if the amendment being applied does not fall within the ambit of regulation 29.
- (2) The competent authority must within 30 days of acknowledging receipt of the application or of receipt of the additional information contemplated in subregulation (1)(a) decide the application.

***Part 2: Amendments where a change in scope occurs***

**31. Amendments to be applied for in terms of Part 2**

An environmental authorisation may be amended by following the process prescribed in this Part if the amendment will result in a change to the scope of a valid environmental authorisation where such change will result in an increased level or nature of impact where such level or nature of impact was not-

- (a) assessed and included in the initial application for environmental authorisation; or
  - (b) taken into consideration in the initial environmental authorisation;
- and the change does not, on its own, constitute a listed or specified activity.

**32. Process and consideration of application for amendment**

(1) The holder must-

(a) within 90 days of receipt by the competent authority of the application made in terms of regulation 31, submit to the competent authority a report, reflecting-

- (i) an assessment of all impacts related to the proposed change;
- (ii) advantages and disadvantages associated with the proposed change; and
- (iii) measures to ensure avoidance, management and mitigation of impacts associated with such proposed change; and
- (iv) any changes to the EMPR;

which report-

- (i) had been subjected to a public participation process, which had been agreed to by the competent authority, and which was appropriate to bring the proposed change to the attention of potential and registered interested and affected parties, including organs of state, which have jurisdiction in respect of any aspect of the relevant activity, and the competent authority, and
- (ii) reflects the incorporation of comments received, including any comments of the competent authority; or

(b) submit to the competent authority a notification in writing that the report will be submitted within 140 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the report, which changes or information was not contained in the report consulted on during the initial public participation process contemplated in subregulation (1)(a) and that the revised report will be subjected to another public participation process of at least 30 days.

(2) In the event where subregulation (1)(b) applies, the report, which reflects the incorporation of comments received, including any comments of the competent authority, must be submitted to the competent authority within 140 days of receipt of the application by the competent authority.

**33. Decision on amendment application**

(1) The competent authority must within 107 days of receipt of the report contemplated in regulation 32, in writing, decide the application.

- (2) On having reached a decision, the competent authority must comply with regulation 4(1), after which the holder applicant must comply with regulation 4(2).

***Part 3: Auditing and amendment of environmental authorisation, environmental management programme and closure plan***

**34. Auditing of compliance with environmental authorisation, environmental management programme and closure plan**

- (1) The holder of an environmental authorisation must, for the period during which the environmental authorisation and EMPr, and where applicable the closure plan, remain valid-
- (a) ensure that the compliance with the conditions of the environmental authorisation and the EMPr, and where applicable the closure plan, is audited; and
  - (b) submit an environmental audit report to the relevant competent authority.
- (2) The environmental audit report contemplated in subregulation (1) must-
- (a) be prepared by an independent person with the relevant environmental auditing expertise;
  - (b) provide verifiable findings, in a structured and systematic manner, on-
    - (i) the level of performance against and compliance of an organization or project with the provisions of the requisite environmental authorisation or EMPr and, where applicable, the closure plan; and
    - (ii) the ability of the measures contained in the EMPr, and where applicable the closure plan, to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity;
  - (c) contain the information set out in Appendix 7; and
  - (d) be conducted and submitted to the competent authority at intervals as indicated in the environmental authorisation.
- (3) The environmental audit report contemplated in subregulation (1) must determine-
- (a) the ability of the EMPr, and where applicable the closure plan, to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity on an ongoing basis and to sufficiently provide for the , avoidance, management and mitigation of environmental impacts associated with the closure of the facility; and

- (b) the level of compliance with the provisions of environmental authorisation, EMPr and where applicable the closure plan.
- (4) Where the findings of the environmental audit report contemplated in subregulation (1) indicate-
- (a) insufficient mitigation of environmental impacts associated with the undertaking of the activity; or
  - (b) insufficient levels of compliance with the environmental authorisation or EMPr and, where applicable the closure plan;

the holder must, when submitting the environmental audit report to the competent authority in terms of subregulation (1), submit recommendations to amend the EMPr or closure plan in order to rectify the shortcomings identified in the environmental audit report.

- (5) When submitting recommendation in terms of subregulation (4), such recommendations must have been subjected to a public participation process, which process has been agreed to by the competent authority and was appropriate to bring the proposed amendment of the EMPr and, where applicable the closure plan, to the attention of potential and registered interested and affected parties, including organs of state which have jurisdiction in respect of any aspect of the relevant activity and the competent authority, for approval by the competent authority.
- (6) Within 7 days of the date of submission of an environmental audit report to the competent authority, the holder of an environmental authorisation must notify all potential and registered interested and affected parties of the submission of that report, and make such report immediately available-
- (a) to anyone on request; and
  - (b) on a publicly accessible website, where the holder has such a website.
- (7) An environmental audit report must contain all information set out in Appendix 7 to these Regulations.

**35. Amendment of environmental management programme or closure plan as a result of an audit**

- (1) The competent authority must consider the environmental audit report and amended EMPr and, where applicable the amended closure plan, contemplated in regulation 34 and approve such amended EMPr, and where applicable the amended closure plan, if it is satisfied that it sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity, or where

applicable the closure of the facility, and that it has been subjected to an appropriate public participation process.

- (2) Prior to approving an amended EMPr or closure plan contemplated in subregulation (1), the competent authority may request such amendments to the EMPr or closure plan as it deems appropriate to ensure that the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity or to ensure that the closure plan sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the closure of the facility.

***Part 4: Other amendments of environmental management programme or closure plan***

**36. Other amendments of environmental management programme or closure plan**

- (1) Where an amendment is required to the impact management actions of an EMPr, such amendments may immediately be effected by the holder and reflected in the next environmental audit report submitted as contemplated in the environmental authorisation and regulation 34.
- (2) Where an amendment to the impact management outcomes or objectives of and EMPr or an amendment of the closure objectives of a closure plan is required before an audit is required in terms of the environmental authorisation, an EMPr or closure plan may be amended on application by the holder of the environmental authorisation.

**37. Amendment of environmental management programme or closure plan on application by holder of environmental authorisation**

- (1) Where the holder of an environmental authorisation identifies amendments to the impact management outcomes or objectives of the EMPr or amendments to the closure objectives of the closure plan before an audit is required in terms of the environmental authorisation, such holder must notify the competent authority of its intention to amend the EMPr or closure plan at least 60 days prior to submitting such amendments to the EMPr or closure plan to the competent authority for approval.
- (2) The holder of the environmental authorisation must invite comments on the proposed amendments to the impact management outcomes or objectives of the EMPr or amendments to the closure objectives of the closure plan from potentially interested and affected parties, including the competent authority, by using any of the methods provided for in the Act for a period of at least 30 days.
- (3) Reasonable alternative methods, as agreed to by the competent authority, to invite comments as contemplated in subregulation (2), may be used in those instances where a person desires but is unable to participate in the process due to-

- (a) illiteracy;
  - (b) disability; or
  - (c) any other disadvantage.
- (4) The invitation to comment as contemplated in subregulation (2) must include an indication that any comments to the proposed amendments must be submitted to the holder of the environmental authorisation within 30 days of such invitation to comment.
- (5) If no comments are received, the holder of the environmental authorisation may amend the EMPr or closure plan in accordance with its intention contemplated in subregulation (1) and submit the amended EMPr or closure plan to the competent authority for approval within 60 days of inviting comments.
- (6) Prior to approving an amended EMPr or closure plan contemplated in subregulation (5), the competent authority may request such amendments to the EMPr or closure plan as it deems appropriate to ensure that the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity or to ensure that the closure plan sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the closure of the facility.
- (7) If comments are submitted to the holder of the environmental authorisation, such holder must submit such comments to the competent authority, including responses to such comments, together with the proposed amended EMPr or closure plan.
- (8) The competent authority must, within 30 days of receipt of the information contemplated in subregulation (7), consider such information and issue a decision to approve the amended EMPr or closure plan or not.
- (9) After the competent authority has reached a decision in terms of subregulation (5) or (8), the competent authority must, within five days-
- (a) provide the holder of the environmental authorisation with its decision, including the amended EMPr or closure plan if the decision was to approve the amended EMPr or closure plan, as well as reasons for the decision;
  - (b) draw the attention of the holder of the environmental authorisation to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, if such appeal is available in the circumstances of the decision; and
  - (c) instruct the holder of the environmental authorisation to, within 14 days of the date of the decision, inform the parties who submitted comments of the decision, to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, if such appeal is available in the circumstances of the decision.

**Part 5: Suspension and withdrawal of environmental authorisation**

**38. Suspension and withdrawal of environmental authorisation**

- (1) If the competent authority has reason to believe that the authorisation was obtained through fraud, non-disclosure of material information or misrepresentation of a material fact, the competent authority may, in writing, suspend or partially suspend, with immediate effect, the environmental authorisation and direct the holder of such environmental authorisation forthwith to cease any activities that have been commenced or to refrain from commencing any activities, pending a decision to withdraw the environmental authorisation.
- (2) The holder of the environmental authorisation may, within ten days of the suspension issued in terms of subregulation (1), provide the competent authority with representations as to why the environmental authorisation should not be withdrawn.
- (3) Subject to subregulation (4), within 14 days of receipt of representations, alternatively within 14 days of the expiry of the time period in which to submit representations, the competent authority must consider the representations, if any, and must inform the applicant in writing of its decision to-
  - (a) lift the suspension;
  - (b) withdraw, or partially withdraw, the environmental authorisation.
- (4) In the event that the competent authority requires further information in order to take a decision referred to in subregulation (3) it shall-
  - (a) within the 14 day time period set out in regulation (3), and in writing, request the holder to provide such further information; and
  - (b) consider this additional information prior to taking a decision in terms of (3)(a) or (b).
- (5) Where further information is requested, the competent authority shall have a further 14 day period from the date of receipt of this information, in which to make its decision in terms of subregulation (3)(a) or (b).
- (6) In the event that the competent authority decides to withdraw, or partially withdraw, the environmental authorisation in terms of (3)(b), and the activity or activities have commenced, the competent authority may direct the holder to rehabilitate the effects of the activity on the environment.
- (7) The provisions of this Part apply equally to any exemptions issued in terms of the ECA regulations or the previous NEMA Regulations as defined in Chapter 8 of these Regulations.

## CHAPTER 6

### PUBLIC PARTICIPATION

#### 39. Activity on land owned by person other than proponent

- (1) If the proponent is not the owner or person in control of the land on which the activity is to be undertaken, the proponent must, before applying for an environmental authorisation in respect of such activity, obtain the written consent of the landowner or person in control of the land to undertake such activity on that land.
- (2) Subregulation (1) does not apply in respect of-
  - (a) linear activities;
  - (b) activities directly related to prospecting or exploration of a mineral and petroleum resource or extraction and primary processing of a mineral resource; and
  - (c) strategic integrated projects as contemplated in the Infrastructure Development Act, 2014.

#### 40. Purpose of public participation

- (1) The public participation process to which the-
  - (a) basic assessment report and EMPr, and where applicable the closure plan, submitted in terms of regulation 19; and
  - (b) scoping report submitted in terms of regulation 21 and the environmental impact assessment report and EMPr submitted in terms of regulation 23;

was subjected to must give all potential or registered interested and affected parties, including the competent authority, a period of at least 30 days to submit comments on each of the basic assessment report, EMPr, scoping report and environmental impact assessment report, and where applicable the closure plan, as well as the report contemplated in regulation 32, if such reports or plans are submitted at different times.

- (2) The public participation process contemplated in this regulation must provide access to all information that reasonably has or may have the potential to influence any decision with regard to an application unless access to that information is protected by law and must include consultation with—
  - (a) the competent authority;

- (b) every State department that administers a law relating to a matter affecting the environment relevant to an application for an environmental authorisation;
  - (c) all organs of state which have jurisdiction in respect of the activity to which the application relates; and
  - (d) all potential, or, where relevant, registered interested and affected parties.
- (3) Potential or registered interested and affected parties, including the competent authority, may be provided with an opportunity to comment on reports and plans contemplated in subregulation (1) prior to submission of an application but must be provided an opportunity to comment on such reports once an application has been submitted to the competent authority.

#### **41. Public participation process**

- (1) This regulation only applies in instances where adherence to the provisions of this regulation is specifically required.
- (2) The person conducting a public participation process must take into account any relevant guidelines applicable to public participation as contemplated in section 24J of the Act and must give notice to all potential interested and affected parties of an application or proposed application which is subjected to public participation by-
- (a) fixing a notice board at a place conspicuous to and accessible by the public at the boundary, on the fence or along the corridor of-
    - (i) the site where the activity to which the application or proposed application relates is or is to be undertaken; and
    - (ii) any alternative site;
  - (b) giving written notice, in any of the manners provided for in section 47D of the Act, to-
    - (i) the occupiers of the site and, if the proponent or applicant is not the owner or person in control of the site on which the activity is to be undertaken, the owner or person in control of the site where the activity is or is to be undertaken or to any alternative site where the activity is to be undertaken;
    - (ii) owners, persons in control of, and occupiers of land adjacent to the site where the activity is or is to be undertaken or to any alternative site where the activity is to be undertaken;
    - (iii) the municipal councillor of the ward in which the site or alternative site is situated and any organisation of ratepayers that represent the community in the area;

- (iv) the municipality which has jurisdiction in the area;
  - (v) any organ of state having jurisdiction in respect of any aspect of the activity; and
  - (vi) any other party as required by the competent authority;
- (c) placing an advertisement in-
- (i) one local newspaper; or
  - (ii) any official *Gazette* that is published specifically for the purpose of providing public notice of applications or other submissions made in terms of these Regulations;
- (d) placing an advertisement in at least one provincial newspaper or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or district municipality in which it is or will be undertaken: Provided that this paragraph need not be complied with if an advertisement has been placed in an official *Gazette* referred to in paragraph (c)(ii);and
- (e) using reasonable alternative methods, as agreed to by the competent authority, in those instances where a person is desirous of but unable to participate in the process due to-
- (i) illiteracy;
  - (ii) disability; or
  - (iii) any other disadvantage.
- (3) A notice, notice board or advertisement referred to in subregulation (2) must-
- (a) give details of the application or proposed application which is subjected to public participation; and
  - (b) state-
    - (i) whether basic assessment or S&EIR procedures are being applied to the application;
    - (ii) the nature and location of the activity to which the application relates;
    - (iii) where further information on the application or proposed application can be obtained; and

- (iv) the manner in which and the person to whom representations in respect of the application or proposed application may be made.
- (4) A notice board referred to in subregulation (2) must-
- (a) be of a size at least 60cm by 42cm; and
  - (b) display the required information in lettering and in a format as may be determined by the competent authority.
- (5) Where public participation is conducted in terms of this regulation for an application or proposed application, subregulation (2)(a), (b), (c) and (d) need not be complied with again during the additional public participation process contemplated in regulations 19(1)(b) or 23(1)(b) or the public participation process contemplated in regulation 21(2)(d), on condition that-
- (a) such process has been preceded by a public participation process which included compliance with subregulation (2)(a), (b), (c) and (d); and
  - (b) written notice is given to registered interested and affected parties regarding where the-
    - (i) revised basic assessment report or, EMPr or closure plan, as contemplated in regulation 19(1)(b);
    - (ii) revised environmental impact report or EMPr as contemplated in regulation 23(1)(b); or
    - (iii) environmental impact report and EMPr as contemplated in regulation 21(2)(d);may be obtained, the manner in which and the person to whom representations on these reports or plans may be made and the date on which such representations are due.
- (6) When complying with this regulation, the person conducting the public participation process must ensure that-
- (a) information containing all relevant facts in respect of the application or proposed application is made available to potential interested and affected parties; and
  - (b) participation by potential or registered interested and affected parties is facilitated in such a manner that all potential or registered interested and affected parties are provided with a reasonable opportunity to comment on the application or proposed application.
- (7) Where an environmental authorisation is required in terms of these Regulations and an authorisation, permit or licence is required in terms of a specific environmental

management Act, the public participation process contemplated in this Chapter may be combined with any public participation processes prescribed in terms of a specific environmental management Act, on condition that all relevant authorities agree to such combination of processes.

#### **42. Register of interested and affected parties**

A proponent or applicant must ensure the opening and maintenance of a register of interested and affected parties and submit such a register to the competent authority, which register must contain the names, contact details and addresses of-

- (a) all persons who, as a consequence of the public participation process conducted in respect of that application, have submitted written comments or attended meetings with the proponent, applicant or EAP;
- (b) all persons who have requested the proponent or applicant, in writing, for their names to be placed on the register; and
- (c) all organs of state which have jurisdiction in respect of the activity to which the application relates.

#### **43. Registered interested and affected parties entitled to comment on reports and plans**

- (1) A registered interested and affected party is entitled to comment, in writing, on all reports or plans submitted to such party during the public participation process contemplated in these Regulations and to bring to the attention of the proponent or applicant any issues which that party believes may be of significance to the consideration of the application, provided that the interested and affected party discloses any direct business, financial, personal or other interest which that party may have in the approval or refusal of the application.
- (2) In order to give effect to section 24O of the Act, any State department that administers a law relating to a matter affecting the environment must be requested, subject to regulation 7(2), to comment within 30 days.

#### **44. Comments of interested and affected parties to be recorded in reports and plans**

- (1) The applicant must ensure that the comments of interested and affected parties are recorded in reports and plans and that such written comments, including responses to such comments and records of meetings, are attached to the reports and plans that are submitted to the competent authority in terms of these Regulations.
- (2) Where a person desires but is unable to access written comments as contemplated in subregulation (1) due to-

- (i) a lack of skills to read or write;
- (ii) disability; or
- (iii) any other disadvantage;

reasonable alternative methods of recording comments must be provided for.

## CHAPTER 7

### GENERAL MATTERS

#### **45. Failure to comply with requirements for consideration of applications**

An application in terms of these Regulations lapses, and a competent authority will deem the application as having lapsed, if the applicant fails to meet any of the time-frames prescribed in terms of these Regulations, unless extension has been granted in terms of regulation 3(7).

#### **46. Resubmission of similar applications**

No applicant may submit an application which is substantially similar to a previous application which has been refused unless the appeal on such refusal has been finalised or the time period for the submission of such appeal has lapsed.

#### **47. Assistance to people with special needs**

The competent authority processing an application in terms of these Regulations must give reasonable assistance to people with

- (a) illiteracy;
- (b) a disability; or
- (c) any other disadvantage

who cannot, but desire to, comply with these Regulations.

#### **48. Offences**

- (1) A person is guilty of an offence if that person-
  - (a) provides incorrect or misleading information in any form, including any document submitted in terms of these Regulations to a competent authority or omits information that may have an influence on the outcome of a decision of a competent authority;

- (b) fails to comply with regulation 10(c);
  - (c) fails to comply with regulation 13(1)(f);
  - (d) fails to comply with regulation 34;
  - (e) fails to comply with regulation 37; or
  - (f) commences with an activity where the environmental authorisation was suspended or withdrawn in terms of regulation 38.
- (2) A person convicted of an offence in terms of subregulation (1) (a), (b), (c), (d) or (e) is liable to the penalties as contemplated in section 49B(2) of the Act.
- (3) A person convicted of an offence in terms of subregulation (1) (f) is liable to the penalties as contemplated in section 49B(1) of the Act.

## CHAPTER 8

### TRANSITIONAL ARRANGEMENTS AND COMMENCEMENT

#### 49. Definitions

In this Chapter –

**“ECA”** means the Environment Conservation Act, 1989 (Act No. 73 of 1989);

**“NEMA”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

**“ECA notices”** as contemplated in these transitional arrangements, means the notices in terms of ECA (Government Notice R. 1182, as amended by Government Notice R. 1355 of 17 October 1997, Government Notice R. 448 of 27 March 1998 and Government Notice R. 670 of 10 May 2002);

**“ECA regulations”** as contemplated in these transitional arrangements, means the regulations published in terms of sections 26 and 28 of the ECA, by Government Notice R. 1183 of 5 September 1997;

**“previous MPRDA regulations”** as contemplated in these transitional arrangements, means the regulations published in terms of section 107 of the Mineral and Petroleum Resources Development Act, 2002, by Government Notice R527 in *Government Gazette* 26275 of 23 April 2004 and as amended from time to time;

**“previous NEMA notices”** as contemplated in these transitional arrangements means the previous notices published in terms of section 24(2) of NEMA (Government Notices R. 386

and R. 387 in the Government Gazette of 21 April 2006, and as amended from time to time, or Government Notice No. R. 544, 545 and 546 in the Government Gazette of 18 June 2010, as amended from time to time);

**“previous NEMA regulations”** as contemplated in these transitional arrangements means either the previous Environmental Impact Assessment Regulations published in terms of NEMA (Government Notice No. R. 385 in the Government Gazette of 21 April 2006 or Government Notice No. R. 543 in the Government Gazette of 18 June 2010);

**50. Continuation of actions undertaken and authorisations issued under previous ECA regulations**

- (1) Any actions undertaken in terms of the ECA regulations and which can be undertaken in terms of a provision of these Regulations must be regarded as having been undertaken in terms of the provision of these Regulations.
- (2) Any authorisation issued or exemption from obtaining an environmental authorisation granted in terms of the ECA regulations, must be regarded to be an environmental authorisation issued in terms of these Regulations.

**51. Pending applications and appeals (ECA)**

- (1) An application submitted in terms of the ECA regulations and which is pending when these Regulations take effect, including pending applications for activities directly related to-

(a) prospecting or exploration of a mineral or petroleum resource; or

(b) extraction and primary processing of a mineral or petroleum resource;

must despite the repeal of those Regulations be dispensed with in terms of those Regulations as if those Regulations were not repealed.

- (2) If a situation arises where an activity or activities listed under the ECA Notices no longer requires environmental authorisation in terms of the current activities and competent authorities identified in terms of sections 24(2) and 24D of the Act or in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), and where a decision on an application submitted under the ECA regulations is still pending, the competent authority will consider such application to be withdrawn.
- (3) Where an application submitted in terms of the ECA regulations is pending in relation to an activity of which a component of the same activity was not listed under the ECA Notices, but is now identified in terms of section 24(2) of the Act, the competent authority must dispense of such application in terms of those ECA regulations and may authorise the activity identified in terms of section 24(2) as if it was applied for, on condition that all

impacts of the newly listed activity and requirements of these Regulations have also been considered and adequately assessed.

**52. Continuation of actions undertaken and authorisations issued under previous NEMA regulations**

- (1) Any actions undertaken in terms of the previous NEMA regulations and which can be undertaken in terms of a provision of these Regulations must be regarded as having been undertaken in terms of the provision of these Regulations.
- (2) Any authorisation issued in terms of the previous NEMA Regulations must be regarded to be an environmental authorisation issued in terms of these Regulations.

**53. Pending applications and appeals (NEMA)**

- (1) An application submitted in terms of the previous NEMA regulations and which is pending when these Regulations take effect, including pending applications for auxiliary activities directly related to-
  - (a) prospecting or exploration of a mineral or petroleum resource; or
  - (b) extraction and primary processing of a mineral or petroleum resource, must despite the repeal of those Regulations be dispensed with in terms of those previous NEMA regulations as if those previous NEMA regulations were not repealed.
- (2) If a situation arises where an activity or activities, identified under the previous NEMA Notices, no longer requires environmental authorisation in terms of the current activities and competent authorities identified in terms of section 24(2) and 24D of the National Environmental Management Act, 1998 (Act No. 107 of 1998) or in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), and where a decision on an application submitted under the previous NEMA regulations is still pending, the competent authority will consider such application to be withdrawn.
- (3) Where an application submitted in terms of the previous NEMA regulations, is pending in relation to an activity of which a component of the same activity was not identified under the previous NEMA notices, but is now identified in terms of section 24(2) of the Act, the competent authority must dispense of such application in terms of the previous NEMA regulations and may authorise the activity identified in terms of section 24(2) as if it was applied for, on condition that all impacts of the newly identified activity and requirements of these Regulations have also been considered and adequately assessed.
- (4) An appeal lodged in terms of the previous NEMA regulations, and which is pending when these Regulations take effect must despite the repeal of those previous NEMA regulations be dispensed with in terms thereof as if those previous NEMA regulations were not repealed.

**54. Pending applications (MPRDA)**

- (1) An application submitted in terms of the previous MPRDA regulations and which is pending when these Regulations take effect must despite the repeal of those regulations be dispensed with in terms of those previous MPRDA regulations as if those previous MPRDA regulations were not repealed.
- (2) An application submitted after the commencement of these Regulations for an amendment of an Environmental Management Programme, issued in terms of the Mineral and Petroleum Resources Development Act, 2002, must be dealt with in terms of Part 1 or Part 2 of Chapter 5 of these Regulations.
- (3) "Application" for the purpose of subregulation (1) means an application for a permit, right, approval of an Environmental Management Programme or amendment to such permit, right or Environmental Management Programmes.

**55. Continuation of regulations regulating authorisations for activities in certain coastal areas**

These Regulations do not affect the continued application of the regulations published in terms of sections 26 and 28 of the ECA, by Government Notice R. 1528 of 27 November 1998.

**56. Repeal of Environmental Impact Regulations, 2010**

With the exception of Chapter 5 and Chapter 7 of the Environmental Impact Assessment Regulations, 2010, those Regulations as published in Government Notice No. R. 543, in the *Gazette* No. 33306 of 18 June 2010, is hereby repealed.

**57. Short title and commencement**

These Regulations are called the Environmental Impact Assessment Regulations, 2014 and take effect on 8 December 2014.

## **APPENDIX 1**

### **1. Basic assessment process**

The environmental outcomes, impacts and residual risks of the proposed activity must be set out in the basic assessment report.

### **2. Objective of the basic assessment process**

The objective of the basic assessment process is to, through a consultative process—

- (a) determine the policy and legislative context within which the proposed activity is located and how the activity complies with and responds to the policy and legislative context;
- (b) identify the alternatives considered, including the activity, location, and technology alternatives;
- (c) describe the need and desirability of the proposed alternatives,
- (d) through the undertaking of an impact and risk assessment process inclusive of cumulative impacts which focused on determining the geographical, physical, biological, social, economic, heritage, and cultural sensitivity of the sites and locations within sites and the risk of impact of the proposed activity and technology alternatives on the these aspects to determine-
  - (i) the nature, significance, consequence, extent, duration, and probability of the impacts occurring to; and
  - (ii) the degree to which these impacts-
    - (aa) can be reversed;
    - (bb) may cause irreplaceable loss of resources; and
    - (cc) can be avoided, managed or mitigated;
- (e) through a ranking of the site sensitivities and possible impacts the activity and technology alternatives will impose on the sites and location identified through the life of the activity to-
  - (i) identify and motivate a preferred site, activity and technology alternative;
  - (ii) identify suitable measures to avoid, manage or mitigate identified impacts; and
  - (iii) identify residual risks that need to be managed and monitored.

**3. Scope of assessment and content of basic assessment reports**

(1) A basic assessment report must contain the information that is necessary for the competent authority to consider and come to a decision on the application, and must include-

(a) details of-

- (i) the EAP who prepared the report; and
- (ii) the expertise of the EAP, including a curriculum vitae;

(b) the location of the activity, including:

- (i) the 21 digit Surveyor General code of each cadastral land parcel;
- (ii) where available, the physical address and farm name;
- (iii) where the required information in items (i) and (ii) is not available, the coordinates of the boundary of the property or properties;

(c) a plan which locates the proposed activity or activities applied for as well as associated structures and infrastructure at an appropriate scale;

or, if it is-

- (i) a linear activity, a description and coordinates of the corridor in which the proposed activity or activities is to be undertaken; or
- (ii) on land where the property has not been defined, the coordinates within which the activity is to be undertaken;

(d) a description of the scope of the proposed activity, including-

- (i) all listed and specified activities triggered and being applied for; and
- (ii) a description of the activities to be undertaken including associated structures and infrastructure ;

(e) a description of the policy and legislative context within which the development is proposed including-

- (i) an identification of all legislation, policies, plans, guidelines, spatial tools, municipal development planning frameworks, and instruments that are applicable to this activity and have been considered in the preparation of the report; and

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- (ii) how the proposed activity complies with and responds to the legislation and policy context, plans, guidelines, tools frameworks, and instruments;
- (f) a motivation for the need and desirability for the proposed development including the need and desirability of the activity in the context of the preferred location;
- (g) a motivation for the preferred site, activity and technology alternative;
- (h) a full description of the process followed to reach the proposed preferred alternative within the site, including:
  - (i) details of all the alternatives considered;
  - (ii) details of the public participation process undertaken in terms of regulation 41 of the Regulations, including copies of the supporting documents and inputs;
  - (iii) a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;
  - (iv) the environmental attributes associated with the alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
  - (v) the impacts and risks identified for each alternative, including the nature, significance, consequence, extent, duration and probability of the impacts, including the degree to which these impacts-
    - (aa) can be reversed;
    - (bb) may cause irreplaceable loss of resources; and
    - (cc) can be avoided, managed or mitigated;
  - (vi) the methodology used in determining and ranking the nature, significance, consequences, extent, duration and probability of potential environmental impacts and risks associated with the alternatives;
  - (vii) positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
  - (viii) the possible mitigation measures that could be applied and level of residual risk;

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- (ix) the outcome of the site selection matrix;
  - (x) if no alternatives, including alternative locations for the activity were investigated, the motivation for not considering such; and
  - (xi) a concluding statement indicating the preferred alternatives, including preferred location of the activity;
- (i) a full description of the process undertaken to identify, assess and rank the impacts the activity will impose on the preferred location through the life of the activity, including-
- (i) a description of all environmental issues and risks that were identified during the environmental impact assessment process; and
  - (ii) an assessment of the significance of each issue and risk and an indication of the extent to which the issue and risk could be avoided or addressed by the adoption of mitigation measures;
- (j) an assessment of each identified potentially significant impact and risk, including-
- (i) cumulative impacts;
  - (ii) the nature, significance and consequences of the impact and risk;
  - (iii) the extent and duration of the impact and risk;
  - (iv) the probability of the impact and risk occurring;
  - (v) the degree to which the impact and risk can be reversed;
  - (vi) the degree to which the impact and risk may cause irreplaceable loss of resources; and
  - (vii) the degree to which the impact and risk can be avoided, managed or mitigated;
- (k) where applicable, a summary of the findings and impact management measures identified in any specialist report complying with Appendix 6 to these Regulations and an indication as to how these findings and recommendations have been included in the final report;
- (l) an environmental impact statement which contains-
- (i) a summary of the key findings of the environmental impact assessment;

- (ii) a map at an appropriate scale which superimposes the proposed activity and its associated structures and infrastructure on the environmental sensitivities of the preferred site indicating any areas that should be avoided, including buffers; and
- (iii) a summary of the positive and negative impacts and risks of the proposed activity and identified alternatives;
- (m) based on the assessment, and where applicable, impact management measures from specialist reports, the recording of the proposed impact management objectives, and the impact management outcomes for the development for inclusion in the EMPr;
- (n) any aspects which were conditional to the findings of the assessment either by the EAP or specialist which are to be included as conditions of authorisation;
- (o) a description of any assumptions, uncertainties, and gaps in knowledge which relate to the assessment and mitigation measures proposed;
- (p) a reasoned opinion as to whether the proposed activity should or should not be authorised, and if the opinion is that it should be authorised, any conditions that should be made in respect of that authorisation;
- (q) where the proposed activity does not include operational aspects, the period for which the environmental authorisation is required, the date on which the activity will be concluded, and the post construction monitoring requirements finalised;
- (r) an undertaking under oath or affirmation by the EAP in relation to:
  - (i) the correctness of the information provided in the reports;
  - (ii) the inclusion of comments and inputs from stakeholders and I&APs;
  - (iii) the inclusion of inputs and recommendations from the specialist reports where relevant; and
  - (iv) any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested and affected parties; and
- (s) where applicable, details of any financial provisions for the rehabilitation, closure, and ongoing post decommissioning management of negative environmental impacts;
- (t) any specific information that may be required by the competent authority; and
- (u) any other matters required in terms of section 24(4)(a) and (b) of the Act.

## **APPENDIX 2**

### **1. Objective of the Scoping Process**

The objective of the scoping process is to, through a consultative process-

- (a) identify the relevant policies and legislation relevant to the activity;
- (b) motivate the need and desirability of the proposed activity, including the need and desirability of the activity in the context of the preferred location;
- (c) identify and confirm the preferred activity and technology alternative through an impact and risk assessment and ranking process;
- (d) identify and confirm the preferred site, through a detailed site selection process, which includes an impact and risk assessment process inclusive of cumulative impacts and a ranking process of all the identified alternatives focusing on the geographical, physical, biological, social, economic, and cultural aspects of the environment;
- (e) identify the key issues to be addressed in the assessment phase;
- (f) agree on the level of assessment to be undertaken, including the methodology to be applied, the expertise required as well as the extent of further consultation to be undertaken to determine the impacts and risks the activity will impose on the preferred site through the life of the activity, including the nature, significance, consequence, extent, duration and probability of the impacts to inform the location of the development footprint within the preferred site; and
- (g) identify suitable measures to avoid, manage or mitigate identified impacts and to determine the extent of the residual risks that need to be managed and monitored.

### **2. Content of the scoping report**

A scoping report must contain the information that is necessary for a proper understanding of the process, informing all preferred alternatives, including location alternatives, the scope of the assessment, and the consultation process to be undertaken through the environmental impact assessment process, and must include-

- (a) details of-
  - (i) the EAP who prepared the report; and
  - (ii) the expertise of the EAP, including a curriculum vitae;
- (b) the location of the activity, including-

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- (i) the 21 digit Surveyor General code of each cadastral land parcel;
  - (ii) where available, the physical address and farm name;
  - (iii) where the required information in items (i) and (ii) is not available, the coordinates of the boundary of the property or properties;
- (c) a plan which locates the proposed activity or activities applied for at an appropriate scale, or, if it is-
- (i) a linear activity, a description and coordinates of the corridor in which the proposed activity or activities is to be undertaken; or
  - (ii) on land where the property has not been defined, the coordinates within which the activity is to be undertaken;
- (d) a description of the scope of the proposed activity, including-
- (i) all listed and specified activities triggered;
  - (ii) a description of the activities to be undertaken, including associated structures and infrastructure;
- (e) a description of the policy and legislative context within which the development is proposed including an identification of all legislation, policies, plans, guidelines, spatial tools, municipal development planning frameworks and instruments that are applicable to this activity and are to be considered in the assessment process;
- (f) a motivation for the need and desirability for the proposed development including the need and desirability of the activity in the context of the preferred location;
- (h) a full description of the process followed to reach the proposed preferred activity, site and location within the site, including-
- (i) details of all the alternatives considered;
  - (ii) details of the public participation process undertaken in terms of regulation 41 of the Regulations, including copies of the supporting documents and inputs;
  - (iii) a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;
  - (iv) the environmental attributes associated with the alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;

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- (v) the impacts and risks identified for each alternative, including the nature, significance, consequence, extent, duration and probability of the impacts, including the degree to which these impacts-
  - (aa) can be reversed;
  - (bb) may cause irreplaceable loss of resources; and
  - (cc) can be avoided, managed or mitigated;
- (vi) the methodology used in determining and ranking the nature, significance, consequences, extent, duration and probability of potential environmental impacts and risks associated with the alternatives;
- (vii) positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
- (viii) the possible mitigation measures that could be applied and level of residual risk;
- (ix) the outcome of the site selection matrix;
- (x) if no alternatives, including alternative locations for the activity were investigated, the motivation for not considering such and
- (xi) a concluding statement indicating the preferred alternatives, including preferred location of the activity;
- (i) a plan of study for undertaking the environmental impact assessment process to be undertaken, including-
  - (i) a description of the alternatives to be considered and assessed within the preferred site, including the option of not proceeding with the activity;
  - (ii) a description of the aspects to be assessed as part of the environmental impact assessment process;
  - (iii) aspects to be assessed by specialists;
  - (iv) a description of the proposed method of assessing the environmental aspects, including a description of the proposed method of assessing the environmental aspects including aspects to be assessed by specialists;
  - (v) a description of the proposed method of assessing duration and significance;

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- (vi) an indication of the stages at which the competent authority will be consulted;
  - (vii) particulars of the public participation process that will be conducted during the environmental impact assessment process; and
  - (viii) a description of the tasks that will be undertaken as part of the environmental impact assessment process;
  - (ix) identify suitable measures to avoid, reverse, mitigate or manage identified impacts and to determine the extent of the residual risks that need to be managed and monitored.
- (j) an undertaking under oath or affirmation by the EAP in relation to-
- (i) the correctness of the information provided in the report;
  - (ii) the inclusion of comments and inputs from stakeholders and interested and affected parties; and
  - (iii) any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested or affected parties;
- (k) an undertaking under oath or affirmation by the EAP in relation to the level of agreement between the EAP and interested and affected parties on the plan of study for undertaking the environmental impact assessment;
- (l) where applicable, any specific information required by the competent authority; and
- (m) any other matter required in terms of section 24(4)(a) and (b) of the Act.

### **APPENDIX 3**

#### **1. Environmental impact assessment process**

- (1) The environmental impact assessment process must be undertaken in line with the approved plan of study for environmental impact assessment.
- (2) The environmental impacts, mitigation and closure outcomes as well as the residual risks of the proposed activity must be set out in the environmental impact assessment report.

#### **2. Objective of the environmental impact assessment process**

The objective of the environmental impact assessment process is to, through a consultative process-

- (a) determine the policy and legislative context within which the activity is located and document how the proposed activity complies with and responds to the policy and legislative context;
- (b) describe the need and desirability of the proposed activity, including the need and desirability of the activity in the context of the preferred location;
- (c) identify the location of the development footprint within the preferred site based on an impact and risk assessment process inclusive of cumulative impacts and a ranking process of all the identified development footprint alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects of the environment;
- (d) determine the-
  - (i) nature, significance, consequence, extent, duration and probability of the impacts occurring to inform identified preferred alternatives; and
  - (ii) degree to which these impacts-
    - (aa) can be reversed;
    - (bb) may cause irreplaceable loss of resources, and
    - (cc) can be avoided, managed or mitigated;
- (e) identify the most ideal location for the activity within the preferred site based on the lowest level of environmental sensitivity identified during the assessment;
- (f) identify, assess, and rank the impacts the activity will impose on the preferred location through the life of the activity;

- (g) identify suitable measures to avoid, manage or mitigate identified impacts; and
- (h) identify residual risks that need to be managed and monitored.

### **3. Scope of assessment and content of environmental impact assessment reports**

An environmental impact assessment report must contain the information that is necessary for the competent authority to consider and come to a decision on the application, and must include-

- (a) details of-
  - (i) the EAP who prepared the report; and
  - (ii) the expertise of the EAP, including a curriculum vitae;
- (b) the location of the activity, including:
  - (i) the 21 digit Surveyor General code of each cadastral land parcel;
  - (ii) where available, the physical address and farm name; and
  - (iii) where the required information in items (i) and (ii) is not available, the coordinates of the boundary of the property or properties;
- (c) a plan which locates the proposed activity or activities applied for as well as the associated structures and infrastructure at an appropriate scale, or, if it is-
  - (i) a linear activity, a description and coordinates of the corridor in which the proposed activity or activities is to be undertaken;
  - (ii) on land where the property has not been defined, the coordinates within which the activity is to be undertaken;
- (d) a description of the scope of the proposed activity, including-
  - (i) all listed and specified activities triggered and being applied for; and
  - (ii) a description of the associated structures and infrastructure related to the development;
- (e) a description of the policy and legislative context within which the development is located and an explanation of how the proposed development complies with and responds to the legislation and policy context;
- (f) a motivation for the need and desirability for the proposed development, including the need and desirability of the activity in the context of the preferred location;

- (g) a motivation for the preferred development footprint within the approved site;
- (h) a full description of the process followed to reach the proposed development footprint within the approved site, including:
  - (i) details of the development footprint alternatives considered;
  - (ii) details of the public participation process undertaken in terms of regulation 41 of the Regulations, including copies of the supporting documents and inputs;
  - (iii) a summary of the issues raised by interested and affected parties, and an indication of the manner in which the issues were incorporated, or the reasons for not including them;
  - (iv) the environmental attributes associated with the development footprint alternatives focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
  - (v) the impacts and risks identified including the nature, significance, consequence, extent, duration and probability of the impacts, including the degree to which these impacts-
    - (aa) can be reversed;
    - (bb) may cause irreplaceable loss of resources; and
    - (cc) can be avoided, managed or mitigated;
  - (vi) the methodology used in determining and ranking the nature, significance, consequences, extent, duration and probability of potential environmental impacts and risks;
  - (vii) positive and negative impacts that the proposed activity and alternatives will have on the environment and on the community that may be affected focusing on the geographical, physical, biological, social, economic, heritage and cultural aspects;
  - (viii) the possible mitigation measures that could be applied and level of residual risk;
  - (ix) if no alternative development locations for the activity were investigated, the motivation for not considering such; and
  - (x) a concluding statement indicating the preferred alternative development location within the approved site;

- (i) a full description of the process undertaken to identify, assess and rank the impacts the activity and associated structures and infrastructure will impose on the preferred location through the life of the activity, including-
  - (i) a description of all environmental issues and risks that were identified during the environmental impact assessment process; and
  - (ii) an assessment of the significance of each issue and risk and an indication of the extent to which the issue and risk could be avoided or addressed by the adoption of mitigation measures;
- (j) an assessment of each identified potentially significant impact and risk, including-
  - (i) cumulative impacts;
  - (ii) the nature, significance and consequences of the impact and risk;
  - (iii) the extent and duration of the impact and risk;
  - (iv) the probability of the impact and risk occurring;
  - (v) the degree to which the impact and risk can be reversed;
  - (vi) the degree to which the impact and risk may cause irreplaceable loss of resources; and
  - (vii) the degree to which the impact and risk can be mitigated;
- (k) where applicable, a summary of the findings and recommendations of any specialist report complying with Appendix 6 to these Regulations and an indication as to how these findings and recommendations have been included in the final assessment report;
- (l) an environmental impact statement which contains-
  - (i) a summary of the key findings of the environmental impact assessment;
  - (ii) a map at an appropriate scale which superimposes the proposed activity and its associated structures and infrastructure on the environmental sensitivities of the preferred site indicating any areas that should be avoided, including buffers; and
  - (iii) a summary of the positive and negative impacts and risks of the proposed activity and identified alternatives;
- (m) based on the assessment, and where applicable, recommendations from specialist reports, the recording of proposed impact management objectives, and the impact

management outcomes for the development for inclusion in the EMPr as well as for inclusion as conditions of authorisation;

- (n) the final proposed alternatives which respond to the impact management measures, avoidance, and mitigation measures identified through the assessment;
- (o) any aspects which were conditional to the findings of the assessment either by the EAP or specialist which are to be included as conditions of authorisation
- (p) a description of any assumptions, uncertainties and gaps in knowledge which relate to the assessment and mitigation measures proposed;
- (q) a reasoned opinion as to whether the proposed activity should or should not be authorised, and if the opinion is that it should be authorised, any conditions that should be made in respect of that authorisation;
- (r) where the proposed activity does not include operational aspects, the period for which the environmental authorisation is required and the date on which the activity will be concluded and the post construction monitoring requirements finalised;
- (s) an undertaking under oath or affirmation by the EAP in relation to:
  - (i) the correctness of the information provided in the reports;
  - (ii) the inclusion of comments and inputs from stakeholders and I&APs;
  - (iii) the inclusion of inputs and recommendations from the specialist reports where relevant; and
  - (iv) any information provided by the EAP to interested and affected parties and any responses by the EAP to comments or inputs made by interested or affected parties;
- (t) where applicable, details of any financial provisions for the rehabilitation, closure, and ongoing post decommissioning management of negative environmental impacts;
- (u) an indication of any deviation from the approved scoping report, including the plan of study, including—
  - (i) any deviation from the methodology used in determining the significance of potential environmental impacts and risks; and
  - (ii) a motivation for the deviation;
- (v) any specific information that may be required by the competent authority; and
- (w) any other matters required in terms of section 24(4)(a) and (b) of the Act.

## APPENDIX 4

### 1. Content of environmental management programme (EMPr)

- (1) An EMPr must comply with section 24N of the Act and include—
- (a) details of—
    - (i) the EAP who prepared the EMPr; and
    - (ii) the expertise of that EAP to prepare an EMPr, including a curriculum vitae;
  - (b) a detailed description of the aspects of the activity that are covered by the EMPr as identified by the project description;
  - (c) a map at an appropriate scale which superimposes the proposed activity, its associated structures, and infrastructure on the environmental sensitivities of the preferred site, indicating any areas that should be avoided, including buffers;
  - (d) a description of the impact management objectives, including management statements, identifying the impacts and risks that need to be avoided, managed and mitigated as identified through the environmental impact assessment process for all phases of the development including—
    - (i) planning and design;
    - (ii) pre-construction activities;
    - (iii) construction activities;
    - (iv) rehabilitation of the environment after construction and where applicable post closure; and
    - (v) where relevant, operation activities;
  - (e) a description and identification of impact management outcomes required for the aspects contemplated in paragraph (d);
  - (f) a description of proposed impact management actions, identifying the manner in which the impact management objectives and outcomes contemplated in paragraphs (d) and (e) will be achieved, and must, where applicable, include actions to -
    - (i) avoid, modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation;

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- (ii) comply with any prescribed environmental management standards or practices;
  - (iii) comply with any applicable provisions of the Act regarding closure, where applicable; and
  - (iv) comply with any provisions of the Act regarding financial provisions for rehabilitation, where applicable;
- (g) the method of monitoring the implementation of the impact management actions contemplated in paragraph (f);
- (h) the frequency of monitoring the implementation of the impact management actions contemplated in paragraph (f);
- (i) an indication of the persons who will be responsible for the implementation of the impact management actions;
- (j) the time periods within which the impact management actions contemplated in paragraph (f) must be implemented;
- (k) the mechanism for monitoring compliance with the impact management actions contemplated in paragraph (f);
- (l) a program for reporting on compliance, taking into account the requirements as prescribed by the Regulations;
- (m) an environmental awareness plan describing the manner in which-
- (i) the applicant intends to inform his or her employees of any environmental risk which may result from their work; and
  - (ii) risks must be dealt with in order to avoid pollution or the degradation of the environment; and
- (n) any specific information that may be required by the competent authority.

## APPENDIX 5

### 1. Content of closure plan

- (1) A closure plan must include-
  - (a) details of –
    - (i) the EAP who prepared the closure plan; and
    - (ii) the expertise of that EAP;
  - (b) closure objectives;
  - (c) proposed mechanisms for monitoring compliance with and performance assessment against the closure plan and reporting thereon;
  - (d) measures to rehabilitate the environment affected by the undertaking of any listed activity or specified activity and associated closure to its natural or predetermined state or to a land use which conforms to the generally accepted principle of sustainable development, including a handover report, where applicable;
  - (e) information on any proposed avoidance, management and mitigation measures that will be taken to address the environmental impacts resulting from the undertaking of the closure activity;
  - (f) a description of the manner in which it intends to-
    - (i) modify, remedy, control or stop any action, activity or process which causes pollution or environmental degradation during closure;
    - (ii) remedy the cause of pollution or degradation and migration of pollutants during closure;
    - (iii) comply with any prescribed environmental management standards or practices; and
    - (iv) comply with any applicable provisions of the Act regarding closure;
  - (g) time periods within which the measures contemplated in the closure plan must be implemented;
  - (h) the process for managing any environmental damage, pollution, pumping and treatment of extraneous water or ecological degradation as a result of closure; and

- (i) details of all public participation processes conducted in terms of regulation 41 of the Regulations, including—
  - (i) copies of any representations and comments received from registered interested and affected parties;
  - (ii) a summary of comments received from, and a summary of issues raised by registered interested and affected parties, the date of receipt of these comments and the response of the EAP to those comments;
  - (iii) the minutes of any meetings held by the EAP with interested and affected parties and other role players which record the views of the participants;
  - (iv) where applicable, an indication of the amendments made to the plan as a result of public participation processes conducted in terms of regulation 41 of these Regulations: and
- (j) where applicable, details of any financial provisions for the rehabilitation, closure and on-going post decommissioning management of negative environmental impacts

## APPENDIX 6

### 1. Specialist reports

- (1) A specialist report prepared in terms of these Regulations must contain-
  - (a) details of-
    - (i) the specialist who prepared the report; and
    - (ii) the expertise of that specialist to compile a specialist report including a curriculum vitae;
  - (b) a declaration that the specialist is independent in a form as may be specified by the competent authority;
  - (c) an indication of the scope of, and the purpose for which, the report was prepared;
  - (d) the date and season of the site investigation and the relevance of the season to the outcome of the assessment;
  - (e) a description of the methodology adopted in preparing the report or carrying out the specialised process;
  - (f) the specific identified sensitivity of the site related to the activity and its associated structures and infrastructure;
  - (g) an identification of any areas to be avoided, including buffers;
  - (h) a map superimposing the activity including the associated structures and infrastructure on the environmental sensitivities of the site including areas to be avoided, including buffers;
  - (i) a description of any assumptions made and any uncertainties or gaps in knowledge;
  - (j) a description of the findings and potential implications of such findings on the impact of the proposed activity, including identified alternatives on the environment;
  - (k) any mitigation measures for inclusion in the EMPr;
  - (l) any conditions for inclusion in the environmental authorisation;
  - (m) any monitoring requirements for inclusion in the EMPr or environmental authorisation;
  - (n) a reasoned opinion-

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- (i) as to whether the proposed activity or portions thereof should be authorised; and
- (ii) if the opinion is that the proposed activity or portions thereof should be authorised, any avoidance, management and mitigation measures that should be included in the EMP, and where applicable, the closure plan;
- (o) a description of any consultation process that was undertaken during the course of preparing the specialist report;
- (p) a summary and copies of any comments received during any consultation process and where applicable all responses thereto; and
- (q) any other information requested by the competent authority.

## **APPENDIX 7**

### **1. Environmental audit report**

The environmental audit report must provide for recommendations regarding the need to amend the EMPr, and where applicable, the closure plan.

### **2. Objective of the environmental audit report**

The objective of the environmental audit report is to-

- (a) report on-
  - (i) the level of compliance with the conditions of the environmental authorisation and the EMPr, and where applicable, the closure plan; and
  - (ii) the extent to which the avoidance, management and mitigation measures provided for in the EMPr, and where applicable, the closure plan achieve the objectives and outcomes of the EMPr, and closure plan.
- (b) identify and assess any new impacts and risks as a result of undertaking the activity;
- (c) evaluate the effectiveness of the EMPr, and where applicable, the closure plan;
- (d) identify shortcomings in the EMPr, and where applicable, the closure plan; and
- (e) identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr, and where applicable, the closure plan.

### **3. Content of environmental audit reports**

- (1) An environmental audit report prepared in terms of these Regulations must contain-
  - (a) details of-
    - (i) the independent person who prepared the environmental audit report; and
    - (ii) the expertise of independent person that compiled the environmental audit report;
  - (b) a declaration that the independent auditor is independent in a form as may be specified by the competent authority;
  - (c) an indication of the scope of, and the purpose for which, the environmental audit report was prepared;

- (d) a description of the methodology adopted in preparing the environmental audit report;
- (e) an indication of the ability of the EMPr, and where applicable, the closure plan to-
  - (i) sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity on an on-going basis;
  - (ii) sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the closure of the facility; and
  - (iii) ensure compliance with the provisions of environmental authorisation, EMPr, and where applicable, the closure plan;
- (f) a description of any assumptions made, and any uncertainties or gaps in knowledge;
- (g) a description of any consultation process that was undertaken during the course of carrying out the environmental audit report;
- (j) a summary and copies of any comments that were received during any consultation process; and
- (k) any other information requested by the competent authority.

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

**GNR 983 OF 4 DECEMBER 2014**

**LISTING NOTICE 1: LIST OF ACTIVITIES AND COMPETENT  
AUTHORITIES IDENTIFIED IN TERMS OF SECTIONS 24(2) AND 24D**

**SCHEDULE**

**PURPOSE**

1. The purpose of this Notice is to identify activities that would require environmental authorisations prior to commencement of that activity and to identify competent authorities in terms of sections 24(2) and 24D of the Act.

**DEFINITIONS**

2.

- (1) In this Notice, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates—

“**agri-industrial**” means an undertaking involving the beneficiation of agricultural produce;

“**associated structures, infrastructure and earthworks**” means any structures, infrastructure or earthworks, including borrow pits, that is necessary for the development and functioning of a facility or activity;

“**canal**” means an open structure, that is lined or reinforced, for the conveying of a liquid or that serves as an artificial watercourse;

“**channel**” means an excavated hollow bed for running water or an artificial underwater depression to make a water body navigable in a natural watercourse, river or the sea;

“**concentration of animals**” means the keeping of animals in a confined space or structure, including a feedlot, where they are fed in order to prepare them for slaughter or to produce products such as milk or eggs;

“**dam**” when used in these Regulations means any barrier dam and any other form of impoundment used for the storage of water;

“**dangerous goods**” means goods containing any of the substances as contemplated in South African National Standard No. 10234, supplement 2008 1.00: designated “List of

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classification and labelling of chemicals in accordance with the Globally Harmonized Systems (GHS) published by Standards South Africa, and where the presence of such goods, regardless of quantity, in a blend or mixture, causes such blend or mixture to have one or more of the characteristics listed in the Hazard Statements in section 4.2.3, namely physical hazards, health hazards or environmental hazards;

**“decommissioning”** means to take out of active service permanently or dismantle partly or wholly, or closure of a facility to the extent that it cannot be readily re-commissioned;

**“development”** means the building, erection, construction or establishment of a facility, structure or infrastructure, including associated earthworks or borrow pits, that is necessary for the undertaking of a listed or specified activity, including any associated post development monitoring, but excludes any modification, alteration or expansion of such a facility, structure or infrastructure, including associated earthworks or borrow pits, and excluding the redevelopment of the same facility in the same location, with the same capacity and footprint;

**“development footprint”** means any evidence of physical alteration as a result of the undertaking of any activity;

**“development setback”** means a setback line defined or adopted by the competent authority;

**“expansion”** means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased;

**“indigenous vegetation”** refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years;

**“industrial complex”** means an area used or zoned for industrial purposes, including bulk storage, manufacturing, processing or packaging purposes;

**“large stock unit”** means domesticated units including but not limited to cattle and horses, as well as game, including but not limited to antelope and buck with an average adult male live weight of 100 kilograms or more;

**“linear activities”** include railways, roads, funiculars, pipelines, conveyor belts, cableways, powerlines, fences, runways, aircraft landing strips, and telecommunication lines;

**“maintenance”** means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint;

**“maintenance management plan”** means a management plan for maintenance purposes defined or adopted by the competent authority;

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“**marina**” means a constructed waterway that is normally associated with residential or commercial use and that could include mooring facilities;

“**phased activities**” means an activity that is developed in phases over time on the same or adjacent properties to create a single or linked entity;

“**previous NEMA notices**” as contemplated in these transitional arrangements means the previous notices published in terms of section 24(2) of NEMA (Government Notices R. 386 and R. 387 in the Government Gazette of 21 April 2006, as amended, or Government Notice No. R. 544, 545 and 546 in the Government Gazette of 18 June 2010, as amended);

“**small stock unit**” means domesticated units, including sheep, goats and pigs, as well as game, including but not limited to antelope and buck with an average adult male live weight of less than 100 kilograms;

“**the Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended;

“**throughput capacity**” means the design capacity or maximum capable capacity of a facility, structures or infrastructure, whichever is the greater;

“**unit**” in relation to a quantity standard for determining throughput of facilities or infrastructure for the slaughter of animals, has the meaning assigned to it in Regulations promulgated in terms of the Meat Safety Act, 2000 (Act No. of 40 of 2000);

“**urban areas**” means areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas;

“**watercourse**” means –

- (a) a river or spring;
- (b) a natural channel in which water flows regularly or intermittently;
- (c) a wetland, pan, lake or dam into which, or from which, water flows; and any collection of water which the Minister may, by notice in the Gazette, declare to be a watercourse as defined in the National Water Act, 1998 (Act No. 36 of 1998); and

a reference to a watercourse includes, where relevant, its bed and banks; and

“**wetland**” means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

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- (2) The following words relevant to coastal activities will have the meaning so assigned to it in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008):
- a) “coastal public property”;
  - b) “estuary”;
  - c) “high-water mark”;
  - d) “littoral active zone”;
  - e) “sea”; and
  - f) “seashore”.
- (3) The following words will have the meaning assigned to them in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002):
- a) “exploration right”;
  - b) “mine”;
  - c) “mineral”;
  - d) “mining permit”;
  - e) “mining right”;
  - f) “petroleum”;
  - g) “production right”; and
  - h) “prospecting right”.

**IDENTIFIED ACTIVITIES AND COMPETENT AUTHORITIES**

3.

- (1) The activities listed in Appendix 1 are identified in terms of section 24(2) (a) of the Act as activities that may not commence without an environmental authorisation from the competent authority.
- (2) The investigation, assessment and communication of potential impact of activities must follow the procedure as prescribed in regulations 19 and 20 of the Environmental Impact Assessment Regulations, 2014.

LISTING NOTICE 1: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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- (3) Where Listing Notice 4 applies, an application for environmental authorisation must be submitted for an activity contemplated in that Notice and not for an activity contemplated in this Notice.

**REPEAL OF NOTICE 544 OF 18 June 2010**

4. Notice No. 544 published in *Gazette* 33306 on 18 June 2010 is hereby repealed.

**SHORT TITLE**

5. This Listing Notice is called the Environmental Impact Assessment Regulations Listing Notice 1 of 2014, and takes effect on 8 December 2014.

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**APPENDIX 1**

<b>Activity number</b>	<b>Activity description</b>	<b>Identification of competent authority</b>
1.	<p>The development of facilities or infrastructure for the generation of electricity from a renewable resource where—</p> <ul style="list-style-type: none"> <li>(i) the electricity output is more than 10 megawatts but less than 20 megawatts; or</li> <li>(ii) the output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1 hectare;</li> </ul> <p>excluding where such development of facilities or infrastructure is for photovoltaic installations and occurs within an urban area.</p>	<p>The competent authority in respect of the activities listed in this part of the Notice is the competent authority in the province in which the activity is to be undertaken, unless—</p> <ul style="list-style-type: none"> <li>(a) it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act;</li> </ul>
2.	<p>The development and related operation of facilities or infrastructure for the generation of electricity from a non-renewable resource where—</p> <ul style="list-style-type: none"> <li>(i) the electricity output is more than 10 megawatts but less than 20 megawatts; or</li> <li>(ii) the output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1 hectare.</li> </ul>	<ul style="list-style-type: none"> <li>(b) the listed or specified activity is or is directly related to— <ul style="list-style-type: none"> <li>i. prospecting or exploration of a mineral or petroleum resource; or</li> <li>ii. extraction and primary processing of a mineral or petroleum resource;</li> </ul> in which case the competent authority is the Minister responsible for mineral resources. </li> </ul>
3.	<p>The development and related operation of facilities or infrastructure for the slaughter of animals with a product throughput of—</p> <ul style="list-style-type: none"> <li>(i) poultry exceeding 50 poultry per day;</li> <li>(ii) reptiles, game and red meat exceeding 6 units per day; or</li> <li>(iii) fish, crustaceans and amphibians with a wet weight product throughput of 20 000 kg per annum.</li> </ul>	<p>The exception mentioned in (b) above does not apply to the following activities contained in this Notice:</p> <ul style="list-style-type: none"> <li>4;</li> <li>5;</li> <li>6;</li> <li>7;</li> </ul>
4.	<p>The development and related operation of facilities or infrastructure for the concentration of animals for the purpose of commercial production in densities that exceed—</p> <ul style="list-style-type: none"> <li>(i) 20 square metres per large stock unit and more than 500 units per facility;</li> <li>(ii) 8 square meters per small stock unit and; <ul style="list-style-type: none"> <li>a. more than 1 000 units per facility excluding pigs where (b) applies; or</li> <li>b. more than 250 pigs per facility excluding piglets that are not yet weaned;</li> </ul> </li> </ul>	<p>The exception mentioned in (b) above does not apply to the following activities contained in this Notice:</p> <ul style="list-style-type: none"> <li>4;</li> <li>5;</li> <li>6;</li> <li>7;</li> </ul>

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	<p>(iii) 30 square metres per crocodile at any level of production, excluding crocodiles younger than 6 months;</p> <p>(iv) 3 square metre per rabbit and more than 500 rabbits per facility; or</p> <p>(v) 250 square metres per ostrich or emu and more than 50 ostriches or emus per facility.</p>	<p>8; 23; 29; 30; 38; 39; 40;</p>
5.	<p>The development and related operation of facilities or infrastructure for the concentration of—</p> <p>(i) more than 1 000 poultry per facility situated within an urban area, excluding chicks younger than 20 days;</p> <p>(ii) more than 5 000 poultry per facility situated outside an urban area, excluding chicks younger than 20 days;</p> <p>(iii) more than 5000 chicks younger than 20 days per facility situated within an urban area; or</p> <p>(iv) more than 25000 chicks younger than 20 days per facility situated outside an urban area.</p>	<p>41; 42; 43; 44; 61; and 62</p>
6.	<p>The development and related operation of facilities, infrastructure or structures for aquaculture of—</p> <p>(i) finfish, crustaceans, reptiles or amphibians, where such facility, infrastructure or structures will have a production output exceeding 20 000 kg per annum (wet weight);</p> <p>(ii) molluscs and echinoderms, where such facility, infrastructure or structures will have a production output exceeding 30 000 kg per annum (wet weight); or</p> <p>(iii) aquatic plants, where such facility, infrastructure or structures will have a production output exceeding 60 000 kg per annum (wet weight);</p> <p>excluding where the development of such facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 7 in this Notice applies.</p>	
7.	<p>The development and related operation of facilities, infrastructure or structures for aquaculture of sea-based cage culture of finfish, crustaceans, reptiles, amphibians, molluscs, echinoderms and aquatic plants, where the facility, infrastructure or structures will have a production output exceeding 50 000 kg per annum (wet weight).</p>	

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8.	The development and related operation of hatcheries or agri-industrial facilities outside industrial complexes where the development footprint covers an area of 2 000 square metres or more.	
9.	<p>The development of infrastructure exceeding 1000 metres in length for the bulk transportation of water or storm water—</p> <p>(i) with an internal diameter of 0,36 metres or more; or</p> <p>(ii) with a peak throughput of 120 litres per second or more;</p> <p>excluding where—</p> <p>(a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve; or</p> <p>(b) where such development will occur within an urban area.</p>	
10.	<p>The development and related operation of infrastructure exceeding 1000 metres in length for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes –</p> <p>(i) with an internal diameter of 0,36 metres or more; or</p> <p>(ii) with a peak throughput of 120 litres per second or more;</p> <p>excluding where—</p> <p>(a) such infrastructure is for bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes inside a road reserve; or</p> <p>(b) where such development will occur within an urban area.</p>	
11.	<p>The development of facilities or infrastructure for the transmission and distribution of electricity—</p> <p>(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or</p> <p>(ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more.</p>	

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<p>12.</p>	<p>The development of—</p> <ul style="list-style-type: none"> <li>(i) canals exceeding 100 square metres in size;</li> <li>(ii) channels exceeding 100 square metres in size;</li> <li>(iii) bridges exceeding 100 square metres in size;</li> <li>(iv) dams, where the dam, including infrastructure and water surface area, exceeds 100 square metres in size;</li> <li>(v) weirs, where the weir, including infrastructure and water surface area, exceeds 100 square metres in size;</li> <li>(vi) bulk storm water outlet structures exceeding 100 square metres in size;</li> <li>(vii) marinas exceeding 100 square metres in size;</li> <li>(viii) jetties exceeding 100 square metres in size;</li> <li>(ix) slipways exceeding 100 square metres in size;</li> <li>(x) buildings exceeding 100 square metres in size;</li> <li>(xi) boardwalks exceeding 100 square metres in size; or</li> <li>(xii) infrastructure or structures with a physical footprint of 100 square metres or more;</li> </ul> <p>where such development occurs—</p> <ul style="list-style-type: none"> <li>(a) within a watercourse;</li> <li>(b) in front of a development setback; or</li> <li>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</li> </ul> <p>excluding—</p> <ul style="list-style-type: none"> <li>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> <li>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</li> <li>(dd) where such development occurs within an urban area; or</li> <li>(ee) where such development occurs within existing roads or road reserves.</li> </ul>	
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13.	The development of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50000 cubic metres or more, unless such storage falls within the ambit of activity 16 in Listing Notice 2 of 2014.	
14.	The development of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres.	
15.	The development of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding— (i) the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (ii) the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (iii) the development of temporary structures within the beach zone where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared; or (iv) activities listed in activity 14 in Listing Notice 2 of 2014, in which case that activity applies.	
16.	The development and related operation of facilities for the desalination of water with a design capacity to produce more than 100 cubic metres of treated water per day.	
17.	Development— (i) in the sea; (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;	

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	<p>in respect of—</p> <ul style="list-style-type: none"> <li>(a) fixed or floating jetties and slipways;</li> <li>(b) tidal pools;</li> <li>(c) embankments;</li> <li>(d) rock revetments or stabilising structures including stabilising walls;</li> <li>(e) buildings of 50 square metres or more; or</li> <li>(f) infrastructure with a development footprint of 50 square metres or more —</li> </ul> <p>but excluding—</p> <ul style="list-style-type: none"> <li>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(ab) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> <li>(ac) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared; or</li> <li>(ad) where such development occurs within an urban area.</li> </ul>	
18.	<p>The planting of vegetation or placing of any material on dunes or exposed sand surfaces of more than 10 square metres, within the littoral active zone, for the purpose of preventing the free movement of sand, erosion or accretion, excluding where —</p> <ul style="list-style-type: none"> <li>(i) the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation undertaken in accordance with a maintenance management plan; or</li> <li>(ii) such planting of vegetation or placing of material will occur behind a development setback.</li> </ul>	
19.	<p>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—</p>	

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	<p>(i) a watercourse; (ii) the seashore; or (iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater—</p> <p>but excluding where such infilling, depositing , dredging, excavation, removal or moving— (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; or (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies.</p>	
20.	<p>Any activity including the operation of that activity which requires a prospecting right in terms of section 16 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks, directly related to prospecting of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	
21.	<p>Any activity including the operation of that activity which requires a mining permit in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks directly related to the extraction of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	
22.	<p>The decommissioning of any activity requiring – (i) a closure certificate in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); or</p>	

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	(ii) a prospecting right, mining right, mining permit, production right or exploration right, where the throughput of the activity has reduced by 90% or more over a period of 5 years excluding where the competent authority has in writing agreed that such reduction in throughput does not constitute closure.	
23.	The development of cemeteries of 2500 square metres or more in size.	
24.	The development of— (i) a road for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or (ii) a road with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;  but excluding— (a) roads which are identified and included in activity 27 in Listing Notice 2 of 2014; or (b) roads where the entire road falls within an urban area.	
25.	The development and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage with a daily throughput capacity of more than 2000 cubic metres but less than 15000 cubic metres.	
26.	Residential, retail, recreational, tourism, commercial or institutional developments of 1000 square metres or more, on land previously used for mining or heavy industrial purposes; —  excluding — (i) where such land has been remediated in terms of part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or (ii) where an environmental authorisation has been obtained for the decommissioning of such a mine or industry in terms of this Notice or any previous NEMA notice; or	

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	(iii) where a closure certificate has been issued in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) for such land.	
27.	The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for— (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.	
28.	Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture or afforestation on or after 01 April 1998 and where such development: (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;  excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.	
29.	The release of genetically modified organisms into the environment, where assessment for such release is required by the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997) or the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).	
30.	Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).	
31.	The decommissioning of existing facilities, structures or infrastructure for— (i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014; (ii) any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;	

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	<p>(iii) any development and related operation activity or activities and expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;</p> <p>(iv) any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014; or</p> <p>(v) any activity regardless the time the activity was commenced with, where such activity:</p> <p>(a) is similarly listed to an activity in (i), (ii), (iii), or (iv) above; and</p> <p>(b) is still in operation or development is still in progress;</p> <p>excluding where—</p> <p>(aa) activity 22 of this notice applies; or</p> <p>(ab) the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.</p>	
32.	<p>The continuation of any development where the environmental authorisation has lapsed and where the continuation of the development, after the date the environmental authorisation has lapsed will meet the threshold of any activity or activities listed in this Notice, Listing Notice 2 of 2014, or Listing Notice 3 or Listing Notice 4 of 2014.</p>	
33.	<p>The underground gasification of 300 kilograms or more coal per day, including any associated operation.</p>	
34.	<p>The expansion or changes to existing facilities for any process or activity where such expansion or changes will result in the need for a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the release of emissions or pollution, excluding—</p> <p>(i) where the facility, process or activity is included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or</p>	

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	(ii) the expansion of or changes to existing facilities for the treatment of effluent, wastewater or sewage where the capacity will be increased by less than 15 000 cubic metres per day.	
35.	<p>The expansion of residential, retail, recreational, tourism, commercial or institutional developments on land previously used for mining or heavy industrial purposes, where the increased development footprint will exceed 1000 square meters;</p> <p>excluding—</p> <p>(i) where such land has been remediated in terms of part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or</p> <p>(ii) where an environmental authorisation has been obtained for the decommissioning of such a mine or industry in terms of this Notice or any previous NEMA notice; or</p> <p>(iii) where a closure certificate has been issued in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) for such land.</p>	
36.	<p>The expansion of facilities or structures for the generation of electricity from a renewable resource where—</p> <p>(i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or</p> <p>(ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more;</p> <p>excluding where such expansion of facilities or structures is for photovoltaic installations and occurs within an urban area.</p>	

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37.	<p>The expansion and related operation of facilities for the generation of electricity from a non-renewable resource where—</p> <ul style="list-style-type: none"> <li>(i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or</li> <li>(ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more.</li> </ul>	
38.	<p>The expansion and related operation of facilities for the slaughter of animals where the daily product throughput will be increased by more than—</p> <ul style="list-style-type: none"> <li>(i) 50 poultry;</li> <li>(ii) 6 units of reptiles, red meat and game; or</li> <li>(iii) 20 000 kg wet weight per annum of fish, crustaceans and amphibians.</li> </ul>	
39.	<p>The expansion and related operation of facilities for the concentration of animals for the purpose of commercial production in densities that will exceed—</p> <ul style="list-style-type: none"> <li>(i) 20 square metres per large stock unit, where the expansion will constitute more than 500 additional units;</li> <li>(ii) 8 square meters per small stock unit, where the expansion will constitute more than; <ul style="list-style-type: none"> <li>(a) 1 000 additional units per facility or more excluding pigs where (b) applies; or</li> <li>(b) 250 additional pigs, excluding piglets that are not yet weaned;</li> </ul> </li> <li>(iii) 30 square metres per crocodile at any level of production where the expansion will constitute an increase in the level of production, excluding crocodiles younger than 6 months;</li> <li>(iv) 3 square metre per rabbit where the expansion will constitute more than 500 additional rabbits; or</li> <li>(v) 250 square metres per ostrich or emu where the expansion will constitute more than 50 additional ostriches or emus.</li> </ul>	

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40.	<p>The expansion and related operation of facilities for the concentration of poultry, excluding chicks younger than 20 days, where the capacity of the facility will be increased by—</p> <ul style="list-style-type: none"> <li>(i) more than 1 000 poultry where the facility is situated within an urban area; or</li> <li>(ii) more than 5 000 poultry per facility situated outside an urban area.</li> </ul>	
41.	<p>The expansion and related operation of facilities, infrastructure or structures for aquaculture of—</p> <ul style="list-style-type: none"> <li>(i) finfish, crustaceans, reptiles or amphibians, where the annual production output of such facility, infrastructure or structures will be increased by 20 000 kg (wet weight) or more;</li> <li>(ii) molluscs and echinoderms where the annual production output of such facility, infrastructure or structures will be increased by 30 000 kg (wet weight) or more; or</li> <li>(iii) aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 60 000 kg (wet weight) or more;</li> </ul> <p>excluding where the expansion of facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 42 in this Notice will apply.</p>	
42.	<p>The expansion and related operation of facilities, infrastructure or structures for aquaculture of sea-based cage culture of finfish, crustaceans, reptiles, amphibians, molluscs, echinoderms and aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 50 000 kg (wet weight) or more.</p>	
43.	<p>The expansion and related operation of hatcheries or agri-industrial facilities outside industrial complexes, where the development footprint of the hatcheries or agri-industrial facilities will be increased by 2 000 square metres or more.</p>	
44.	<p>The expansion of cemeteries by 2500 square metres or more.</p>	

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45.	<p>The expansion of infrastructure for the bulk transportation of water or storm water where the existing infrastructure—</p> <ul style="list-style-type: none"> <li>(i) has an internal diameter of 0,36 metres or more; or</li> <li>(ii) has a peak throughput of 120 litres per second or more; and <ul style="list-style-type: none"> <li>(a) where the facility or infrastructure is expanded by more than 1000 metres in length; or</li> <li>(b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;</li> </ul> </li> </ul> <p>excluding where such expansion—</p> <ul style="list-style-type: none"> <li>(aa) relates to transportation of water or storm water within a road reserve; or</li> <li>(ab) will occur within an urban area.</li> </ul>	
46.	<p>The expansion and related operation of infrastructure for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes where the existing infrastructure—</p> <ul style="list-style-type: none"> <li>(i) has an internal diameter of 0,36 metres or more; or</li> <li>(ii) has a peak throughput of 120 litres per second or more; and <ul style="list-style-type: none"> <li>(a) where the facility or infrastructure is expanded by more than 1000 metres in length; or</li> <li>(b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;</li> </ul> </li> </ul> <p>excluding where such expansion—</p> <ul style="list-style-type: none"> <li>(aa) relates to transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes within a road reserve; or</li> <li>(bb) will occur within an urban area.</li> </ul>	
47.	<p>The expansion of facilities or infrastructure for the transmission and distribution of electricity where the expanded capacity will exceed 275 kilovolts and the development footprint will increase.</p>	

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<p>48.</p>	<p>The expansion of—</p> <ul style="list-style-type: none"> <li>(i) canals where the canal is expanded by 100 square metres or more in size ;</li> <li>(ii) channels where the channel is expanded by 100 square metres or more in size ;</li> <li>(iii) bridges where the bridge is expanded by 100 square metres or more in size;</li> <li>(iv) dams, where the dam, including infrastructure and water surface area, is expanded by 100 square metres or more in size;</li> <li>(v) weirs, where the weir, including infrastructure and water surface area, is expanded by 100 square metres or more in size;</li> <li>(vi) bulk storm water outlet structures where the bulk storm water outlet structure is expanded by 100 square metres or more in size; or</li> <li>(vii) marinas where the marina is expanded by 100 square metres or more in size;</li> </ul> <p>where such expansion or expansion and related operation occurs—</p> <ul style="list-style-type: none"> <li>(a) within a watercourse;</li> <li>(b) in front of a development setback; or</li> <li>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</li> </ul> <p>excluding—</p> <ul style="list-style-type: none"> <li>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> <li>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</li> <li>(dd) where such expansion occurs within an urban area; or</li> <li>(ee) where such expansion occurs within existing roads or road reserves.</li> </ul>	
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49.	<p>The expansion of –</p> <ul style="list-style-type: none"> <li>(i) jetties by more than 100 square metres;</li> <li>(ii) slipways by more than 100 square metres;</li> <li>(iii) buildings by more than 100 square metres;</li> <li>(iv) boardwalks by more than 100 square metres;</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>(v) infrastructure or structures where the physical footprint is expanded by 100 square metres or more;</li> </ul> <p>where such expansion or expansion and related operation occurs—</p> <ul style="list-style-type: none"> <li>(a) within a watercourse;</li> <li>(b) in front of a development setback; or</li> <li>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</li> </ul> <p>excluding—</p> <ul style="list-style-type: none"> <li>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> <li>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</li> <li>(dd) where such expansion occurs within an urban area; or</li> <li>(ee) where such expansion occurs within existing roads or road reserves.</li> </ul>	
50.	<p>The expansion of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, where the combined capacity will be increased by 50000 cubic metres or more.</p>	
51.	<p>The expansion of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres.</p>	

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52.	The expansion of structures in the coastal public property where the development footprint will be increased by more than 50 square metres, excluding such expansions within existing ports or harbours where there will be no increase in the development footprint of the port or harbour and excluding activities listed in activity 23 in Listing Notice 3 of 2014, in which case that activity applies.	
53.	The expansion and related operation of facilities for the desalination of water where the design capacity will be expanded to produce an additional 100 cubic metres or more of treated water per day.	
54.	<p>The expansion of facilities—</p> <ul style="list-style-type: none"> <li>(i) in the sea;</li> <li>(ii) in an estuary;</li> <li>(iii) within the littoral active zone;</li> <li>(iv) in front of a development setback; or</li> <li>(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</li> </ul> <p>in respect of—</p> <ul style="list-style-type: none"> <li>(a) fixed or floating jetties and slipways;</li> <li>(b) tidal pools;</li> <li>(c) embankments;</li> <li>(d) rock revetments or stabilising structures including stabilising walls;</li> <li>(e) buildings where the building is expanded by 50 square metres or more; or</li> <li>(f) infrastructure where the development footprint is expanded by 50 square metres or more,</li> </ul> <p>but excluding—</p> <ul style="list-style-type: none"> <li>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or</li> <li>(ab) where such expansion occurs within an urban area.</li> </ul>	

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55.	<p>Expansion—</p> <ul style="list-style-type: none"> <li>(i) in the sea;</li> <li>(ii) in an estuary;</li> <li>(iii) within the littoral active zone;</li> <li>(iv) in front of a development setback; or</li> <li>(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</li> </ul> <p>in respect of —</p> <ul style="list-style-type: none"> <li>(a) facilities associated with the arrival and departure of vessels and the handling of cargo;</li> <li>(b) piers;</li> <li>(c) inter- and sub-tidal structures for entrapment of sand;</li> <li>(d) breakwater structures;</li> <li>(e) coastal marinas;</li> <li>(f) coastal harbours or ports;</li> <li>(g) tunnels; or</li> <li>(h) underwater channels;</li> </ul> <p>but excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>	
56.	<p>The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre—</p> <ul style="list-style-type: none"> <li>(i) where the existing reserve is wider than 13,5 metres; or</li> <li>(ii) where no reserve exists, where the existing road is wider than 8 metres;</li> </ul> <p>excluding where widening or lengthening occur inside urban areas.</p>	
57.	<p>The expansion and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage where the capacity will be increased by 15000 cubic metres or more per day and the development footprint will increase by 1000 square meters or more.</p>	

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58.	The increase of the amount of coal gasified underground, where any such increase exceeds 300 kg per day, including any associated operation.	
59.	The expansion and related operation of facilities or infrastructure for the refining, extraction or processing of gas, oil or petroleum products where the installed capacity of the facility will be increased by 50 cubic metres or more per day, excluding facilities for the refining, extraction or processing of gas from landfill sites.	
60.	The expansion and related operation of facilities or infrastructure for the bulk transportation of dangerous goods— (i) in gas form, outside an industrial complex, by an increased throughput capacity of 700 tons or more per day; (ii) in liquid form, outside an industrial complex or zone, by an increased throughput capacity of 50 cubic metres or more per day; or (iii) in solid form, outside an industrial complex or zone, by an increased throughput capacity of 50 tons or more per day.	
61.	The expansion of airports where the development footprint will be increased.	
62.	The expansion of facilities or infrastructure for marine telecommunication where there will be an increased development footprint.	
63.	The expansion of facilities or infrastructure for the transfer of water from and to or between any combination of the following— (i) water catchments; (ii) water treatment works; or (iii) impoundments;  where the capacity will be increased by 50 000 cubic metres or more per day, but excluding water treatment works where water is treated for drinking purposes.	

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64.	<p>The expansion of railway lines, stations or shunting yards where there will be an increased development footprint, excluding—</p> <ul style="list-style-type: none"> <li>(i) railway lines, shunting yards and railway stations in industrial complexes or zones;</li> <li>(ii) underground railway lines in mines; or</li> <li>(iii) additional railway lines within the railway line reserve.</li> </ul>	
65.	<p>The expansion and related operation of an island, anchored platform or any other permanent structure on or along the sea bed, where the expansion will constitute an increased development footprint, excluding expansion of facilities, infrastructure or structures for aquaculture purposes;</p>	
66.	<p>The expansion of a dam where—</p> <ul style="list-style-type: none"> <li>(i) the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, was originally 5 metres or higher and where the height of the wall is increased by 2,5 metres or more; or</li> <li>(ii) where the high-water mark of the dam will be increased with 10 hectares or more.</li> </ul>	
67.	<p>Phased activities for all activities—</p> <ul style="list-style-type: none"> <li>(i) listed in this Notice, which commenced on or after the effective date of this Notice; or</li> <li>(ii) similarly listed in any of the previous NEMA notices, which commenced on or after the effective date of such previous NEMA Notices;</li> </ul> <p>where any phase of the activity may be below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold;</p> <p>excluding the following activities listed in this Notice—</p> <ul style="list-style-type: none"> <li>17(i)(a-d);</li> <li>17(ii)(a-d);</li> <li>17(iii)(a-d);</li> <li>17(iv)(a-d);</li> <li>17(v)(a-d);</li> <li>20;</li> <li>21;</li> <li>22;</li> <li>24(i);</li> </ul>	

LISTING NOTICE 1: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

29; 30; 31; 32; 34; 54(i)(a-d); 54(ii)(a-d); 54(iii)(a-d); 54(iv)(a-d); 54(v)(a-d); 55; 61; 62; 64; and 65.	
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**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

**GNR 984 OF 4 DECEMBER 2014**

**LISTING NOTICE 2: LIST OF ACTIVITIES AND COMPETENT  
AUTHORITIES IDENTIFIED IN TERMS OF SECTIONS 24(2) AND 24D**

**SCHEDULE**

**PURPOSE**

1. The purpose of this Notice is to identify activities that would require an environmental authorisation prior to the commencement of that activity and to identify competent authorities in terms of sections 24(2) and 24D of this Act.

**DEFINITIONS**

2.

- (1) In this Notice, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates —

**“associated structures, infrastructure and earthworks”** means any structures, infrastructure or earthworks, including borrow pits, that is necessary for the functioning of a facility or activity;

**“channel”** means an excavated hollow bed for running water or an artificial underwater depression to make a water body navigable in a natural watercourse, river or the sea;

**“dam”** when used in these Regulations means any barrier dam and any other form of impoundment used for the storage of water;

**“dangerous goods”** means goods containing any of the substances as contemplated in South African National Standard No. 10234, supplement 2008 1.00: designated “List of classification and labelling of chemicals in accordance with the Globally Harmonized Systems (GHS)” published by Standards South Africa, and where the presence of such goods, regardless of quantity, in a blend or mixture, causes such blend or mixture to have one or more of the characteristics listed in the Hazard Statements in section 4.2.3, namely physical hazards, health hazards or environmental hazards;

**“development”** means the building, erection, construction or establishment of a facility, structure or infrastructure, including associated earthworks or borrow pits, that is necessary for the undertaking of a listed or specified activity, including any associated post development

LISTING NOTICE 2: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

monitoring, but excludes any modification, alteration or expansion of such a facility, structure or infrastructure, including associated earthworks or borrow pits, and excluding the redevelopment of the same facility in the same location, with the same capacity and footprint;

**“development footprint”** means any evidence of physical alteration as a result of the undertaking of any activity;

**“development setback”** means a setback line defined or adopted by the competent authority;

**“expansion”** means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased;

**“indigenous vegetation”** refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years;

**“industrial complex”** means an area used or zoned for industrial purposes, including bulk storage, manufacturing, processing or packaging purposes;

**“linear development activities”** include railways, roads, funiculars, pipelines, conveyor belts, cableways, powerlines, fences, runways, aircraft landing strips, and telecommunication lines;

**“maintenance”** means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint;

**“maintenance management plan”** means a management plan for maintenance purposes defined or adopted by the competent authority;

**“marina”** means a constructed waterway that is normally associated with residential or commercial use and that could include mooring facilities;

**“route determination”** means the process of planning and designing a new route;

**“the Act”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended;

**“throughput capacity”** means the design capacity or maximum capable capacity of a facility, structures or infrastructure, whichever is the greater;

**“urban areas”** means areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas;

LISTING NOTICE 2: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

“**virgin soil**” means land not cultivated for the preceding 10 years.

“**watercourse**” means –

- (a) a river or spring;
- (b) a natural channel in which water flows regularly or intermittently;
- (c) a wetland, pan, lake or dam into which, or from which, water flows; and
- (d) any collection of water which the Minister may, by notice in the Gazette, declare to be a watercourse as defined in the National Water Act, 1998 (Act No. 36 of 1998);  
and

a reference to a watercourse includes, where relevant, its bed and banks; and

“**wetland**” means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

(2) The following words relevant to coastal activities will have the meaning so assigned to it in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008):

- (a) “estuary”;
- (b) “high-water mark”;
- (c) “littoral active zone”;
- (d) “low-water mark”; and
- (e) “sea”.

(3) The following words will have the meaning so assigned in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002):

- (a) “exploration right”;
- (b) “mine”;
- (c) “mineral”;

LISTING NOTICE 2: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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- (d) "mining area";
- (e) "mining right";
- (f) "petroleum";
- (g) "production right"; and
- (h) "prospecting right".

IDENTIFIED ACTIVITIES AND COMPETENT AUTHORITIES

3.

- (1) The activities identified in Appendix 1 may not commence without environmental authorisation from the competent authority.
- (2) The investigation, assessment and communication of the potential impact of activities must follow the procedure as prescribed in regulations 21, 22, 23 and 24 of the Environmental Impact Assessment Regulations, 2014.
- (3) Where Listing Notice 4 applies, an application for environmental authorisation must be submitted for an activity contemplated in that Notice and not for an activity contemplated in this Notice.

**REPEAL OF NOTICE 545 DATED 18 JUNE 2010**

- 4. Notice 545 published in *Gazette* 33306 is hereby repealed.

**SHORT TITLE**

- 5. This Listing Notice is called the Environmental Impact Assessment Regulations Listing Notice 2 of 2014, and takes effect on 08 December 2014.

LISTING NOTICE 2: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

**APPENDIX 1**

Activity number	Activity description	Identification of competent authority
1.	The development of facilities or infrastructure for the generation of electricity from a renewable resource where the electricity output is 20 megawatts or more, excluding where such development of facilities or infrastructure is for photovoltaic installations and occurs within an urban area.	The competent authority in respect of the activities listed in this part of the schedule is the competent authority in the province in which the activity is to be undertaken, unless— (a) it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act; (b) the listed or specified activity is or is directly related to— i. prospecting or exploration of a mineral or petroleum resource; or ii. extraction and primary processing of a mineral or petroleum resource; in which case the competent authority is the Minister responsible for mineral resources.
2.	The development and related operation of facilities or infrastructure for the generation of electricity from a non-renewable resource where the electricity output is 20 megawatts or more.	
3.	The development and related operation of facilities or infrastructure for nuclear reaction including energy generation, the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products, nuclear waste or radioactive waste.	
4.	The development of facilities or infrastructure, for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of more than 500 cubic metres.	
5.	The development and related operation of facilities or infrastructure for the refining, extraction or processing of gas, oil or petroleum products with an installed capacity of 50 cubic metres or more per day, excluding— (i) facilities for the refining, extraction or processing of gas from landfill sites; or (ii) the primary processing of a petroleum resource in which case activity 22 in this Notice applies.	
6.	The development of facilities or infrastructure for any process or activity which requires a permit or licence in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent, excluding— (i) activities which are identified and included in Listing Notice 1 of 2014;	

LISTING NOTICE 2: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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	<p>(ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or</p> <p>(iii) the development of facilities or infrastructure for the treatment of effluent, wastewater or sewage where such facilities have a daily throughput capacity of 2000 cubic metres or less.</p>	<p>The exception mentioned in (b) above does not apply to the following activities contained in this Notice:</p> <p>3; 8(i); 10; 13; 26; 27; and 29.</p>
7.	<p>The development and related operation of facilities or infrastructure for the bulk transportation of dangerous goods—</p> <p>(i) in gas form, outside an industrial complex, using pipelines, exceeding 1000 metres in length, with a throughput capacity of more than 700 tons per day;</p> <p>(ii) in liquid form, outside an industrial complex, using pipelines, exceeding 1000 metres in length, with a throughput capacity of more than 50 cubic metres per day; or</p> <p>(iii) in solid form, outside an industrial complex, using funiculars or conveyors with a throughput capacity of more than 50 tons day.</p>	
8.	<p>The development of—</p> <p>(i) airports, or</p> <p>(ii) runways or aircraft landing strips longer than 1,4 kilometres.</p>	
9.	<p>The development of facilities or infrastructure for the transmission and distribution of electricity with a capacity of 275 kilovolts or more, outside an urban area or industrial complex.</p>	
10.	<p>The development of facilities or infrastructure for marine telecommunication.</p>	
11.	<p>The development of facilities or infrastructure for the transfer of 50 000 cubic metres or more water per day, from and to or between any combination of the following —</p> <p>(i) water catchments;</p> <p>(ii) water treatment works; or</p> <p>(iii) impoundments;</p> <p>excluding treatment works where water is to be treated for drinking purposes.</p>	

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12.	<p>The development of railway lines, stations or shunting yards excluding —</p> <ul style="list-style-type: none"> <li>(i) railway lines, shunting yards and railway stations in industrial complexes or zones;</li> <li>(ii) underground railway lines in a mining area; or</li> <li>(iii) additional railway lines within the railway line reserve.</li> </ul>	
13.	<p>The physical alteration of virgin soil to agriculture, or afforestation for the purposes of commercial tree, timber or wood production of 100 hectares or more.</p>	
14.	<p>The development and related operation of—</p> <ul style="list-style-type: none"> <li>(i) an island;</li> <li>(ii) anchored platform; or</li> <li>(iii) any other structure or infrastructure on, below or along the sea bed;</li> </ul> <p>excluding —</p> <ul style="list-style-type: none"> <li>(a) development of facilities, infrastructure or structures for aquaculture purposes; or</li> <li>(b) the development of temporary structures or infrastructure where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</li> </ul>	
15.	<p>The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—</p> <ul style="list-style-type: none"> <li>(i) the undertaking of a linear activity; or</li> <li>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</li> </ul>	
16.	<p>The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.</p>	
17.	<p>Any activity including the operation of that activity which requires a mining right as contemplated in section 22 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks, directly related to the extraction of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	

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IN TERMS OF SECTIONS 24(2) AND 24D

18.	Any activity including the operation of that activity which requires an exploration right as contemplated in section 79 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks.
19.	The removal and disposal of minerals contemplated in terms of section 20 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks, directly related to prospecting of a mineral resource, including activities for which an exemption has been issued in terms of section 106 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).
20.	Any activity including the operation of that activity which requires a production right as contemplated in section 83 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including associated infrastructure, structures and earthworks, directly related to the primary processing of a petroleum resource.
21.	Any activity including the operation of that activity associated with the primary processing of a mineral resource including winning, reduction, extraction, classifying, concentrating, crushing, screening and washing but excluding the smelting, beneficiation, refining, calcining or gasification of the mineral resource in which case activity 6 in this Notice applies.
22.	Any activity including the operation of that activity associated with the primary processing of a petroleum resource including winning, extraction, classifying, concentrating, water removal, but excluding the refining of gas, oil or petroleum products in which case activity 5 in this Notice applies.
23.	The reclamation of an island or parts of the sea.
24.	The extraction or removal of peat or peat soils, including the disturbance of vegetation or soils in anticipation of the extraction or removal of peat or peat soils, but excluding where such extraction or removal is for the rehabilitation of wetlands in accordance with a maintenance management plan.

LISTING NOTICE 2: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

25.	The development and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage with a daily throughput capacity of 15000 cubic metres or more.	
26.	<p>Development--</p> <ul style="list-style-type: none"> <li>(i) in the sea;</li> <li>(ii) in an estuary;</li> <li>(iii) within the littoral active zone;</li> <li>(iv) in front of a development setback; or</li> <li>(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</li> </ul> <p>in respect of —</p> <ul style="list-style-type: none"> <li>(a) facilities associated with the arrival and departure of vessels and the handling of cargo;</li> <li>(b) piers;</li> <li>(c) inter- and sub-tidal structures for entrapment of sand;</li> <li>(d) breakwater structures;</li> <li>(e) coastal marinas;</li> <li>(f) coastal harbours or ports;</li> <li>(g) tunnels; or</li> <li>(h) underwater channels;</li> </ul> <p>but excluding the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>	
27.	<p>The development of —</p> <ul style="list-style-type: none"> <li>(i) a national road as defined in section 40 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);</li> <li>(ii) a road administered by a provincial authority;</li> <li>(iii) a road with a reserve wider than 30 metres; or</li> <li>(iv) a road catering for more than one lane of traffic in both directions;</li> </ul> <p>but excluding the development and related operation of a road for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010, in which case activity 24 in Listing Notice 1 of 2014 applies.</p>	

LISTING NOTICE 2: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

28.	<p>Commencing of an activity, which requires an atmospheric emission license in terms of section 21 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), excluding —</p> <ul style="list-style-type: none"> <li>(i) activities which are identified and included in Listing Notice 1 of 2014;</li> <li>(ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or</li> <li>(iii) the development of facilities or infrastructure for the treatment of effluent, wastewater or sewage where such facilities have a daily throughput capacity of 2000 cubic metres or less.</li> </ul>	
29.	<p>The expansion and related operation of facilities for nuclear reaction including energy generation, the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products, nuclear waste or radioactive waste.</p>	

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

**GNR 985 OF 4 DECEMBER 2014**

**LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT  
AUTHORITIES IDENTIFIED IN TERMS OF SECTIONS 24(2) AND 24D**

**SCHEDULE**

**PURPOSE**

1. The purpose of this Notice is to list activities and identify competent authorities under sections 24(2), 24(5) and 24D of the Act, where environmental authorisation is required prior to commencement of that activity in specific identified geographical areas only.

**DEFINITIONS**

2.

- (1) In this Notice, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates—

**“aquatic critical biodiversity areas”** means linkages between catchment, important rivers and sensitive estuaries whose safeguarding is critically required in order to meet biodiversity pattern and process thresholds and are spatially defined as part of a bioregional plan or systematic biodiversity plan, available on the South African National Biodiversity Institute’s BGIS website (<http://bgis.sanbi.org/WCBF14/project.asp>);

**“bioregional plan”** means the bioregional plan contemplated in Chapter 3 of the National Environment Management Biodiversity Act, 2004 (Act No. 10 of 2004);

**“buffer area”** means, unless specifically defined, an area extending 10 kilometres from the proclaimed boundary of a world heritage site or national park and 5 kilometres from the proclaimed boundary of a nature reserve, respectively, or that defined as such for a biosphere;

**“dangerous goods”** means goods containing any of the substances as contemplated in South African National Standard No. 10234, supplement 2008 1.00: designated “List of classification and labelling of chemicals in accordance with the Globally Harmonized Systems (GHS)” published by Standards South Africa, and where the presence of such goods, regardless of quantity, in a blend or mixture, causes such blend or mixture to have one or more of the characteristics listed in the Hazard Statements in section 4.2.3, namely physical hazards, health hazards or environmental hazards;

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

**“development”** means the building, erection, construction or establishment of a facility, structure or infrastructure, including associated earthworks or borrow pits, that is necessary for the undertaking of a listed or specified activity, including any associated post development monitoring but excludes any modification, alteration or expansion of such a facility, structure or infrastructure, including associated earthworks or borrow pits, and excluding the redevelopment of the same facility in the same location, with the same capacity and footprint;

**“development footprint”** means any evidence of physical alteration as a result of the undertaking of any activity;

**“development setback”** means a setback line defined or adopted by the competent authority;

**“estuarine functional zone”** means the area in and around an estuary which includes the open water area, estuarine habitat (*such as sand and mudflats, rock and plant communities*) and the surrounding floodplain area, as defined by the area below the 5 m topographical contour (*referenced from the indicative mean sea level*);

**“expansion”** means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased;

**“Gauteng Agricultural Potential Atlas”** means the Gauteng Agricultural Potential Atlas, which can be obtained from the Gauteng Provincial Department responsible for environmental affairs;

**“Gauteng Conservation Plan”** means a systematic conservation planning tool delineating biodiversity priority areas representative of biodiversity pattern, process and species of special concern, which areas have been identified in three broad categories; namely, Critical Biodiversity Areas (CBAs), Ecological Support Areas (ESAs) and Protected Areas;

**“Gauteng Protected Area Expansion Strategy”** means a framework for protected area expansion in Gauteng, setting out key strategies for protected area expansion and identifying spatial priorities and protected area targets and is aligned to the National Protected Area Expansion Strategy as it identifies finer scaled provincial priorities based on regional and local conservation imperatives;

**“Important Bird and Biodiversity Areas (IBA)”** means areas / sites that hold significant numbers of globally and/or regionally threatened species (Categories A1 and C1); sites that are known or thought to hold a significant component of a group of species whose breeding distributions define an Endemic Bird Area (EBA) (Category A2); sites that are known or thought to hold a significant component of a group of species whose distributions are largely or wholly confined to one biome (Category A3);

**“indigenous vegetation”** refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years;

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

**“industrial complex”** means an area used or zoned for industrial purposes, including bulk storage, manufacturing, processing or packaging purposes;

**“maintenance”** means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint;

**“maintenance management plan”** means a management plan for maintenance purposes defined or adopted by the competent authority;

**“National Protected Area Expansion Strategy (NPAES)”** means South Africa’s national strategy for expansion of the protected area network, led by the National Department responsible for environmental affairs and developed in collaboration with national and provincial conservation authorities. The NPAES sets targets for protected area expansion, provides maps of the most important areas for protected area expansion, and makes recommendations on mechanisms for protected area expansion. Focus areas for protected area expansion are identified in the NPAES. They are large, intact, unfragmented areas of high importance for land-based protected area expansion, suitable for the creation or expansion of large protected areas;

**“NEMBA”** means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

**“NEMPAA”** means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

**“phased activities”** means an activity that is developed in phases over time on the same or adjacent properties to create a single or linked entity;

**“previous NEMA notices”** as contemplated in these transitional arrangements means the previous notices published in terms of section 24(2) of NEMA (Government Notices R. 386 and R. 387 in the Government Gazette of 21 April 2006, as amended, or Government Notice No. R. 544, 545 and 546 in the Government Gazette of 18 June 2010, as amended);

**“protected area”** means those protected areas contemplated in section 9 of the NEMPAA and the core area of a biosphere reserve and shall include their buffers;

**“sites or areas listed in terms of an International Convention”** means any area and its buffer, unless specifically defined, of 5 kilometres extending from its listed boundary, listed in terms of an international convention but does not include world heritage sites, and shall include but not be limited to the Ramsar Convention on Wetlands (Ramsar, Iran, 1971);

**“systematic biodiversity plan”** is a plan that identifies important areas for biodiversity conservation, taking into account biodiversity patterns (i.e. the principle of representation) and the ecological and evolutionary processes that sustain them (i.e. the principle of persistence). A systematic biodiversity plan must set quantitative targets/thresholds for aquatic and

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

terrestrial biodiversity features in order to conserve a representative sample of biodiversity pattern and ecological processes;

“**the Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended;

“**throughput capacity**” means the design capacity or maximum capable capacity of a facility, structures or infrastructure, whichever is the greater;

“**urban areas**” means areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas;

“**watercourse**” means –

- (a) a river or spring;
- (b) a natural channel in which water flows regularly or intermittently;
- (c) a wetland, pan, lake or dam into which, or from which, water flows; and
- (d) any collection of water which the Minister may, by notice in the Gazette, declare to be a watercourse as defined in the National Water Act, 1998 (Act No. 36 of 1998);  
and

a reference to a watercourse includes, where relevant, its bed and banks; and

“**wetland**” means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

(2) The following words relevant to coastal activities will have the meaning so assigned to it in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008):

- a) “estuary”;
- b) “high-water mark”;
- c) “littoral active zone”;
- d) “sea”; and
- e) “seashore”.

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

- (3) The following words will have the meaning assigned to them in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002):
- a) "mineral";
  - b) "petroleum"; and
  - c) "prospecting".
- 3.
- (1) The activities listed in Appendix 1 are identified in terms of section 24(2)(a) of the Act as activities that may not commence without an environmental authorisation from the competent authority.
- (2) The investigation, assessment and communication of potential impact of activities must follow the procedure as prescribed in regulations 19 and 20 of the Environmental Impact Assessment Regulations published in terms of section 24(5) of the Act.
- (3) Where Listing Notice 4 applies, an application for environmental authorisation must be submitted for an activity contemplated in that Notice and not for an activity contemplated in this Notice.

**REPEAL OF NOTICE 546 OF 18 June 2010**

4. Notice No. 546 published in *Gazette* 33306 on 18 June 2010 is hereby repealed.

**SHORT TITLE**

5. This Listing Notice is called Environmental Impact Assessment Regulations Listing Notice 3 of 2014, and takes effect on 08 December 2014.

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

**APPENDIX 1**

Activity number	Activity description	Geographical areas based on environmental attributes	Identification of competent authority
1.	The development of billboards exceeding 18 square metres in size outside urban areas, mining areas or industrial complexes.	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. National Protected Area Expansion Strategy Focus areas;</li> <li>iii. World Heritage Sites;</li> <li>iv. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>v. Sites or areas identified in terms of an International Convention;</li> <li>vi. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>vii. Core areas in biosphere reserves;</li> <li>viii. Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</li> </ul>	<p>The competent authority in respect of the activities listed in this part of the Notice is the competent authority in the province in which the activity is to be undertaken, unless—</p> <ul style="list-style-type: none"> <li>(a) it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act;</li> <li>(b) the listed or specified activity is or is directly related to— <ul style="list-style-type: none"> <li>i. prospecting or exploration of a mineral or petroleum resource; or</li> <li>ii. extraction and primary processing of a mineral or petroleum resource;</li> </ul> </li> </ul>

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		<ul style="list-style-type: none"> <li>ix. Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>x. In an estuary.</li> </ul>	<p>in which case the competent authority is the Minister responsible for mineral resources.</p>
		<p>(b) <b>In Eastern Cape</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. National Protected Area Expansion Strategy Focus areas;</li> <li>iii. World Heritage Sites;</li> <li>iv. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>v. Sites or areas identified in terms of an International Convention;</li> <li>vi. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>vii. Core areas in biosphere reserves;</li> <li>viii. Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</li> </ul>	<p>The exception mentioned in (b) above does not apply to the following activities contained in this Notice: 5; 6; 9; 11; 13; 17; 21; 24; 25; and 26.</p>

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		<ul style="list-style-type: none"> <li>ix. Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>x. In an estuarine functional zone.</li> </ul>	
		<p><b>(c) In Gauteng:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. National Protected Area Expansion Strategy Focus Areas;</li> <li>iii. Gauteng Protected Area Expansion Priority Areas;</li> <li>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>vi. Important Bird and Biodiversity Areas (IBA);</li> <li>vii. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>viii. Sites or areas identified in terms of an International Convention</li> </ul>	

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		<ul style="list-style-type: none"> <li>ix. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>x. Sites designated as nature reserves within municipal SDFs; or</li> <li>xi. Sites zoned for conservation or public open space or equivalent zoning;</li> </ul>	
		<p><b>(d) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>v. World Heritage Sites;</li> <li>vi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> </ul>	

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		<ul style="list-style-type: none"> <li>ix. Core areas in biosphere reserves;</li> <li>x. In an estuarine functional zone;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose;</li> <li>xii. Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>xiii. Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.</li> </ul>	
		<p><b>(e) In North West:</b></p> <ul style="list-style-type: none"> <li>i. National Protected Area Expansion Strategy Focus areas;</li> <li>ii. World Heritage Sites;</li> <li>iii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>iv. Sites or areas identified in terms of an International Convention;</li> <li>v. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> </ul>	

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		<ul style="list-style-type: none"> <li>vi. Core areas in biosphere reserves;</li> <li>vii. Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or a biosphere reserve, excluding areas where no indigenous vegetation will be cleared;</li> <li>viii. Any protected area including municipal or provincial nature reserves as contemplated by NEMPAA or other relevant legislation; or</li> <li>ix. Areas designated for conservation use in adopted Spatial Development Frameworks, or zoned for a conservation purpose, within urban areas.</li> </ul>	
		<p>(f) <b>In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas, mining areas or industrial complexes.</li> </ul>	
2.	The development of reservoirs for bulk water supply with a capacity of more than 250 cubic metres.	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. In a protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>iii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) National Protected Area Expansion Strategy Focus areas;</li> </ul> </li> </ul>	

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		<p>(ab) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ac) Sites or areas identified in terms of an International Convention;</p> <p>(ad) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ae) Core areas in biosphere reserves;</p> <p>(af) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>(ag) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p>	
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		<ul style="list-style-type: none"> <li>iv. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose; or</li> <li>(ac) Areas seawards of the development setback line or within urban protected areas.</li> </ul> </li> </ul>	
		<ul style="list-style-type: none"> <li>(b) <b>In Eastern Cape:</b> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. In a protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>iii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) National Protected Area Expansion Strategy Focus areas;</li> <li>(ab) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ac) Sites or areas identified in terms of an International Convention;</li> <li>(ad) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> </ul> </li> </ul> </li> </ul>	

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		<p>(ae) Core areas in biosphere reserves;</p> <p>(af) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>(ag) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iv. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose; or</p> <p>(ac) Areas seawards of the development setback line or within urban protected areas.</p>	
		<p>(c) <b>Gauteng:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. National Protected Area Expansion Strategy Focus Areas;</p> <p>iii. Gauteng Protected Area Expansion Priority Areas;</p>	

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		<ul style="list-style-type: none"> <li>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>ix. Sites designated as nature reserves within municipal SDFs; or</li> <li>x. Sites zoned for a conservation or public open space or equivalent zoning.</li> </ul> <p><b>(d) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> </ul>	
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		<ul style="list-style-type: none"> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. World Heritage Sites;</li> <li>v. In an estuarine functional zone;</li> <li>vi. In a protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas:       <ul style="list-style-type: none"> <li>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> </ul> </li> </ul>	
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		<p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>xiii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Within urban protected areas.</p>	
		<p><b>(e) In North West:</b></p> <p>i. A protected area identified in terms of NEMPAA;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) National Protected Area Expansion Strategy Focus areas;</p> <p>(ab) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ac) Sites or areas identified in terms of an International Convention;</p>	

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		<p>(ad) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ae) Core areas in biosphere reserves; or</p> <p>(af) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; excluding areas where no indigenous vegetation will be cleared; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.</p>	
		<p>(f) <b>In Western Cape:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. In areas containing indigenous vegetation; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p>	

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		(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.	
3.	<p>The development of masts or towers of any material or type used for tele-communication broadcasting or radio transmission purposes where the mast or tower—</p> <p>(a) is to be placed on a site not previously used for this purpose; and</p> <p>(b) will exceed 15 metres in height—</p> <p>but excluding attachments to existing buildings and masts on rooftops.</p>	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <p>i. In an estuary;</p> <p>ii. Outside urban areas,</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p>	

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		<p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iii. Inside urban areas; in:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	
		<p><b>(b) In Eastern Cape:</b></p> <p>i. In an estuarine functional zone;</p> <p>ii. Outside urban areas,</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p>	

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		<p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iii. Inside urban areas; in:</p> <p>(aa) Areas zoned for use as public open space; or</p>	
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		<p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	
		<p>(c) <b>In Gauteng:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. National Protected Area Expansion Strategy Focus Areas;</li> <li>iii. Gauteng Protected Area Expansion Priority Areas;</li> <li>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> </ul>	

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		<ul style="list-style-type: none"> <li>viii. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>ix. Sites designated as nature reserves within municipal SDFs;</li> <li>x. Sites zoned for a conservation or public open space or equivalent zoning; or</li> <li>xi. Important Bird and Biodiversity Areas.</li> </ul>	
		<p><b>(d) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Trans-frontier protected areas managed under international conventions;</li> <li>iii. Community Conservation Areas;</li> <li>iv. World Heritage Sites;</li> <li>v. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>vi. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ix. Core areas in biosphere reserves;</li> </ul>	

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		<ul style="list-style-type: none"> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</li> <li>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> </li> <li>xiii. In urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined;</li> <li>(ab) Within urban protected areas;</li> <li>(ac) Areas zoned for use as public open space; or</li> <li>(ad) Areas within 1 kilometre from protected areas identified in terms of NEMPAA .</li> </ul> </li> </ul>	
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		<p>(e) <b>In North West:</b></p> <ul style="list-style-type: none"> <li>i. Outside urban areas, in:           <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA,;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves; or</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or a biosphere reserve, excluding areas where no indigenous vegetation will be cleared; or</li> </ul> </li> </ul>	
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		<ul style="list-style-type: none"> <li>ii. In urban areas, the following: <ul style="list-style-type: none"> <li>(aa) Areas designated for conservation use in adopted Spatial Development Frameworks, or zoned for a conservation purpose.</li> </ul> </li> </ul>	
		<p>(f) <b>In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose, within urban areas.</li> </ul>	
4.	The development of a road wider than 4 metres with a reserve less than 13,5 metres.	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding disturbed areas;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> </ul> </li> </ul>	

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		<p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve, excluding disturbed areas; or</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</p> <p>(ac) Seawards of the development setback line or within urban protected areas.</p>	
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		<p>(b) <b>In Eastern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding disturbed areas;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve, excluding disturbed areas; or</li> </ul> </li> </ul>	
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		<p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</p> <p>(ac) Seawards of the development setback line or within urban protected areas.</p>	
		<p><b>(c) In Gauteng:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. National Protected Area Expansion Strategy Focus Areas;</p> <p>iii. Gauteng Protected Area Expansion Priority Areas;</p> <p>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</p> <p>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</p>	

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		<ul style="list-style-type: none"> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>viii. Important Bird and Biodiversity Area (IBA);</li> <li>ix. Sites or areas identified in terms of an International Convention;</li> <li>x. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>xi. Sites designated as nature reserves within municipal SDFs; or</li> <li>xii. Sites zoned for a conservation or public open space or equivalent zoning.</li> </ul>	
		<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Trans- frontier protected areas managed under international conventions;</li> <li>iii. Community Conservation Areas;</li> <li>iv. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>v. World Heritage Sites;</li> <li>vi. A protected area identified in terms of NEMPAA;</li> </ul>	

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		<ul style="list-style-type: none"> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</li> <li>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> </li> <li>xiii. In urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> </ul> </li> </ul>	
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		<p>(ab) Seaward of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Within urban protected areas.</p>	
		<p><b>(e) In North West:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas (Terrestrial Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves; or</p>	

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		<p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from a biosphere reserve; or</p> <p>ii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</p> <p>(ac) Natural heritage sites.</p> <p><b>(f) In Western Cape:</b></p> <p>i. Areas outside urban areas;</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(ab) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>ii. In urban areas:</p> <p>(ac) Areas zoned for conservation use; or</p> <p>(ad) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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5.	The development of resorts, lodges, hotels and tourism or hospitality facilities that sleep less than 15 people.	<p>(a) A protected area identified in terms of the NEMPAA;</p> <p>(b) Outside urban areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</p> <p>(c) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <p>i. In an estuary;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Areas within 100 metres of a watercourse or wetland; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

		<p><b>(d) In Eastern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>(ac) Areas within 100 metres of a watercourse or wetland; or</li> </ul> </li> <li>iii. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</li> </ul> </li> </ul>	
		<p><b>(e) In Gauteng:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. Gauteng Protected Area Expansion Priority Areas;</li> <li>iii. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> </ul>	

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		<ul style="list-style-type: none"> <li>iv. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>v. Sites or areas identified in terms of an International Convention</li> <li>vi. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>vii. Important Bird and Biodiversity Area (IBA);</li> <li>viii. Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>ix. Sites designated as nature reserves within municipal SDFs; or</li> <li>x. Sites zoned for a conservation or public open space or equivalent zoning.</li> </ul>	
		<p>(f) KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. Provincial Protected Area Expansion Strategy Focus areas;</li> <li>v. In an estuarine functional zone;</li> </ul>	

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		<ul style="list-style-type: none"> <li>vi. World Heritage Sites;</li> <li>vii. A protected area identified in terms of NEMPAA;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>x. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xii. Outside urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>(ab) Areas within 100 metres of a watercourse or wetland; or</li> </ul> </li> <li>xiii. In urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined.</li> </ul> </li> </ul>	
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		<p><b>(g) In North West:</b></p> <ul style="list-style-type: none"> <li>i. Any protected area including municipal or provincial nature reserves as contemplated by NEMPAA or other relevant legislation;</li> <li>ii. Natural Heritage sites;</li> <li>iii. Outside urban areas, in:             <ul style="list-style-type: none"> <li>(aa) Critical biodiversity areas (Terrestrial Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or</li> <li>(ab) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> </ul> </li> <li>iv. In urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</li> </ul> </li> </ul>	
		<p><b>(h) In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ii. Outside urban areas, in:</li> </ul>	

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		<p>(aa) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined;</p> <p>(ab) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>(ac) Areas on the estuary side of the development setback line or within an estuarine functional zone where no such setback line has been determined.</p>	
6.	<p>The development of resorts, lodges, hotels and tourism or hospitality facilities that sleeps 15 people or more.</p>	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <p>i. In an estuary;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p>	

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		<p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>iii. In urban areas, the following:</p> <p>(aa) Areas zoned for use as public open space; or</p>	
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		<p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	
		<p>(b) <b>In Eastern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Outside urban areas, in:           <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> </ul> </li> </ul>	

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		<p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>iii. In urban areas, the following:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	
		<p>(c) <b>In Gauteng:</b></p> <p>(i) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ii) National Protected Area Expansion Strategy Focus Areas;</p> <p>(iii) Gauteng Protected Area Expansion Priority Areas;</p>	

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		<ul style="list-style-type: none"> <li>(iv) Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>(v) Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>(vi) Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>(vii) Sites or areas identified in terms of an International Convention;</li> <li>(viii) Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>(ix) Important Bird and Biodiversity Area (IBA);</li> <li>(x) Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>(xi) Sites designated as nature reserves within municipal SDFs; or</li> <li>(xii) Sites zoned for a conservation or public open space or equivalent zoning.</li> </ul>	
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		<p>(d) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Trans-frontier protected areas managed under international conventions;</li> <li>iii. Community Conservation Areas;</li> <li>iv. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>v. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Core areas in biosphere reserves;</li> <li>ix. World Heritage Sites;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas:</li> </ul>	
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		<p>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</p> <p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Areas within 100 metres from the edge of a watercourse; or</p> <p>xiii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Areas within 500 metres from protected areas identified in terms of NEMPAA.</p>	
		<p><b>(e) In North West:</b></p> <p>(i) Any protected area including municipal or provincial nature reserves as contemplated by NEMPAA or other relevant legislation;</p> <p>(ii) Natural Heritage sites;</p> <p>(iii) Outside urban areas, in:</p>	

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		<p>(aa) Critical biodiversity areas (Terrestrial Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or</p> <p>(ab) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>(iv) In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	
		<p>(f) <b>In Western Cape:</b></p> <p>i. All areas outside urban areas; or</p> <p>ii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans.</p>	
7.	The development of aircraft landing strips and runways 1.4 kilometres and shorter.	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <p>i. In an estuary;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p>	

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		<p>(ac) World Heritage Sites;</p> <p>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ae) Sites or areas identified in terms of an International Convention;</p> <p>(af) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ag) Core areas in biosphere reserves;</p> <p>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve;</p> <p>(ai) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p>	
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		<p>(aj) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p> <p><b>(b) In Eastern Cape:</b></p> <p>i. In an estuarine functional zone;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) World Heritage Sites;</p> <p>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ae) Sites or areas identified in terms of an International Convention;</p>	
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		<ul style="list-style-type: none"> <li>(af) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ag) Core areas in biosphere reserves;</li> <li>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve;</li> <li>(ai) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>(aj) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> </ul> <p>iii. In urban areas:</p> <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</li> </ul>	
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		<p>(c) <b>In Gauteng:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. National Protected Area Expansion Strategy Focus Areas;</li> <li>iii. Gauteng Protected Area Expansion Priority Areas;</li> <li>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>viii. Sites or areas identified in terms of an International Convention</li> <li>ix. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> </ul>	
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		<ul style="list-style-type: none"> <li>x. Sites designated as nature reserves within municipal SDFs;</li> <li>xi. Sites zoned for a conservation or public open space or equivalent zoning; or</li> <li>xii. Important Bird and Biodiversity Areas.</li> </ul>	
		<p>(d) <b>KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>v. World Heritage Sites;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Core areas in biosphere reserves;</li> <li>ix. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>x. Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve;</li> </ul>	

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		<ul style="list-style-type: none"> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas: <ul style="list-style-type: none"> <li>(aa) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>(ab) Areas within 100 metres from the edge of a watercourse; or</li> </ul> </li> <li>xiii. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas seawards of the development setback line or within 100m high-water mark of the sea if no such development setback line is determined.</li> </ul> </li> </ul>	
		<p><b>(e) In North West:</b></p> <ul style="list-style-type: none"> <li>i. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding areas where no indigenous vegetation will be cleared;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) World Heritage Sites;</li> </ul> </li> </ul>	

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		<p>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ae) Sites or areas identified in terms of an International Convention;</p> <p>(af) Critical biodiversity areas (Terrestrial Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ag) Core areas in biosphere reserves;</p> <p>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</p> <p>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</p>	
		<p>(f) <b>In Western Cape:</b></p> <p>i. All areas outside urban areas.</p>	

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8.	The development and related operation of above ground cableways and funiculars.	<p>(a) <b>In Eastern Cape, Free State, Limpopo, Mpumalanga, and Northern Cape:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>(ac) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> <li>(ad) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.</li> </ul> </li> </ul>	
		<p>(b) <b>In Gauteng</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>iii. Sites or areas identified in terms of an International Convention;</li> </ul>	

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		<ul style="list-style-type: none"> <li>iv. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>v. Sites designated as nature reserves within municipal SDFs;</li> <li>vi. Sites zoned for a conservation or public open space or equivalent zoning; or</li> <li>vii. Important Bird and Biodiversity Areas.</li> </ul>	
		<p>(c) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas: <ul style="list-style-type: none"> <li>(aa) In an estuarine functional zone;</li> <li>(ab) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ac) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> </ul> </li> </ul>	

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		<p>(ae) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(af) Areas zoned for use as public open space;</p> <p>(ag) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined;</p> <p>(ah) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ai) Areas within 500 metres from protected areas identified in terms of NEMPAA.</p>	
		<p>(d) <b>In North West:</b></p> <p>i. All areas outside urban areas; or</p> <p>ii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(ac) A protected area identified in terms of NEMPAA;</p>	

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		<p>(ad) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ae) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve; or</p> <p>(af) Natural heritage sites.</p>	
		<p>(e) <b>In Western Cape</b></p> <p>i. All areas outside urban areas.</p>	
9.	The development and related operation of zip-lines or foefie-slides exceeding 100 metres in length.	<p>(a) <b>In Eastern Cape, Free State, Limpopo, Mpumalanga, and Northern Cape:</b></p> <p>i. All areas outside urban areas; or</p> <p>ii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(ac) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p>	

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		<p>(ad) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.</p>	
		<p>(b) <b>In Gauteng</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>iii. Sites or areas identified in terms of an International Convention;</li> <li>iv. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>v. Sites designated as nature reserves within municipal SDFs;</li> <li>vi. Sites zoned for a conservation or public open space or equivalent zoning; or</li> <li>vii. Important Bird and Biodiversity Areas.</li> </ul>	

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		<p>(c) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) In an estuarine functional zone;</li> <li>(ac) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ae) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>(af) Areas zoned for use as public open space;</li> <li>(ag) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined;</li> </ul> </li> </ul>	
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		<p>(ah) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ai) Areas within 500 metres from protected areas identified in terms of NEMPAA.</p>	
		<p><b>(d) In North West:</b></p> <p>i. All areas outside urban areas; or</p> <p>ii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(ac) A protected area identified in terms of NEMPAA;</p> <p>(ad) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ae) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve; or</p> <p>(af) Natural heritage sites.</p>	

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<p>10.</p>	<p>The development of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.</p>	<p>(a) <b>In Free State, Mpumalanga and Northern Cape provinces:</b></p> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve;</li> </ul> </li> </ul>	
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		<p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined;</p> <p>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>(aj) Within 500 metres of an estuary; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</p> <p>(ac) Within 500 metres of an estuary.</p>	
		<p><b>(b) In Eastern Cape:</b></p> <p>i. In an estuarine functional zone;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p>	

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		<p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve;</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined;</p>	
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		<ul style="list-style-type: none"> <li>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> <li>(aj) Within 500 metres of an estuarine functional zone; or</li> <li>iii. In urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</li> <li>(ac) Within 500 metres of an estuarine functional zone.</li> </ul> </li> </ul>	
		<p><b>(c) In Gauteng:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. National Protected Area Expansion Strategy Focus Areas;</li> <li>iii. Gauteng Protected Area Expansion Priority Areas;</li> <li>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> </ul>	

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		<ul style="list-style-type: none"> <li>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>viii. Sites or areas identified in terms of an International Convention</li> <li>ix. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>x. Sites designated as nature reserves within municipal SDFs; or</li> <li>xi. Sites zoned for conservation or public open space or equivalent zoning.</li> </ul>	
		<p>(d) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Trans-frontier protected areas managed under international conventions;</li> <li>iii. Community Conservation Areas;</li> </ul>	

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		<ul style="list-style-type: none"> <li>iv. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>v. World Heritage Sites;</li> <li>vi. Within 500 metres of an estuarine functional zone;</li> <li>vii. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>x. Core areas in biosphere reserves;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xiii. Outside urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve;</li> </ul> </li> </ul>	
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		<p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Areas within 100 metres from the edge of a watercourse; or</p> <p>xiv. In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined;</p>	
		<p>(e) <b>In Limpopo:</b></p> <p>i. All areas.</p>	
		<p>(f) <b>In North West:</b></p> <p>i. Outside urban areas.</p>	
		<p>(g) <b>In Western Cape:</b></p> <p>i. All areas outside urban areas; or</p> <p>ii. Inside urban areas:</p> <p>(aa) Areas seawards of the development setback line or within 200 metres from the high-water mark of the sea if no such development setback line is determined;</p>	

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		<p>(ab) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>(ac) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.</p>	
11.	The development of tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles excluding conversion of existing tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles.	<p>(a) <b>In Eastern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. In areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>iii. Within areas of indigenous vegetation outside urban areas.</li> </ul> <p>(b) <b>In Free State, Limpopo and Mpumalanga provinces:</b></p> <ul style="list-style-type: none"> <li>i. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> </ul> </li> </ul>	

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		<ul style="list-style-type: none"> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve; or</li> </ul> <p>ii. In urban areas:</p> <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</li> </ul>	
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		<p>(c) <b>In Gauteng:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. Gauteng Protected Area Expansion Priority Areas;</li> <li>iii. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>iv. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>v. Sites or areas identified in terms of an International Convention</li> <li>vi. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>vii. Important Bird and Biodiversity Area (IBA);</li> <li>viii. Sites designated as nature reserves within municipal SDFs; or</li> <li>ix. Sites zoned for conservation or public open space or equivalent zoning.</li> </ul>	
		<p>(d) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> </ul>	

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		<ul style="list-style-type: none"> <li>ii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>iii. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>iv. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>v. Outside urban areas: <ul style="list-style-type: none"> <li>(aa) Within areas of indigenous vegetation; or</li> <li>(ab) In areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> </li> <li>vi. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined;</li> <li>(ab) Areas within 32 metres from the edge of a watercourse; or</li> <li>(ac) Areas zoned for use as public open space.</li> </ul> </li> </ul>	
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		<p>(e) <b>In Northern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. In areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>iii. Within areas of indigenous vegetation outside urban areas.</li> </ul>	
		<p>(f) <b>In North West:</b></p> <ul style="list-style-type: none"> <li>i. Outside urban areas, in:             <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> </ul> </li> </ul>	

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		<p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>ii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</p> <p>(ac) Natural heritage sites.</p>	
		<p><b>(g) In Western Cape:</b></p> <p>i. Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined;</p> <p>ii. Seawards of the development setback line or within 200 metres of the high water mark of the sea if no such development setback line is determined; or</p> <p>iii. Areas of indigenous vegetation outside urban areas.</p>	

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12.	The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.	<p>(a) <b>In Eastern Cape, Free State, Gauteng, Limpopo, North West and Western Cape provinces:</b></p> <ul style="list-style-type: none"> <li>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</li> <li>ii. Within critical biodiversity areas identified in bioregional plans;</li> <li>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas; or</li> <li>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning.</li> </ul>	
		<p>(b) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> </ul>	

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		<ul style="list-style-type: none"> <li>iv. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</li> <li>v. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>vi. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</li> <li>vii. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning;</li> <li>viii. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ix. World Heritage Sites;</li> <li>x. Sites or areas identified in terms of an International Convention;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> </ul>	
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		<p>xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority; or</p> <p>xiii. In an estuarine functional zone.</p>	
		<p><b>(c) In Mpumalanga:</b></p> <p>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas; or</p> <p>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning or proclamation in terms of NEMPAA.</p>	

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		<p>(d) <b>In Northern Cape:</b></p> <ul style="list-style-type: none"> <li>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</li> <li>ii. Within critical biodiversity areas identified in bioregional plans;</li> <li>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuary, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas; or</li> <li>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning.</li> </ul>	
13.	The development and related operation of facilities of any size for any form of aquaculture.	<p>(a) <b>In Free State, Gauteng, Limpopo, Mpumalanga, Northern Cape, and North West provinces:</b></p> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. In a Protected Area identified in the NEMPAA; or</li> <li>iii. Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<p>(b) <b>In Eastern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. In a Protected Area identified in the NEMPAA; or</li> <li>iii. Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</li> </ul>	
		<p>(c) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. In an estuarine functional zone;</li> <li>v. In a Protected Area identified in the NEMPAA;</li> <li>vi. World Heritage Sites;</li> <li>vii. Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>x. Core areas in biosphere reserves;</li> </ul>	

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		<ul style="list-style-type: none"> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</li> <li>xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority.</li> </ul>	
		<p>(d) <b>In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined;</li> <li>ii. In a Protected area identified in terms of NEMPAA; and</li> <li>iii. In an aquatic critical biodiversity area.</li> </ul>	

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<p>14.</p>	<p>The development of—</p> <p>(i) canals exceeding 10 square metres in size ;</p> <p>(ii) channels exceeding 10 square metres in size;</p> <p>(iii) bridges exceeding 10 square metres in size;</p> <p>(iv) dams, where the dam, including infrastructure and water surface area exceeds 10 square metres in size;</p> <p>(v) weirs, where the weir, including infrastructure and water surface area exceeds 10 square metres in size;</p> <p>(vi) bulk storm water outlet structures exceeding 10 square metres in size;</p> <p>(vii) marinas exceeding 10 square metres in size;</p>	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape:</b></p> <p>i. In an estuary;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) World Heritage Sites;</p> <p>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ae) Sites or areas identified in terms of an International Convention;</p> <p>(af) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ag) Core areas in biosphere reserves;</p> <p>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</p>	
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<p>(viii) jetties exceeding 10 square metres in size;</p> <p>(ix) slipways exceeding 10 square metres in size;</p> <p>(x) buildings exceeding 10 square metres in size;</p> <p>(xi) boardwalks exceeding 10 square metres in size; or</p> <p>(xii) infrastructure or structures with a physical footprint of 10 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</p>	<p>(ai) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, zoned for a conservation purpose; or</p> <p>(ac) Areas seawards of the development setback line.</p>	<p><b>(b) In Gauteng:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. National Protected Area Expansion Strategy Focus Areas;</p> <p>iii. Gauteng Protected Area Expansion Priority Areas;</p> <p>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</p> <p>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</p>
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

	<p>excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>	<ul style="list-style-type: none"> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites or areas identified in terms of an International Convention</li> <li>viii. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>ix. Sites designated as nature reserves within municipal SDFs; or</li> <li>x. Sites zoned for conservation or public open space or equivalent zoning.</li> </ul>	
		<p><b>(c) In Eastern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) World Heritage Sites;</li> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> </ul> </li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>(ae) Sites or areas identified in terms of an International Convention;</li> <li>(af) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ag) Core areas in biosphere reserves;</li> <li>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>(ai) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>iii. In urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, zoned for a conservation purpose; or</li> <li>(ac) Areas seawards of the development setback line.</li> </ul> </li> </ul>	
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		<p>(d) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>v. World Heritage Sites;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas or ecological support areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Outside urban areas: <ul style="list-style-type: none"> <li>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> </ul> </li> </ul>	
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		<p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>xi. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, zoned for a conservation purpose; or</p> <p>(ac) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined.</p>	
		<p><b>(e) In North West:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) World Heritage Sites;</p> <p>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p>	

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		<ul style="list-style-type: none"> <li>(ae) Sites or areas identified in terms of an International Convention;</li> <li>(af) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ag) Core areas in biosphere reserves; or</li> <li>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</li> <li>ii. Inside urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</li> </ul> </li> </ul>	
		<p><b>(f) In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. Outside urban areas, in:             <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) World Heritage Sites;</li> </ul> </li> </ul>	

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		<p>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ae) Sites or areas listed in terms of an International Convention;</p> <p>(af) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ag) Core areas in biosphere reserves; or</p> <p>(ah) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.</p>	
15.	<p>The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 02 August 2010.</p>	<p>(a) <b>In Gauteng and North West:</b> i. All areas.</p> <p>(b) <b>In Limpopo and Mpumalanga:</b> i. In urban areas.</p> <p>(c) <b>In Western Cape:</b> i. Outside urban areas, or ii. Inside urban areas in: (aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010; (ab) A protected area identified in terms of NEMPAA, excluding conservancies; or</p>	

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		(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act as adopted by the competent authority.	
16.	The expansion of reservoirs for bulk water supply where the capacity will be increased by more than 250 cubic metres.	<p>(a) <b>In Eastern Cape, Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) World Heritage Sites;</p> <p>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ae) Sites or areas identified in terms of an International Convention;</p> <p>(af) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ag) Core areas in biosphere reserves;</p>	

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		<p>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>(ai) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>ii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose; or</p> <p>(ac) Areas seawards of development setback line or within 100 metres of the high water mark of the sea where the development setback line has not been determined.</p>	
		<p>(b) <b>In Gauteng:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. National Protected Area Expansion Strategy Focus Areas;</p>	

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		<ul style="list-style-type: none"> <li>iii. Gauteng Protected Area Expansion Priority Areas;</li> <li>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>ix. Sites designated as nature reserves within municipal SDFs; or</li> <li>x. Sites zoned for a conservation or public open space or equivalent zoning.</li> </ul>	
		<p><b>(c) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> </ul>	

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		<ul style="list-style-type: none"> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. World Heritage Sites;</li> <li>v. In an estuarine functional zone;</li> <li>vi. In a protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas:       <ul style="list-style-type: none"> <li>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> </ul> </li> </ul>	
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		<p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>xiii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas seawards of the development setback line or within 100 meters from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Within urban protected areas.</p>	
		<p><b>(d) In North West:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p>	

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		<p>(ae) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves; or</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</p> <p>ii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.</p>	
		<p>(e) <b>In Western Cape:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. In areas containing indigenous vegetation; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose, including residential areas.</p>	

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<p>17.</p>	<p><u>The expansion of a resort, lodge, hotel and tourism or hospitality facilities where the development footprint will be expanded.</u></p>	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b></p> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> </ul> </li> </ul>	
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		<p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation; or</p> <p>(ac) Areas seawards of the development set back line or within 100 metres from the high-water mark of the sea if no such development setback line is determined.</p>	
		<p>(b) <b>In Eastern Cape:</b></p> <p>i. In an estuarine functional zone;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p>	

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		<p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation; or</p> <p>(ac) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined.</p>	
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		<p>(c) <b>In Gauteng:</b></p> <ul style="list-style-type: none"> <li>(i) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ii) National Protected Area Expansion Strategy Focus Areas;</li> <li>(iii) Gauteng Protected Area Expansion Priority Areas;</li> <li>(iv) Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>(v) Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>(vi) Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>(vii) Sites or areas identified in terms of an International Convention</li> <li>(viii) Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>(ix) Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> </ul>	
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		<p>(x) Sites designated as nature reserves within municipal SDFs; or</p> <p>(xi) Sites zoned for a conservation or public open space or equivalent zoning.</p>	
		<p><b>(d) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. In an estuarine functional zone;</li> <li>v. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Core areas in biosphere reserves;</li> <li>ix. World Heritage Sites;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas:</li> </ul>	

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		<p>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</p> <p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Areas within 100 metres from the edge of a watercourse; or</p> <p>xiii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Areas within 500 metres from protected areas identified in terms of NEMPAA.</p>	
		<p><b>(e) In North West:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) World Heritage Sites;</p>	

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		<ul style="list-style-type: none"> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ae) Sites or areas identified in terms of an International Convention;</li> <li>(af) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ag) Core areas in biosphere reserves;</li> <li>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> </ul> <p>ii. Inside urban areas:</p> <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> </ul>	
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		<p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p> <p>(f) <b>In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of the NEMPAA;</li> <li>ii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or</li> <li>iii. All areas outside urban areas.</li> </ul>	
18.	<p><u>The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.</u></p>	<p>(a) In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</p> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> </ul> </li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

		<ul style="list-style-type: none"> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</li> <li>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> </ul> <p>iii. Inside urban areas:</p> <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</li> </ul>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

		<p>(b) In Eastern Cape:</p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</li> </ul> </li> </ul>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

		<p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(ac) Areas zoned for use as public open space; or</p> <p>(ad) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	
		<p>(c) <b>In Gauteng:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. National Protected Area Expansion Strategy Focus Areas;</p> <p>iii. Gauteng Protected Area Expansion Priority Areas;</p> <p>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</p>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

		<ul style="list-style-type: none"> <li>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Important Bird and Biodiversity Area (IBA);</li> <li>x. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>xi. Sites designated as nature reserves within municipal SDFs; or</li> <li>xii. Sites zoned for a conservation or public open space or equivalent zoning.</li> </ul>	
		<p><b>(d) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. World Heritage Sites;</li> <li>v. In an estuarine functional zone;</li> <li>vi. A protected area identified in terms of NEMPAA;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</li> </ul> </li> </ul>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
 IN TERMS OF SECTIONS 24(2) AND 24D

		<p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>xiii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Within urban protected areas.</p>	
		<p><b>(e) In North West:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>(ae) Critical biodiversity areas (Terrestrial Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves; or</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> </ul> <p>ii. In urban areas:</p> <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</li> <li>(ac) Natural heritage sites.</li> </ul>	
		<p>(f) <b>In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas: <ul style="list-style-type: none"> <li>(aa) Areas containing indigenous vegetation;</li> <li>(ab) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.; or</li> </ul> </li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>ii. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for conservation use; or</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</li> </ul> </li> </ul>	
19.	The expansion of runways or aircraft landing strips where the expanded runways or aircraft landing strips will be longer than 1,4 kilometres in length.	<ul style="list-style-type: none"> <li>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape provinces:</b> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> </ul> </li> </ul> </li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<p>(ag) Areas within 10 kilometres from national parks and world heritage sites and 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	
		<p>(b) <b>In Eastern Cape:</b></p> <p>i. In an estuarine functional zone;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p> <p>(ag) Areas within 10 kilometres from national parks and world heritage sites and 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

		<p>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p> <p><b>(c) In Gauteng:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. National Protected Area Expansion Strategy Focus Areas;</p> <p>iii. Gauteng Protected Area Expansion Priority Areas;</p> <p>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</p> <p>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</p> <p>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</p>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

		<ul style="list-style-type: none"> <li>vii. Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>viii. Sites or areas identified in terms of an International Convention</li> <li>ix. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>x. Sites designated as nature reserves within municipal SDFs;</li> <li>xi. Sites zoned for a conservation or public open space or equivalent zoning; or</li> <li>xii. Important Bird and Biodiversity Areas</li> </ul>	
		<p><b>(d) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Community Conservation Areas;</li> <li>ii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iii. In an estuarine functional zone;</li> <li>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>v. World Heritage Sites;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>viii. Core areas in biosphere reserves;</li> <li>ix. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>x. Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas: <ul style="list-style-type: none"> <li>(aa) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</li> <li>(ab) Areas within 100 metres from the edge of a watercourse; or</li> </ul> </li> <li>xiii. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas seawards of the development setback line or within 100m high-water mark of the sea if no such development setback line is determined.</li> </ul> </li> </ul>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<p>(e) <b>In North West:</b></p> <ul style="list-style-type: none"> <li>i. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) World Heritage Sites;</li> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ae) Sites or areas identified in terms of an International Convention;</li> <li>(af) Critical biodiversity areas (Terrestrial Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ag) Core areas in biosphere reserves;</li> <li>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</li> </ul> </li> </ul>	
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IN TERMS OF SECTIONS 24(2) AND 24D

		<p>(f) <b>In Western Cape:</b></p> <p>i. All areas outside urban areas.</p>	
20.	<p>The expansion and related operation of above ground cableways and funiculars where the development footprint will be increased.</p>	<p>(a) <b>In Free State, Limpopo, Mpumalanga and Northern Cape:</b></p> <p>i. In an estuary;</p> <p>ii. All areas outside urban areas; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(ac) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ad) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</p>	
		<p>(b) <b>In Eastern Cape:</b></p> <p>i. In an estuarine functional zone;</p> <p>ii. All areas outside urban areas; or</p> <p>iii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p>	

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		<p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(ac) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ad) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</p>	
		<p><b>(c) In Gauteng:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>iii. Sites or areas identified in terms of an International Convention;</li> <li>iv. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>v. Sites designated as nature reserves within municipal SDFs;</li> <li>vi. Sites zoned for a conservation or public open space or equivalent zoning; or</li> <li>vii. Important Bird and Biodiversity Areas.</li> </ul>	
		<p><b>(d) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas: <ul style="list-style-type: none"> <li>(aa) In an estuarine functional zone;</li> <li>(ab) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ac) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ae) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>(af) Areas zoned for use as public open space;</li> </ul> </li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<p>(ag) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined;</p> <p>(ah) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ai) Areas within 500 metres from protected areas identified in terms of NEMPAA.</p>	
		<p><b>(e) In North West:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p>	

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		<p>(ae) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves; or</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve; or</p> <p>ii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.</p>	
	<p>(f) <b>In Western Cape</b></p> <p>i. All areas outside urban areas;</p>		

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<p>21.</p>	<p>The expansion of tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles excluding conversion of existing tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles, where the development footprint will be expanded.</p>	<p>(a) <b>In Free State, Limpopo and Mpumalanga provinces:</b></p> <ul style="list-style-type: none"> <li>i. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> </ul> </li> </ul>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
IN TERMS OF SECTIONS 24(2) AND 24D

		<p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>ii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p> <p><b>(b) In Eastern Cape:</b></p> <p>i. In an estuarine functional zone; or</p> <p>ii. Within areas seaward of the development setback line or within 1 kilometre of the high-water mark if no setback line is determined;</p> <p><b>(c) In Gauteng:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. Gauteng Protected Area Expansion Priority Areas;</p> <p>iii. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</p> <p>iv. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</p>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>v. Sites or areas identified in terms of an International Convention;</li> <li>vi. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>vii. Sites designated as nature reserves within municipal SDFs; or</li> <li>viii. Sites zoned for conservation or public open space or equivalent zoning.</li> </ul>	
		<p>(d) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>iii. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>iv. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>v. Outside urban areas:             <ul style="list-style-type: none"> <li>(aa) Within areas of indigenous vegetation;</li> <li>or</li> </ul> </li> </ul>	

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		<p>(bb) In areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>vi. In urban areas:</p> <p>(aa) In areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined;</p> <p>(bb) Areas within 32 metres from the edge of a watercourse; or</p> <p>(cc) Areas zoned for use as public open space.</p>	
		<p>(e) <b>In Northern Cape:</b></p> <p>iii. In an estuary; or</p> <p>iv. Within areas seaward of the development setback line or within 1 kilometre of the high-water mark if no setback line is determined;</p>	
		<p>(f) <b>In North West:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p>	

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		<p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves; or</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>ii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</p> <p>(ac) Natural heritage sites.</p>	
		<p>(g) <b>In Western Cape:</b></p> <p>i. Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined;</p>	

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		<ul style="list-style-type: none"> <li>ii. Seawards of the development setback line or within 200 metres from the high water mark of the sea if no such development setback line is determined; or</li> <li>iii. Areas of indigenous vegetation outside urban areas.</li> </ul>	
22.	The expansion of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage facilities or infrastructure will be expanded by 30 cubic metres or more but no more than 80 cubic metres.	<ul style="list-style-type: none"> <li>(a) <b>Free State, Mpumalanga and Northern Cape provinces:</b> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> </ul> </li> </ul> </li> </ul>	

LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</li> <li>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined;</li> <li>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> <li>(aj) Within 500 metres of an estuary; or</li> <li>iii. In urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>(ac) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> <li>(ad) Within 500 metres of an estuary.</li> </ul> </li> </ul>	
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		<p>(b) <b>In Eastern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Outside urban areas, in: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ad) Sites or areas identified in terms of an International Convention;</li> <li>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(af) Core areas in biosphere reserves;</li> <li>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</li> </ul> </li> </ul>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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		<ul style="list-style-type: none"> <li>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined;</li> <li>(ai) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> <li>(aj) Within 500 metres of an estuarine functional zone; or</li> <li>iii. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>(ac) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> <li>(ad) Within 500 metres of an estuarine functional zone.</li> </ul> </li> </ul>	
		<p>(c) <b>In Gauteng:</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> </ul>	

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		<ul style="list-style-type: none"> <li>ii. National Protected Area Expansion Strategy Focus Areas;</li> <li>iii. Gauteng Protected Area Expansion Priority Areas;</li> <li>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</li> <li>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</li> <li>vii. Sites identified as high potential agricultural land in terms of Gauteng Agricultural Potential Atlas;</li> <li>viii. Important Bird and Biodiversity Area (IBA);</li> <li>ix. Sites or areas identified in terms of an International Convention;</li> <li>x. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> </ul>	
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		<ul style="list-style-type: none"> <li>xi. Sites designated as nature reserves within municipal SDFs; or</li> <li>xii. Sites zoned for conservation or public open space or equivalent zoning.</li> </ul>	
		<p><b>(d) In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. World Heritage Sites;</li> <li>v. In an estuarine functional zone;</li> <li>vi. Within 500 metres of an estuarine functional zone;</li> <li>vii. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>x. Core areas in biosphere reserves;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> </ul>	

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		<p>xiii. Outside urban areas:</p> <p>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve;</p> <p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ac) Areas within 100 metres from the edge of a watercourse; or</p> <p>xiv. In urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined.</p>	
		<p>(e) <b>In Limpopo</b></p> <p>i. All areas.</p>	
		<p>(f) <b>In North West:</b></p> <p>i. Outside urban areas.</p>	
		<p>(g) <b>In Western Cape:</b></p> <p>i. All areas outside urban areas; or</p> <p>ii. Areas inside urban areas, the following:</p>	

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		<p>(aa) Areas seawards of the development setback line or within 200 metres from the high-water mark of the sea if no such development setback line is determined;</p> <p>(ab) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>(ac) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.</p>	
23.	<p>The expansion of—</p> <p>(i) canals where the canal is expanded by 10 square metres or more in size;</p> <p>(ii) channels where the channel is expanded by 10 square metres or more in size;</p> <p>(iii) bridges where the bridge is expanded by 10 square metres or more in size;</p>	<p>(a) <b>Free State, Limpopo, Mpumalanga and Northern Cape:</b></p> <p>i. In an estuary;</p> <p>ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p>	

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<p>(iv) dams where the dam is expanded by 10 square metres or more in size;</p> <p>(v) weirs where the weir is expanded by 10 square metres or more in size;</p> <p>(vi) bulk storm water outlet structures where the structure is expanded by 10 square metres or more in size;</p> <p>(vii) marinas where the marina is expanded by 10 square metres or more in size;</p> <p>(viii) jetties where the jetty is expanded by 10 square metres or more in size;</p> <p>(ix) slipways where the slipway is expanded by 10 square metres or more in size;</p>	<p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p>	<p>(b) <b>In Eastern Cape:</b></p> <p>i. In an estuarine functional zone;</p> <p>ii. Outside urban areas, in:</p>
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	<p>(x) buildings where the building is expanded by 10 square metres or more in size;</p> <p>(xi) boardwalks where the boardwalk is expanded by 10 square metres or more in size; or</p> <p>(xii) infrastructure or structures where the physical footprint is expanded by 10 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback adopted in the prescribed manner; or</p> <p>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</p>	<p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(ab) National Protected Area Expansion Strategy Focus areas;</p> <p>(ac) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>(ad) Sites or areas identified in terms of an International Convention;</p> <p>(ae) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(af) Core areas in biosphere reserves;</p> <p>(ag) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>(ah) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p>	
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	<p>excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>	<p>iii. Inside urban areas: (aa) Areas zoned for use as public open space; or (c) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</p> <p>(d) <b>In Gauteng:</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. National Protected Area Expansion Strategy Focus Areas;</p> <p>iii. Gauteng Protected Area Expansion Priority Areas;</p> <p>iv. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</p> <p>v. Sites identified within threatened ecosystems listed in terms of the National Environmental Management Act: Biodiversity Act (Act No. 10 of 2004);</p> <p>vi. Sensitive areas identified in an environmental management framework adopted by relevant environmental authority;</p> <p>vii. Sites or areas identified in terms of an International Convention;</p>	
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		<ul style="list-style-type: none"> <li>viii. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003); or</li> <li>ix. Sites designated as nature reserves within municipal SDFs;</li> <li>x. Sites zoned for conservation or public open space or equivalent zoning.</li> </ul>	
		<p>(e) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Community Conservation Areas;</li> <li>ii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iii. In an estuarine functional zone;</li> <li>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>v. World Heritage Sites;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas or ecological support areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> </ul>	

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		<p>ix. Core areas in biosphere reserves;</p> <p>x. Outside urban areas:</p> <p>(aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>(ab) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>xi. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, zoned for a conservation purpose; or</p> <p>(ac) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined.</p>	
		<p>(f) <b>In North West:</b></p> <p>i. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA;</p>	

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		<ul style="list-style-type: none"> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) World Heritage Sites;</li> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ae) Sites or areas identified in terms of an International Convention;</li> <li>(af) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ag) Core areas in biosphere reserves; or</li> <li>(ah) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>ii. Inside urban areas:             <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space; or</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.</li> </ul> </li> </ul>	
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		<p>(g) <b>In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. Outside urban areas, in:           <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) National Protected Area Expansion Strategy Focus areas;</li> <li>(ac) World Heritage Sites;</li> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>(ae) Sites or areas listed in terms of an International Convention;</li> <li>(af) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ag) Core areas in biosphere reserves; or</li> <li>(ah) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.</li> </ul> </li> </ul>	
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LISTING NOTICE 3: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES IDENTIFIED  
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24.	The expansion and related operation of facilities of any size for any form of aquaculture.	<p>(a) <b>In Free State, Gauteng, Limpopo, Mpumalanga, Northern Cape and North West:</b></p> <ul style="list-style-type: none"> <li>i. In an estuary;</li> <li>ii. In a Protected Area identified in the NEMPAA; or</li> <li>iii. Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</li> </ul> <p>(b) <b>In Eastern Cape:</b></p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. In a Protected Area identified in the NEMPAA; or</li> <li>iii. Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</li> </ul> <p>(c) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. In an estuarine functional zone;</li> <li>v. In a Protected Area identified in the NEMPAA;</li> <li>vi. World Heritage Sites;</li> </ul>	
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		<ul style="list-style-type: none"> <li>vii. Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>x. Core areas in biosphere reserves;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</li> <li>xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority.</li> </ul>	
		<p>(d) <b>In Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined;</li> <li>ii. In a Protected area identified in terms of NEMPAA; and</li> <li>iii. In an aquatic critical biodiversity area.</li> </ul>	

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25.	The expansion and related operation of zip-lines or foefie-slides, where the zip- line or foefie-slide is expanded by 100 metres in length or more.	<p>(a) <b>In Eastern Cape, Free State, Limpopo, Mpumalanga, and Northern Cape:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for use as public open space;</li> <li>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>(ac) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</li> <li>(ad) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.</li> </ul> </li> </ul>	
		<p>(b) <b>In Gauteng</b></p> <ul style="list-style-type: none"> <li>i. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>ii. Sites identified as Critical Biodiversity Areas (CBAs) and Ecological Support Areas (ESAs) in the Gauteng Conservation Plan or in bioregional plans;</li> <li>iii. Sites or areas identified in terms of an International Convention;</li> </ul>	

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		<ul style="list-style-type: none"> <li>iv. Sites managed as protected areas by provincial authorities, or declared as nature reserves in terms of the Nature Conservation Ordinance (Ordinance 12 of 1983) or the National Environmental Management: Protected Areas Act (Act No. 57 of 2003);</li> <li>v. Sites designated as nature reserves within municipal SDFs;</li> <li>vi. Sites zoned for a conservation or public open space or equivalent zoning; or</li> <li>vii. Important Bird and Biodiversity Areas.</li> </ul>	
		<p>(c) <b>In KwaZulu-Natal:</b></p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas: <ul style="list-style-type: none"> <li>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>(ab) In an estuarine functional zone;</li> <li>(ac) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>(ad) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> </ul> </li> </ul>	

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		<p>(ae) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(af) Areas zoned for use as public open space;</p> <p>(ag) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined;</p> <p>(ah) Areas seawards of the development setback line or within 100 metres from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(ai) Areas within 500 metres from protected areas identified in terms of NEMPAA.</p>	
		<p>(d) <b>In North West:</b></p> <p>i. All areas outside urban areas; or</p> <p>ii. In urban areas:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(ab) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(ac) A protected area identified in terms of NEMPAA;</p>	

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		<p>(ad) Critical biodiversity areas (Type 1 and 2) as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>(ae) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve; or</p> <p>(af) Natural heritage sites.</p>	
26.	<p>Phased activities for all activities—</p> <p>i. listed in this Notice and as it applies to a specific geographical area, which commenced on or after the effective date of this Notice; or</p> <p>ii. similarly listed in in any of the previous NEMA notices, and as it applies to a specific geographical area, which commenced on or after the effective date of such previous NEMA Notices—</p>	<p>All the areas as identified for the specific activities listed in this Notice.</p>	

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<p>where any phase of the activity may be below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold; —</p> <p>excluding the following activities listed in this Notice—</p> <p>7; 8; 11; 13; 17; 20; 21; and 24.</p>		
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**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

**GNR.549 OF 10 JULY 2014**

**REGULATIONS TO PHASE-OUT THE USE OF PCB MATERIALS AND  
PCB CONTAMINATED MATERIALS, 2014**

*(Government Gazette No. 37818)*

**SCHEDULE**

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### **CHAPTER 1**

#### **DEFINITIONS, PURPOSE AND APPLICATION OF THE REGULATIONS**

##### **1. Definitions.**

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

“**Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“**articles**” means dielectric fluid, dielectric fluid containers, electrical equipment or other equipment or materials that contain PCBs or came into contact with materials that contain PCBs;

“**auditor**” means a suitably qualified person with the ability to apply knowledge and skills to conduct a systematic, independent and documented process for obtaining audit evidence and evaluating it objectively to determine the extent to which the set of policies, procedures or requirements are fulfilled;

“**contamination**” means the transfer of PCBs to an article previously free of PCBs, which results in an article having a PCB concentration of more than 50mg/kg;

“**equipment**” includes capacitors, transformers, electrical motors, circuit breakers, voltage regulators, reclosers, switchgears, switches, electromagnets, rectifier or other equipment that contain a dielectric fluid that contain PCBs;

“**non PCB material**” means oil or articles with PCB concentration less than 50mg/kg;

“**PCB (Polychlorinated biphenyl)**” means one of 209 congeners containing one to ten chlorine atoms attached to the biphenyl group;

“**PCB contaminated material**” means oil or articles with PCB concentration greater than 51mg/kg but less than 500mg/kg;

“**PCB material**” means oil or articles with PCB concentration greater than 500mg/kg;

“**PCB holder**” means a person who uses or stores PCB materials or PCB contaminated materials;

“**PCB waste**” means waste as defined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), which contains PCB materials or PCB contaminated materials; and

“**SANS 290**” means the latest edition of the South African National Standards for Mineral insulating oils – Management of polychlorinated biphenyls (PCBs).

## **2. Purpose and application of regulations.**

- (1) The purpose of these Regulations is to—
  - (a) prescribe requirements for the phase-out of the use of PCB materials and PCB contaminated materials to ensure that impacts or potential impacts on health, well-being, safety and the environment are prevented or minimised; and
  - (b) set time frames in which PCB holders must have completely phased-out the use of PCB materials and PCB contaminated materials and disposed of all PCB waste in their possession.
- (2) These Regulations apply uniformly to all PCB holders in the Republic of South Africa.

## **CHAPTER 2**

### **GENERAL PROHIBITIONS, PHASE-OUT TIME FRAMES, REGISTRATION, PHASE-OUT PLANS AND INVENTORIES**

- 3. General prohibitions.**—(1) Subject to the provisions of these Regulations and unless a person complies with regulations 5 and 6 of these Regulations, no person may—
    - (a) use, process, or produce PCB materials or PCB contaminated materials;
    - (b) import PCB materials or PCB contaminated materials into the Republic of South Africa, or export PCB materials or PCB contaminated materials from South Africa; or
    - (c) sell PCB materials or PCB contaminated materials in South Africa.
  - (2) The provisions of sub-regulation (1) do not apply to persons who import PCB waste from a State which is a member of South African Development Community, for the purpose of treatment or safe disposal at a facility authorised in terms of section 20 of Environmental Conservation Act, 1989 (Act No. 73 of 1989) or section 49 of National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- 4. Phase-out time frames.**

No person may—

- (1) use any PCB materials or PCB contaminated materials after the year 2023.
- (2) have any PCB materials, PCB contaminated materials or PCB waste in their possession after the year 2026, excluding disposed PCB waste.

#### **5. Registration.**

- (1) Any person who possesses articles must register with the Director-General within 90 days of promulgation of these Regulations.
- (2) A person contemplated in sub-regulation (1) must register in a form obtainable from the Department.
- (3) The Director-General must acknowledge receipt and issue the registration number within 30 days of receipt.
- (4) The Director-General may on receipt of the registration form, request incomplete information to be furnished in writing or amendments to be effected on the registration form and the amended registration form to be resubmitted within a specified time frame.
- (5) A person who is registered in accordance with sub-regulation (1) must notify the Director-General of any changes in any material detail which has been provided as part of the registration within 30 days of such change taking place.

#### **6. PCB phase-out plans and inventories**

- (1) A PCB holder who is registered in accordance with regulation 5 of these Regulations; must develop a phase-out plan and submit it to the Director-General within one year of the coming into effect of these Regulations.

(Editorial Note: Wording as per original *Government Gazette*.)

- (2) The phase-out plan contemplated in sub-regulation (1) must, as a minimum include—
  - (a) name and contact details of the person submitting the plan;
  - (b) registration number issued by the Director-General in terms of regulation 5 (3) of these Regulations;
  - (c) a comprehensive inventory of non PCB materials, PCB materials and PCB contaminated materials in use or stored; specifying—
    - (i) the type of equipment;

- (ii) serial number;
  - (iii) specific location;
  - (iv) name of the manufacturer;
  - (v) date of manufacture;
  - (vi) type of dielectric fluid contained;
  - (vii) KVA rating;
  - (viii) fluid weight in (kg) or fluid volume in (L); and
  - (ix) PCB concentration in (mg/kg);
- (d) the time period within which the person plans to have completely phased-out all PCB materials or PCB contaminated materials which must not exceed the time frames set in regulation 4 of these Regulations; and
- (e) the strategy outlining the annual reduction targets.
- (3) The Director-General must acknowledge receipt of the phase-out plan within 14 days of receipt, and may, after consideration of the plan, in writing—
- (a) approve the phase out plan for implementation and notify the applicant of the approval and outline any applicable conditions or requirements; or
  - (b) require incomplete information to be furnished or amendments to be effected and a revised phase out plan to be resubmitted within a specified time frame; or
- (4) A person whose phase-out plan has been approved by the Director-General must implement such a plan and may only deviate from such a plan upon written approval to do so by the Director-General.

### **CHAPTER 3**

#### **TESTING, LABELLING, CLASSIFICATION, RETRO-FILLING AND RECLASSIFICATION OF EQUIPMENT**

##### **7. Testing and labelling.**

- (1) Any person who possesses articles must draw samples from all their articles, excluding

sealed units and have them tested for PCB content by an Accredited Laboratory the results of which must be kept until the year 2023.

- (2) A person contemplated in sub-regulation (1) must conduct the sampling and testing of the articles in accordance with SANS 290.
- (3) PCB holders must label their articles in accordance with SANS 290.
- (4) The PCB equipment identified in the PCB inventory submitted in terms of regulation 6 (2) of these Regulations that are still in the registered owner's possession, must after the completion of the phase-out plan be tested for PCBs by an Accredited Laboratory and the results must be submitted to the Director-General as part of the audit report.

#### **8. Classification, retro-filling and reclassification of equipment.**

- (1) A PCB holder who classify, retro-fill or reclassify their equipment must do so in accordance with SANS: 290.
- (2) Any PCB holder must put measures in place to ensure that contamination is prevented.

(Editorial Note: Wording as per original *Government Gazette*.)

## **CHAPTER 4**

### **REPORTING**

#### **9. Reporting.**

- (1) A PCB holder must at own cost, submit to the Director-General a biennial audit report prepared by an auditor, on or before the anniversary of the date of approval of the phase-out plan.
- (2) The audit report contemplated in sub-regulation (1) must include, as a minimum—
  - (a) an undertaking by the auditor of their independence;
  - (b) the profile of the auditor;
  - (c) name and details of the PCB holder or person submitting the report and confirmation of correctness of information supplied in the audit report;
  - (d) copies of PCB waste safe disposal certificates issued by a licensed or permitted waste disposal facility;

- (e) laboratory results of equipment that have been decontaminated in terms of these Regulations and returned to service.
- (3) The audit report must include a detailed progress report regarding the implementation of the approved phase-out plan contemplated in regulation 6 of these Regulations.

## **CHAPTER 5**

### **GENERAL MATTERS**

#### **10. Offences and penalties.**

- (1) A person is guilty of an offence if that person contravenes regulation 3, 4, 5 (1), 5 (5), 6 (1), 6 (2), 6 (4), 7, 8 or 9 of these Regulations.
- (2) A person convicted of an offence in terms sub-regulation (1) is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years or to both such fine and imprisonment.

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the phrase “in terms sub-regulation (1)” is intended to be “in terms of sub-regulation (1)”.)

#### **11. Short title and commencement.**

These Regulations are called the Regulations to phase-out the use of PCB materials and PCB contaminated materials, 2014, and take effect on the date of publication thereof in the *Gazette*.



**NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998**

**GNR 310 OF 10 APRIL 2015**

**REGULATIONS RELATING TO THE PROCEDURE TO BE FOLLOWED  
WHEN ORAL REQUESTS ARE MADE IN TERMS OF SECTION 30A**

**SCHEDULE**

**DEFINITIONS**

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

“the Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

**PURPOSE**

2. The purpose of these Regulations is to provide for the procedure for the submission and processing of oral requests for verbal directives in terms of section 30A (1) of the Act.

**APPLICATION**

3.

(1) Any person who reasonably foresees that—

- (a) they may commence with a listed or specified activity identified in terms of the regulations promulgated under section 24 (2) of the Act without an environmental authorisation; and
- (b) commencement with such listed or specified activity would be directly in response to a situation that has arisen suddenly that poses an imminent and serious threat to the environment, human life or property; or
- (c) commencement with such listed or specified activity would be directly in response to a “disaster” as defined in section 1 of the Disaster Management Act, 2002 (Act No. 57 of 2002);

may, orally request the competent authority to issue a verbal directive in terms of section 30A (1) of the Act.

- (2) The competent authority may on its own initiative direct a person verbally or in writing to carry out a listed or specified activity, without obtaining an environmental authorisation

REGULATIONS RELATING TO THE PROCEDURE TO BE FOLLOWED WHEN ORAL REQUESTS  
ARE MADE IN TERMS OF SECTION 30A

contemplated in section 24(2)(a) or (b), in order to prevent or contain an emergency situation or to prevent, contain or mitigate the effects of the emergency situation.

- (3) The competent authority must comply with regulations 5, 6 and 8, as the case may be, when acting in terms of subregulation 2 above.
- (4) These Regulations do not apply in the event that a person has already commenced with a listed or specified activity identified in terms of the regulations promulgated in terms of section 24 (2) of the Act without an environmental authorisation or to incidents as provided for in terms of section 30 of the Act.

**CIRCUMSTANCES IN WHICH AN ORAL REQUEST MAY BE MADE**

4. A person may only submit an oral request for a verbal directive in terms of section 30A (1) of the Act in circumstances, where—
  - (a) the immediate commencement of the listed or specified activity is necessary to prevent or contain an emergency situation; or prevent, contain or mitigate the effects of an emergency situation; and
  - (b) submitting a written request would defeat the object of the verbal directive.

**INFORMATION REQUIRED**

5.
  - (1) A person that submits an oral request for a verbal directive in terms of section 30A (1) of the Act must include, where known, the following information as part of the request to the competent authority:
    - (a) the nature, scope and possible impact of the emergency situation;
    - (b) the cause of the emergency situation;
    - (c) the proposed measures to prevent or to contain the emergency situation; or to prevent, contain or mitigate the effects of the emergency situation; and
    - (d) the listed or specified activities that will be commenced with in response to the emergency situation.
  - (2) The competent authority may not issue a verbal directive in terms of section 30A (1) of the Act without first obtaining and considering the information as set out in subregulation (1) above, where it is known.

REGULATIONS RELATING TO THE PROCEDURE TO BE FOLLOWED WHEN ORAL REQUESTS  
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- (3) In addition to the information required in subregulation (1), the competent authority may request any information that is reasonably required to issue the verbal directive, including the submission of photographs of the emergency situation.

**FACTORS TO BE CONSIDERED**

6.

- (1) In considering whether or not to issue a verbal directive in terms of section 30A (1) of the Act, the competent authority must, at least, where information is available, take the following into consideration:
- (a) the nature of the emergency situation;
  - (b) the information contained in the request referred to in section 30A (2) of the Act;
  - (c) whether the emergency situation was caused by or the fault of the person;
  - (d) the principles contained in section 2 of the Act; and
  - (e) the prevention, control or mitigation measures to contain effects of the emergency situation and the post-event mitigation or rehabilitation measures that may be required.
- (2) Upon receipt of the oral request for a verbal directive in terms of section 30A (1) of the Act, the competent authority must use the form provided for in Annexure A to record, in writing, all the information required in terms of subregulation (1) above.

**REFUSAL OF VERBAL DIRECTIVE**

7. The competent authority may refuse to issue a verbal directive, and instruct the person to submit a written request in terms of section 30A (1) of the Act where, in the opinion of the competent authority—
- (a)
  - (b) the reported circumstances are not found to be urgent as set out in regulation 4 of these Regulations.

**ISSUING OF VERBAL DIRECTIVE**

8.

- (1) If, in the opinion of the competent authority, the oral request to issue a verbal directive in terms of section 30A (1) of the Act reveals that the—

REGULATIONS RELATING TO THE PROCEDURE TO BE FOLLOWED WHEN ORAL REQUESTS  
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- (a) circumstances are indicative of an emergency situation as set out in regulation 4; and
  - (b) issuing of a written directive would defeat the objective of the verbal directive, the competent authority may issue a verbal directive, after having considered all of the information referred to in regulations 5 (1) and 6 (1) of these Regulations.
- (2) The verbal directive must be issued within 6 hours after receipt of all information required in terms of these Regulations.
- (3) The verbal directive must be confirmed by the competent authority, in writing, at the earliest opportunity and within seven days of the issuance of the verbal directive.

**UNDERTAKING SPECIFIC MEASURES**

9. The competent authority may direct the person to undertake specific measures within a specific time period in order to prevent, contain or mitigate the effects of the emergency situation.

**WRITTEN CONFIRMATION**

- 10.
- (1) In the event that an oral request to issue a verbal directive in terms of section 30A (1) of the Act is accepted by the competent authority, and a verbal directive issued, the person making the oral request must deliver a written confirmation of the request within 24 hours of the oral request.
- (2) Delivery of the written confirmation must be by hand, e-mail or facsimile to the competent authority who issued the verbal directive.

**SITE INSPECTION**

11. The competent authority shall, where reasonably possible, dispatch an appropriately qualified and skilled official to assess the scene of the emergency situation.

**AMENDMENT, SUSPENSION, REVOCATION**

12. The competent authority may amend, suspend or revoke the verbal directive in the event that—
- (a) no written confirmation of the oral request has been received within the timeframe set out in regulation 10 of these Regulations;
  - (b) the written confirmation contains facts that are materially different from the oral request; or

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- (c) the official, after having assessed the scene of the emergency situation, is of the reasonable belief that the circumstances are materially different from the oral request or written confirmation of the oral request.

**WRITTEN NOTICE OF INTENTION TO AMEND, SUSPEND OR REVOKE**

13.

- (1) Should the competent authority decide to amend, suspend or revoke the verbal directive in accordance with regulation 12 of these Regulations, it shall first provide written notice of its intention to amend, suspend or revoke the verbal directive to the person in whose favour the verbal directive was issued and shall give that person 48 hours in which to object to the amendment, suspension or revocation.
- (2) Where a competent authority decides to amend, suspend or revoke the verbal directive, he or she shall provide written reasons for the decision to the person in whose favour the verbal directive was issued.

**REPORTING REQUIREMENTS**

14.

- (1) The competent authority must, within seven days from date of issue of the verbal directive, report the emergency situation, in writing, to all other relevant authorities that may be responsible for the management thereof and inform the relevant authorities of any verbal directive issued.
- (2) The competent authority must, as soon as reasonably possible and in writing, inform all other relevant authorities that may be responsible for the management thereof of the amendment, suspension or revocation of an issued verbal directive.

**OFFENCES**

15. It is an offence for any person to, wilfully, knowingly or negligently, provide incorrect or misleading information, orally or in writing, to the competent authority or an environmental management inspector in terms of these Regulations.

**PENALTIES**

16. A person convicted of an offence in terms of these Regulations is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

**SHORT TITLE AND COMMENCEMENT**

17. These Regulations are called the Regulations for Oral Requests for Verbal Directives, 2015 and take effect on the date of publication thereof in the *Gazette*.

REGULATIONS RELATING TO THE PROCEDURE TO BE FOLLOWED WHEN ORAL REQUESTS  
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**ANNEXURE A:**

**WRITTEN RECORDING OF INFORMATION REQUIRED IN TERMS OF  
REGULATIONS 5 AND 6**

<b>1.</b>	<b>Name and identity number of person making the oral request (“the requester”)</b>
<b>2.</b>	<b>Is the requester placing the request in his or her personal capacity or on behalf of a state body/parastatal/corporate entity?</b>
<b>3.</b>	<b>Name of state body/parastatal/corporate entity on whose behalf the request is made; registration number where appropriate and registered street address</b>

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<b>4.</b>	<b>If the request is made on behalf of a state body/parastatal/corporate entity, in what capacity is the requester employed by that body?</b>
<b>5.</b>	<b>Location of the emergency situation [Street address and/or GPS coordinates]</b>
<b>6.</b>	<b>The nature of the emergency situation as stated by the requester, including the progression of the emergency (whether or not it has commenced/is imminent/ has caused damage at the time of the oral request)</b>

REGULATIONS RELATING TO THE PROCEDURE TO BE FOLLOWED WHEN ORAL REQUESTS  
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<b>7.</b>	<b>The cause of the emergency situation; including confirmation of whether or not it was caused by the fault of the applicant</b>
<b>8.</b>	<b>The risk of the impact on the environment as a result of the emergency; including an impact which may already have occurred</b>
<b>9.</b>	<b>The risk of the impact on human health and well-being as a result of the emergency; including any impact which may already have occurred</b>

REGULATIONS RELATING TO THE PROCEDURE TO BE FOLLOWED WHEN ORAL REQUESTS  
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<b>10.</b>	<b>The proposed measures to be taken, including proposed timeframes for actions and whether they will provide a temporary or permanent solution to the situation</b>
<b>11.</b>	<b>What aspect of the emergency each measure will seek to address and how?</b>
<b>12.</b>	<b>The listed or specified activities that will be triggered by the proposed measures</b>

REGULATIONS RELATING TO THE PROCEDURE TO BE FOLLOWED WHEN ORAL REQUESTS  
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<b>13.</b>	<b>The estimated costs of the measures proposed</b>
<b>14.</b>	<b>Any reasonable alternative measures; including an estimate of the costs thereof</b>
<b>15.</b>	<b>The risk of the impact on the environment of the prevention, control or mitigation measures proposed</b>
<b>16.</b>	<b>Any post-event mitigation or rehabilitation measures that may be required</b>

Once the above information has been obtained and prior to making its decision, the competent authority must apply the information and balance the proposed measures against the Act principles.

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT 39 OF 2004**

(English text signed by the President)

*[Assented To: 19 February 2005]*

*[Commencement Date: 11 September 2005 – unless otherwise indicated]*

[GN R898 / GG 28016 / 20050909]

[GN 220 / GG 33041 / 20100326]

**as amended by:**

National Environment Laws Amendment Act 44 of 2008

[with effect from 11 September 2009 - GN 902 / GG 32563 / 20090911]

National Environment Laws Amendment Act 14 of 2009

[with effect from 18 September 2009 - Proc. 65 / GG 32580 / 20090918]

National Environment Laws Amendment Act 14 of 2013

[with effect from 24 July 2013]

National Environmental Management: Air Quality Amendment Act 20 of 2014

[with effect from 19 May 2014]

**ACT**

**To reform the law regulating air quality in order to protect the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development while promoting justifiable economic and social development; to provide for national norms and standards regulating air quality monitoring, management and control by all spheres of government; for specific air quality measures; and for matters incidental thereto.**

**PREAMBLE**

**WHEREAS** the quality of ambient air in many areas of the Republic is not conducive to a healthy environment for the people living in those areas let alone promoting their social and economic advancement;

**AND WHEREAS** the burden of health impacts associated with polluted ambient air falls most heavily on the poor;

**AND WHEREAS** air pollution carries a high social, economic and environmental cost that is seldom borne by the polluter;

## AIR QUALITY ACT

**AND WHEREAS** atmospheric emissions of ozone-depleting substances, greenhouse gases and other substances have deleterious effects on the environment both locally and globally;

**AND WHEREAS** everyone has the constitutional right to an environment that is not harmful to their health or well-being;

**AND WHEREAS** everyone has the constitutional right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that -

- (a) prevent pollution and ecological degradation;
- (b) promote conservation; and
- (c) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;

**AND WHEREAS** minimisation of pollution through vigorous control, cleaner technologies and cleaner production practices is key to ensuring that air quality is improved; And whereas additional legislation is necessary to strengthen the Government's strategies for the protection of the environment and, more specifically, the enhancement of the quality of ambient air, in order to secure an environment that is not harmful to the health or well-being of people,

**BE IT THEREFORE ENACTED** by the Parliament of the Republic of South Africa, as follows: -

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**CHAPTER 1**

**INTERPRETATION AND FUNDAMENTAL PRINCIPLES**

**1. Definitions**

(1) In this Act, unless the context indicates otherwise -

**“air pollution”** means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;

**“air quality management plan”** means a plan referred to in section 15;

**“air quality officer”** means an officer appointed in terms of section 14 as an air quality officer;

**“ambient air”** excludes air regulated by the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

**“atmospheric emission”** or **“emission”** means any emission or entrainment process emanating from a point, non-point or mobile source that results in air pollution;

**“atmospheric emission licence”** means an atmospheric emission licence contemplated in Chapter 5;

**“Atmospheric Pollution Prevention Act”** means the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965);

**“commissioning”** means the commencement of a listed activity;

[Definition of “commissioning” inserted by s. 1 of Act 20/2014]

**“controlled emitter”** means any appliance or activity declared as a controlled emitter in terms of section 23;

**“Department”** means the Department responsible for environmental affairs;

[Definition of “Department” substituted by s. 1 of Act 20/2014]

**“environment”** has the meaning assigned to it section 1 of the National Environmental Management Act;

**“Environment Conservation Act”** .....

[Definition of “Environment Conservation Act” deleted by s. 1 of Act 20/2014]

AIR QUALITY ACT

“**Gazette**” when used in relation to -

- (a) the Minister, means the *Government Gazette*; and
- (b) the MEC, means the *Provincial Gazette* of the province concerned;

“**greenhouse gas**” means gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation, and includes carbon dioxide, methane and nitrous oxide;

“**licensing authority**” means an authority referred to in section 36(1), (2), 3A, (4) or (5) responsible for implementing the licensing system set out in Chapter 5;

[Definition of “licensing authority” substituted by s. 1 of Act 20/2014]

“**listed activity**” means any activity listed in terms of section 21;

“**MEC**” means the member of the Executive Council of a province who is responsible for air quality management in the province;

“**Minister**” means the Minister responsible for environmental affairs.

[Definition of “Minister” substituted by s. 1 of Act 20/2014]

“**mobile source**” means a single identifiable source of atmospheric emission which does not emanate from a fixed location;

“**municipality**” means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Municipal Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“**National Environmental Management Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“**national framework**” means the framework established in terms of section 7(1);

“**non-point source**” means a source of atmospheric emissions which cannot be identified as having emanated from a single identifiable source or fixed location, and includes veld, forest and open fires, mining activities, agricultural activities and stockpiles;

“**offensive odour**” means any smell which is considered to be malodorous or a nuisance to a reasonable person;

## AIR QUALITY ACT

“**organ of state**” has the meaning assigned to it in section 239 of the Constitution;

“**ozone-depleting substance**” means a substance having chemical or physical properties which, by its release into the atmosphere, can cause a depletion of the stratospheric ozone layer;

“**point source**” means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys;

“**pollution**” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“**priority area**” means an area declared as such in terms of section 18;

“**priority area air quality management plan**” means a plan referred to in section 19;

“**provisional atmospheric emission licence**” means a provisional atmospheric emission licence contemplated in Chapter 5;

“**this Act**” includes -

- (a) the national framework;
  - (b) any regulation made in terms of this Act; and
  - (c) any other subordinate legislation issued in terms of this Act.
- (2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

## 2. Object of Act

The object of this Act is -

- (a) to protect the environment by providing reasonable measures for -
  - (i) the protection and enhancement of the quality of air in the Republic;
  - (ii) the prevention of air pollution and ecological degradation; and
  - (iii) securing ecologically sustainable development while promoting justifiable economic and social development; and
- (b) generally to give effect to section 24(b) of the Constitution in order to enhance the quality of ambient air for the sake of securing an environment that is not harmful to the health and well-being of people.

### **3. General duty of State**

In fulfilling the rights contained in section 24 of the Constitution, the State -

- (a) through the organs of state applying this Act, must seek to protect and enhance the quality of air in the Republic; and
- (b) must apply this Act in a manner that will achieve the progressive realisation of those rights.

### **4. Application of Act**

- (1) This Act also applies to the exclusive economic zone and continental shelf of the Republic referred to in sections 7 and 8, respectively, of the Maritime Zones Act, 1994 (Act No. 15 of 1994).
- (2) This Act binds all organs of state -
  - (a) in the national and local spheres of government; and
  - (b) in the provincial sphere of government, subject to section 146 of the Constitution.

### **5. Application of National Environmental Management Act**

- (1) This Act must be read with any applicable provisions of the National Environmental Management Act.
- (2) The interpretation and application of this Act must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act.

### **6. Conflicts with other legislation**

- (1) In the event of any conflict between a section of this Act and -
  - (a) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution;
  - (b) a municipal by-law, the section of this Act prevails.
- (2) In the event of any conflict between subordinate legislation issued in terms of this Act and -
  - (a) an Act of Parliament, the Act of Parliament prevails;
  - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and

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- (c) a municipal by-law, the subordinate legislation issued in terms of this Act prevails.
- (3) For the proper application of subsection (2)(b) the Minister must, in terms of section 146(6) of the Constitution, submit all subordinate legislation issued in terms of this Act and which affects provinces to the National Council of Provinces for approval.

## CHAPTER 2

### NATIONAL FRAMEWORK AND NATIONAL, PROVINCIAL AND LOCAL STANDARDS

#### Part 1: National framework

#### 7. Establishment

- (1) The Minister must, within two years of the date on which this section took effect, by notice in the *Gazette*, establish a national framework for achieving the object of this Act, which must include -
  - (a) mechanisms, systems and procedures to attain compliance with ambient air quality standards;
  - (b) mechanisms, systems and procedures to give effect to the Republic's obligations in terms of international agreements;
  - (c) national norms and standards for the control of emissions from point and non-point sources;
  - (d) national norms and standards for air quality monitoring;
  - (e) national norms and standards for air quality management planning;
  - (f) national norms and standards for air quality information management; and
  - (g) any other matter which the Minister considers necessary for achieving the object of this Act.
- (2) National norms and standards established in terms of subsection (1) must be aimed at ensuring -
  - (a) opportunities for public participation in the protection and enhancement of air quality;
  - (b) public access to air quality information;

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- (c) the prevention of air pollution and degradation of air quality;
  - (d) the reduction of discharges likely to impair air quality, including the reduction of air pollution at source;
  - (e) the promotion of efficient and effective air quality management;
  - (f) effective air quality monitoring;
  - (g) regular reporting on air quality; and
  - (h) compliance with the Republic's obligations in terms of international agreements.
- (3) The national framework -
- (a) binds all organs of state in all spheres of government; and
  - (b) may assign and delineate responsibilities for the implementation of this Act amongst -
    - (i) the different spheres of government; and
    - (ii) different organs of state.
- (4) An organ of state must give effect to the national framework when exercising a power or performing a duty in terms of this Act or any other legislation regulating air quality management.
- (5) The national framework -
- (a) may differentiate between different geographical areas;
  - (b) may provide for the phasing in of its provisions;
  - (c) may be amended; and
  - (d) must be reviewed by the Minister at intervals of not more than five years.
- (6)
- (a) Before publishing the national framework, or any amendment to the framework, the Minister must follow a consultative process in accordance with sections 56 and 57.
  - (b) Paragraph (a) need not be complied with if the framework is amended in a non-substantive way.

## **8. National monitoring and information management standards**

The national framework must establish national standards for -

- (a) municipalities to monitor -
  - (i) ambient air quality; and
  - (ii) point, non-point and mobile source emissions;
- (b) provinces to monitor -
  - (i) ambient air quality; and
  - (ii) the performance of municipalities in implementing this Act; and
- (c) the collection and management of data necessary to assess-
  - (i) compliance with this Act;
  - (ii) compliance with ambient air quality and emission standards;
  - (iii) the performance of organs of state in respect of air quality management plans and priority area air quality management plans;
  - (iv) the impact of, and compliance with, air quality management plans and priority area air quality management plans;
  - (v) compliance with the Republic's obligations in terms of international agreements; and
  - (vi) access to information by the public.

## **Part 2: National, provincial and local ambient air quality and emission standards**

### **9. National standards**

- (1) The Minister, by notice in the *Gazette* -
  - (a) must identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment or which the Minister reasonably believes present such a threat; and
  - (b) must, in respect of each of those substances or mixtures of substances, establish national standards for ambient air quality, including the permissible amount or concentration of each such substance or mixture of substances in ambient air; and

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- (c) may, in respect of each of those substances or mixtures of substances, establish national standards for emissions from point, non-point or mobile sources.
- (2) Section 7(3)(a), (4), (5) and (6), with the necessary changes as the context may require, apply to a notice published in terms of this section.

**10. Provincial standards**

- (1) The MEC may, by notice in the *Gazette* -
  - (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well-being or the environment in the province or which the MEC reasonably believes present such a threat; and
  - (b) in respect of each of those substances or mixtures of substances, establish provincial standards for -
    - (i) ambient air quality, including the permissible amount or concentration of each such substance or mixture of substances in ambient air; or
    - (ii) emissions from point, non-point or mobile sources in the province or in any geographical area within the province.
- (2) If national standards have been established in terms of section 9 for any particular substance or mixture of substances, the MEC may not alter any such national standards except by establishing stricter standards for the province or for any geographical area within the province.
- (3) A notice issued under this section may -
  - (a) differentiate between different geographical areas within the province;
  - (b) provide for the phasing in of its provisions; and
  - (c) be amended.
- (4)
  - (a) Before publishing a notice in terms of this section, or any amendment to the notice, the MEC must follow a consultative process in accordance with sections 56 and 57.
  - (b) Paragraph (a) need not be complied with if the notice is amended in a non-substantive way.

**11. Local standards**

- (1) A municipality may in terms of a by-law -
  - (a) identify substances or mixtures of substances in ambient air which, through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health, well- being or the environment in the municipality or which the municipality reasonably believes present such a threat; and
  - (b) in respect of each of those substances or mixtures of substances, establish local standards for emissions from point, non-point or mobile sources in the municipality.
- (2) If national or provincial standards have been established in terms of section 9 or 10 for any particular substance or mixture of substances, a municipality may not alter any such national or provincial standards except by establishing stricter standards for the municipality or any part of the municipality.
- (3) A notice issued under this section may -
  - (a) provide for the phasing in of its provisions; and
  - (b) be amended.
- (4) Before a municipality passes a by-law referred to in subsection (1), it must follow a consultative process in terms of Chapter 4 of the Municipal Systems Act.

**Part 3: General**

**12. Ambient air quality and emission measurements**

For the purpose of this Chapter, the Minister must prescribe the manner in which -

- (a) ambient air quality measurements must be carried out;
- (b) measurements of emissions from point, non-point or mobile sources must be carried out; and
- (c) the form in which such measurements must be reported and the organs of state to whom such measurements must be reported.

**CHAPTER 3**

**INSTITUTIONAL AND PLANNING MATTERS**

**13. National Air Quality Advisory Committee**

- (1) The Minister must, by notice in the *Gazette*, establish the National Air Quality Advisory Committee in terms of this Act.

[Subs. (1) substituted by s. 2 of Act 20/2014]

- (2) When establishing the Committee, the Minister -
  - (a) must determine the composition of the Committee, including the appointment, tenure and termination of service of members of the Committee;
  - (b) must determine the conditions of appointment of members of the Committee;
  - (c) must determine the functions and functioning of the Committee; and
  - (d) may prescribe any other matter relating to the Committee.

[Para. (d) substituted by s. 2 of Act 20/2014]

- (3) The object of the Committee is to advise the Minister on any air quality related matter as the Minister may determine from time to time.

[Subs. (3) added by s. 2 of Act 20/2014]

**14. Appointment of air quality officers**

- (1) The Minister must designate an officer in the Department as the national air quality officer to be responsible for co-ordinating matters pertaining to air quality management in the national government.
- (2) The MEC must designate an officer in the provincial administration as the provincial air quality officer to be responsible for co-ordinating matters pertaining to air quality management in the province.
- (3) Each municipality must designate an air quality officer from its administration to be responsible for co-ordinating matters pertaining to air quality management in the municipality.

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(4)

- (a) An air quality officer must perform the duties or exercise the powers assigned or delegated to that officer in terms of this Act.
  - (b) An air quality officer may delegate a power or assign a duty to an official in the service of that officer's administration, subject to such limitations or conditions as may be prescribed by the Minister.
- (5) Air quality officers must co-ordinate their activities in such a manner as may be set out in the national framework or prescribed by the Minister.

### **15. Air quality management plans**

- (1) Each national department or province responsible for preparing an environmental implementation plan or environmental management plan in terms of Chapter 3 of the National Environmental Management Act must include in that plan an air quality management plan.
- (2) Each municipality must include in its integrated development plan contemplated in Chapter 5 of the Municipal Systems Act, an air quality management plan.

### **16. Contents of air quality management plans**

- (1) An air quality management plan must -
  - (a) within the domain of the relevant national department, province or municipality, seek -
    - (i) to give effect, in respect of air quality, to Chapter 3 of the National Environmental Management Act to the extent that that Chapter is applicable to it;
    - (ii) to improve air quality;
    - (iii) to identify and reduce the negative impact on human health and the environment of poor air quality;
    - (iv) to address the effects of emissions from the use of fossil fuels in residential applications;
    - (v) to address the effects of emissions from industrial sources;
    - (vi) to address the effects of emissions from any point or non- point source of air pollution other than those contemplated in subparagraph (iii) or (iv);
    - (vii) to implement the Republic's obligations in respect of international agreements; and

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- (viii) to give effect to best practice in air quality management;
- (b) describe how the relevant national department, province or municipality will give effect to its air quality management plan; and
- (c) comply with such other requirements as may be prescribed by the Minister.

### **17. Reporting on implementation of air quality management plans**

The annual report which an organ of state must submit in terms of section 16(1)(b) of the National Environmental Management Act must contain information on the implementation of its air quality management plan, including information on -

- (a) air quality management initiatives undertaken by it during the reporting period;
- (b) the level of its compliance with ambient air quality standards;
- (c) measures taken by it to secure compliance with those standards;
- (d) its compliance with any priority area air quality management plans applicable to it; and
- (e) its air quality monitoring activities.

## **CHAPTER 4**

### **AIR QUALITY MANAGEMENT MEASURES**

#### **Part 1: Priority areas**

#### **18. Declaration of priority areas**

- (1) The Minister or MEC may, by notice in the *Gazette*, declare an area as a priority area if the Minister or MEC reasonably believes that -
  - (a) ambient air quality standards are being, or may be, exceeded in the area, or any other situation exists which is causing, or may cause, a significant negative impact on air quality in the area; and
  - (b) the area requires specific air quality management action to rectify the situation.
- (2) The Minister may act under subsection (1), if -
  - (a) the negative impact on air quality in the area -
    - (i) affects the national interest; or

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- (ii) is contributing, or is likely to contribute, to air pollution in another country;
  - (b) the area extends beyond provincial boundaries; or
  - (c) the area falls within a province and the province requests the Minister to declare the area as a priority area.
- (3) The MECs of two or more adjoining provinces may by joint action in terms of subsection (1) declare an area falling within those provinces as a priority area.
- (4) Before publishing a notice in terms of subsection (1), the Minister or the relevant MEC or MECs must follow a consultative process in accordance with sections 56 and 57.
- (5) The Minister or MEC may, by notice in the *Gazette*, withdraw the declaration of an area as a priority area if the area is in compliance with ambient air quality standards for a period of at least two years.

### **19. Management of priority areas**

- (1) If the Minister has in terms of section 18 declared an area as a priority area, the national air quality officer must -
- (a) after consulting the air quality officers of any affected province and municipality, prepare a priority area air quality management plan for the area; and
  - (b) within six months of the declaration of the area, or such longer period as the Minister may specify, submit the plan to the Minister for approval.
- (2) If the MEC has in terms of section 18 declared an area as a priority area, the air quality officer of the relevant province must -
- (a) after consulting the national air quality officer and the air quality officer of any affected municipality, prepare a priority area air quality management plan for the area; and
  - (b) within six months of the declaration of the area, or such longer period as the MEC may specify, submit the plan to the MEC for approval.
- (3) If the MECs in two or more adjoining provinces have by joint action in terms of section 18 declared an area as a priority area, the air quality officers of the relevant provinces must jointly -
- (a) after consulting the national air quality officer and the air quality officers of the affected municipalities, prepare a priority area air quality management plan for the area; and
  - (b) within six months of the declaration of the area, or such longer period as the relevant MECs may specify, submit the plan to the MECs for approval.

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- (4) Before approving a priority area air quality management plan, the Minister or the relevant MEC or MECs -
  - (a) must follow a consultative process in accordance with sections 56 and 57;
  - (b) may require the relevant air quality officer to amend the plan within a period determined by the Minister or the relevant MEC or MECs.
- (5)
  - (a) The Minister or the relevant MEC or MECs must publish an approved plan in the *Gazette* within 90 days of approval.
  - (b) The approved plan takes effect from the date of its publication.
- (6) A priority area air quality management plan must -
  - (a) be aimed at co-ordinating air quality management in the area;
  - (b) address issues related to air quality in the area; and
  - (c) provide for the implementation of the plan by a committee representing relevant role-players.
- (7) A priority area air quality management plan lapses when the declaration of the area as a priority area is withdrawn in terms of section 18(5).

### **20. Regulations for implementing and enforcing priority area air quality management plans**

The Minister or MEC may prescribe regulations necessary for implementing and enforcing approved priority area air quality management plans, including -

- (a) funding arrangements;
- (b) measures to facilitate compliance with such plans;
- (c) penalties for any contravention of or any failure to comply with such plans; and
- (d) regular review of such plans.

### **Part 2: Listing of activities resulting in atmospheric emissions**

#### **21. Listing of activities**

- (1) The Minister must, or the MEC may, by notice in the *Gazette* -

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- (a) publish a list of activities which result in atmospheric emissions and which the Minister or MEC reasonably believes have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage; and
- (b) when necessary, amend the list by -
  - (i) adding to the list activities in addition to those contemplated in paragraph (a);
  - (ii) removing activities from the list; or
  - (iii) making other changes to particulars on the list.
- (2) A list published by the Minister applies nationally and a list published by the MEC applies to the relevant province only.
- (3) A notice referred to in subsection (1) -
  - (a) must establish minimum emission standards in respect of a substance or mixture of substances resulting from a listed activity and identified in the notice, including-
    - (i) the permissible amount, volume, emission rate or concentration of that substance or mixture of substances that may be emitted; and
    - (ii) the manner in which measurements of such emissions must be carried out;
  - (b) may contain transitional and other special arrangements in respect of activities which are carried out at the time of their listing; and
  - (c) must determine the date on which the notice takes effect.
- (4)
  - (a) Before publishing a notice in terms of subsection (1) or any amendment to the notice, the Minister or MEC must follow a consultative process in accordance with sections 56 and 57.
  - (b) Paragraph (a) need not be complied with if the notice is amended in a non-substantive way.

(Commencement date of s. 21: 1 April 2010)

### **22. Consequences of listing**

No person may without a provisional atmospheric emission licence or an atmospheric emission licence conduct an activity -

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- (a) listed on the national list anywhere in the Republic; or
- (b) listed on the list applicable in a province anywhere in that province.

(Commencement date of s. 22: 1 April 2010)

**22A. Consequences of unlawful conduct of listed activity resulting in atmospheric emission**

- (1) Section 24G of the National Environmental Management Act, 1998, as amended, applies to the commencement, without an environmental authorisation, of a listed activity or the activity specified in item 2 in Listing Notice 1 and items 5 and 26 in Listing Notice 2, relating to air quality in terms of Chapter 5 of the National Environmental Management Act, 1998.
- (2) Subsections (4) to (10) are applicable to the operating, without a provisional registration or registration certificate, of a scheduled process in terms of the Atmospheric Pollution Prevention Act, 1965, at any time prior to the commencement of this Act.
- (3) Subsections (4) to (10) are applicable to the conducting, without a provisional atmospheric emission licence or an atmospheric emission licence, of an activity listed in terms of section 21 of this Act which results in atmospheric emission.
- (4) On application by a person who conducted an activity contemplated in subsection (2) or (3), the licensing authority may direct the applicant to-
  - (a) immediately cease the activity pending a decision on the application submitted in terms of this section;
  - (b) investigate, evaluate and assess the impact of the activity on the environment, including the ambient air and human health;
  - (c) remedy any adverse effect of the activity on the environment, including the ambient air, and human health;
  - (d) cease, modify or control any act, activity, process or omission causing atmospheric emission;
  - (e) eliminate any source of atmospheric emission;
  - (f) compile a report containing-
    - (i) a description of the need and desirability of the activity;
    - (ii) an assessment of the nature, extent, duration and significance of the consequences for or impacts on the environment, including the ambient air, and

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human health of the activity, including the cumulative effects and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;

- (iii) a description of mitigation measures undertaken or to be undertaken in respect of the consequences for or impacts on the environment, including the ambient air, and human health of the activity;
  - (iv) a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how issues raised have been addressed;
  - (v) an environmental management programme; or
- (g) provide such other information or undertake such further studies as the licensing authority may deem necessary.
- (5) The licensing authority must consider any reports or information submitted in terms of subsection (4) and thereafter may-
- (a) refuse to issue an atmospheric emission licence;
  - (b) issue an atmospheric emission licence to such person to conduct the activity subject to such conditions as the licensing authority may deem necessary, which atmospheric emission licence shall only take effect from the date on which it has been issued; or
  - (c) direct the applicant to provide further information or take further steps prior to making a decision in terms of paragraphs (a) or (b).
- (6) The licensing authority may as part of the decision contemplated in subsection (5), direct a person to-
- (a) rehabilitate the environment within such time and subject to such conditions as the licensing authority may deem necessary;
  - (b) prevent or eliminate any source of atmospheric emission from the activity within such time and subject to such conditions as the licensing authority may deem necessary; or
  - (c) take any other steps necessary under the circumstances.
- (7) A person contemplated in subsection (4) must pay an administrative fine, which may not exceed R5 million and which must be determined by the licensing authority, before the licensing authority may act in terms of subsection 5(a) or (b).

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- (8) In considering a decision contemplated in subsection (5)(a) or (b), the licensing authority may take into account whether or not the applicant complied with any directive issued in terms of subsections (4) or (5)(c).
- (9) The submission of an application in terms of subsection (4) or the issuing of an atmospheric emission licence in terms of subsection 5(b) or the payment of the administrative fine in terms of subsection (7) shall-
- (a) in no way derogate from the environmental management inspector's or the South African Police Services' authority to investigate any transgression of this Act; or
  - (b) in no way derogate from the National Prosecuting Authority's legal authority to institute any criminal prosecution; and
  - (c) not indemnify the applicant from liability in terms of section 5(l)(a) for having contravened section 22.
- (10) If, at any stage after the submission of an application in terms of subsection (4), it comes to the attention of the licensing authority, that the applicant is under criminal investigation for the contravention of or failure to comply with section 22, the licensing authority may defer a decision to issue an atmospheric emission licence until such time that the investigation is concluded and-
- (a) the National Prosecuting Authority has decided not to institute prosecution in respect of such contravention or failure;
  - (b) the applicant concerned is acquitted or found not guilty after prosecution in respect of such contravention or failure has been instituted; or
  - (c) the applicant concerned has been convicted by a court of law of an offence in respect of such contravention or failure and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.

[S. 22A inserted by s. 3 of Act 20/2014]

**Part 3: Controlled emitters**

**23. Controlled emitters**

- (1) The Minister or MEC may, by notice in the *Gazette*, declare any appliance or activity, or any appliance or activity falling within a specified category, as a controlled emitter if such appliance or activity, or appliances or activities falling within such category, result in atmospheric emissions which through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health or the environment or which the Minister or MEC reasonably believes presents such a threat.

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- (2) Before publishing a notice in terms of subsection (1) or any amendment to the notice, the Minister or MEC must -
  - (a) follow a consultative process in accordance with sections 56 and 57;
  - (b) apply the precautionary principle contained in section 2(4)(a)(vii) of the National Environmental Management Act;
  - (c) take into account the Republic's obligations in terms of any applicable international agreement; and
  - (d) consider -
    - (i) any sound scientific information; and
    - (ii) any risk assessments.
- (3) Subsection (2) need not be complied with if the notice is amended in a non-substantive way.

### **24. Standards for controlled emitters**

- (1) A notice contemplated in section 23(1) must establish emission standards, which must include standards setting the permissible amount, volume, emission rate or concentration of any specified substance or mixture of substances that may be emitted from the controlled emitter.
- (2) The Minister must prescribe the manner in which measurements of emissions from controlled emitters must be carried out.

### **25. Consequences of declaration**

- (1) No person may manufacture, sell or use any appliance or conduct an activity declared as a controlled emitter unless that appliance or activity complies with the standards established in terms of section 24.
- (2) Subsection (1) applies -
  - (a) nationwide in respect of an appliance or activity declared by the Minister; or
  - (b) in a relevant province only in respect of an appliance or activity declared by the MEC responsible for air quality in that province.

**Part 4: Controlled fuels**

**26. Controlled fuels**

- (1) The Minister or MEC may, by notice in the *Gazette*, declare a substance or mixture of substances which, when used as a fuel in a combustion process, result in atmospheric emissions which through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health or the environment or which the Minister or MEC reasonably believes present such a threat, as a controlled fuel.
- (2) Before publishing a notice in terms of subsection (1) or any amendment to the notice, the Minister or MEC must -
  - (a) follow a consultative process in accordance with sections 56 and 57;
  - (b) apply the precautionary principle contained in section 2(4)(a)(vii) of the National Environmental Management Act;
  - (c) take into account the Republic's obligations in terms of any applicable international agreement; and
  - (d) consider -
    - (i) any sound scientific information; and
    - (ii) any risk assessments.
- (3) Subsection (2) need not be complied with if the notice is amended in a non-substantive way.

**27. Use and prohibition of controlled fuels**

A notice contemplated in section 26(1) may -

- (a) establish standards for the use of the controlled fuel in combustion processes;
- (b) establish standards for the manufacture or sale of the controlled fuel;
- (c) establish specifications, including maximum or minimum levels or concentrations of the constituents of substances or mixtures of substances, for the composition of controlled fuels;
- (d) prohibit the manufacture, sale or use of the controlled fuel;
- (e) differentiate between different geographical areas;

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- (f) provide for the phasing in of its provisions; and
- (g) be amended.

### **28. Consequences of declaration**

- (1) No person may manufacture, sell or use a controlled fuel unless that manufacture, sale or use complies with the standards established in terms of section 27.
- (2) No person may manufacture, sell or use a prohibited controlled fuel unless that manufacture, sale or use complies with any conditions of manufacture, sale or use established in terms of section 27.
- (3) Subsections (1) and (2) apply -
  - (a) nationwide in respect of a substance or mixture of substances declared by the Minister; or
  - (b) in a relevant province only in respect of a substance or mixture of substances declared by the MEC responsible for air quality in that province.

### **Part 5: Other measures**

### **29. Pollution prevention plans**

- (1) The Minister or MEC may, by notice in the *Gazette* -
  - (a) declare any substance contributing to air pollution as a priority air pollutant; and
  - (b) require persons falling within a category specified in the notice to prepare, submit to the Minister or MEC for approval, and implement pollution prevention plans in respect of a substance declared as a priority air pollutant in terms of paragraph (a).
- (2) The Minister or MEC may, by written notice to a person conducting a listed activity which involves the emission of a substance declared as a priority air pollutant, require that person to prepare, submit to the Minister or MEC for approval and implement a pollution prevention plan, whether or not that person falls within a category specified in terms of subsection (1)(b).
- (3) Pollution prevention plans must comply with such requirements as may be prescribed by the Minister or MEC.
- (4) A notice contemplated in subsection (1)(b) or (2) must contain a requirement that the person indicated in the notice monitors, evaluates and reports on the implementation of the pollution prevention plan that has been approved in terms of subsection (1) or (2).

[Subs. (4) added by s. 4 of Act 20/2014]

### **30. Atmospheric impact reports**

An air quality officer may require any person to submit to the air quality officer an atmospheric impact report in a prescribed form if -

- (a) the air quality officer reasonably suspects that the person has on one or more occasions contravened or failed to comply with this Act or any conditions of a licence and that such contravention or failure has had, or may have, a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, or has contributed to the degradation of ambient air quality; or
- (b) a review of a provisional atmospheric emission licence or an atmospheric emission licence is undertaken in terms of section 45.

### **31. Recognition programmes**

An air quality officer may establish a programme for the public recognition of significant achievements in the area of pollution prevention.

## **Part 6: Measures in respect of dust, noise and offensive odours**

### **32. Control of dust**

The Minister or MEC may prescribe -

- (a) measures for the control of dust in specified places or areas, either in general or by specified machinery or in specified instances;
- (b) steps that must be taken to prevent nuisance by dust; or
- (c) other measures aimed at the control of dust.

### **33. Rehabilitation when mining operations cease**

If it is determined that a mine, having regard to its known ore reserves, is likely to cease mining operations within a period of five years, the owner of that mine must promptly notify the Minister in writing -

- (a) of the likely cessation of those mining operations; and
- (b) of any plans that are in place or in contemplation for-
  - (i) the rehabilitation of the area where the mining operations were conducted after mining operations have stopped; and

- (ii) the prevention of pollution of the atmosphere by dust after those operations have stopped.

**34. Control of noise**

- (1) The Minister may prescribe essential national standards -
  - (a) for the control of noise, either in general or by specified machinery or activities or in specified places or areas; or
  - (b) for determining -
    - (i) a definition of noise; and
    - (ii) the maximum levels of noise.
- (2) When controlling noise the provincial and local spheres of government are bound by any prescribed national standards.

**35. Control of offensive odours**

- (1) The Minister or MEC may prescribe measures for the control of offensive odours emanating from specified activities.
- (2) The occupier of any premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises.

**CHAPTER 5**

**LICENSING OF LISTED ACTIVITIES**

**36. Licensing authority**

- (1) Metropolitan and district municipalities are charged with implementing the atmospheric emission licensing system referred to in section 22, and must for this purpose perform the functions of licensing authority as set out in this Chapter and other provisions of this Act, subject to subsections (2), (3) and (4).
- (2) If a metropolitan or district municipality has delegated its functions of licensing authority to a provincial organ of state in terms of section 238 of the Constitution, that provincial organ of state must for the purposes of this Act be regarded as the licensing authority in the area of that municipality.
- (3) .....

[Subs. (3) deleted by s. 5 of Act 20/2014]

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(3A)

- (a) In accordance with sections 125(2)(b) and 156(1)(b) of the Constitution whenever a licensing authority fails to take a decision on an application for an atmospheric emission licence within the time period set out in section 40(3) or (3A) of this Act, the person that applied for an atmospheric emission licence may apply to the Minister or MEC, as the case may be, to take the decision.
- (b) The person contemplated in paragraph (a) must notify the licensing authority in writing of the intention to exercise the option in paragraph (a) at least 30 days prior to the exercising of such option.
- (c) The application contemplated in paragraph (a) must, at least, contain all the documents submitted to the licensing authority in order to enable the Minister or MEC, as the case may be, to take a decision.
- (d) Before taking a decision as contemplated in paragraph (a), the Minister or MEC must request the licensing authority to provide him or her with a report within a specified time period on the status and causes of delay in the application.
- (e) After having received the report referred to in paragraph (d) or in the event that no response or no satisfactory response or cooperation is received from the licensing authority within the specified time period the Minister or MEC, as the case may be, must, where appropriate-
  - (i) inform the person that applied for an atmospheric emission licence in the event that the licensing authority has complied with the relevant prescripts;
  - (ii) assist the licensing authority in accordance with sections 125(3) and 155(7) of the Constitution to fulfil its obligations under this Act; or
  - (iii) direct the licensing authority to take the decision and such other steps as the Minister or MEC, as the case may be, may deem necessary, within a specified time period.
- (f) In the event that the licensing authority fails to take the decision within the specified time period or in any other manner fails to comply with the directive contemplated in paragraph (e)(iii), the Minister or MEC, as the case may be, must take the decision within a reasonable period of time.
- (g) The Minister or MEC, as the case may be, must, simultaneously with the submission of the annual report contemplated in section 40(1)(d)(i) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), submit a report to Parliament or Provincial Legislature, as the case may be, setting out the details regarding the exercise of the power referred to in this section during the previous financial year.

[Subs. (3A) inserted by s. 5 of Act 20/2014]

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(3B) The MEC or Minister, as the case may be, must make a decision on the application contemplated in subsection (3A)(a), within a reasonable period of time from the date of receipt of the application.

[Subs. (3B) inserted by s. 5 of Act 20/2014]

(3C) In the event that the MEC fails to make a decision on the application, within a reasonable period of time, as contemplated in subsection (3B), the applicant may submit the application to the Minister for a decision in terms of subsection (3A)(a).

[Subs. (3C) inserted by s. 5 of Act 20/2014]

(3D) In the event that the MEC does not have capacity to exercise the power, or for any good reason is unable to do so or to do so within a reasonable period of time, the MEC may request, in writing, the Minister to exercise the power in terms of subsection (3A)(a).

[Subs. (3D) inserted by s. 5 of Act 20/2014]

(4) If a municipality applies for an atmospheric emission licence, a provincial organ of state designated by the MEC must be regarded as the licensing authority for the purpose of -

(a) that application; and

(b) the implementation of this Act in relation to any licence that may be issued to the municipality.

(5) Notwithstanding subsections (1) to (4), the Minister is the licensing authority and must perform the functions of the licensing authority if-

(a) a provincial organ of state, which has been delegated the power to perform the licensing authority function in terms of subsection (2) by the metropolitan or district municipality, applies for an atmospheric emission licence;

(b) the listed activity falls within the boundaries of more than one province;

(c) the listed activity forms part of a matter declared as a national priority in terms of a Cabinet decision and notice referred to in section 24C(2B) of the National Environmental Management Act, 1998, as amended by the National Environmental Management Laws Second Amendment Act, 2013;

(d) the listed activity relates to the activities listed in terms of section 24(2) of the National Environmental Management Act, 1998, or in terms of section 19(1) of the National Environmental Management: Waste Act, 2008, or the Minister has been identified as the competent authority; or

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- (e) the listed activity relates to a prospecting, mining, exploration or production activity as contemplated in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), in the area for which the right has been applied for, and the Minister responsible for mineral resources has been identified as the competent authority in terms of section 24C of the National Environmental Management Act, 1998.

[Subs. (5) added by s. 5 of Act 20/2014]

- (6) For the purposes of subsection (5)(d), the Minister, as the competent authority empowered under section 24C(2) of the National Environmental Management Act, 1998 and as the licensing authority empowered under section 43(1) of the National Environmental Management: Waste Act, 2008, may issue an integrated environmental authorisation for the activities listed under section 24(2) of the National Environmental Management Act, 1998 and section 19(1) of the National Environmental Management: Waste Act, 2008.

[Subs. (6) added by s. 5 of Act 20/2014]

- (7) An integrated environmental authorisation contemplated in sub-section (6) may be issued only if-
  - (a) the relevant provisions of this Act, the National Environmental Management Act, 1998, and the National Environmental Management: Waste Act, 2008, have been complied with; and
  - (b) the integrated environmental authorisation specifies the provisions in terms of which it has been issued.

[Subs. (7) added by s. 5 of Act 20/2014]

- (8) The Minister and the licensing authority contemplated in subsections (1) to (4) may agree that an application for an atmospheric emission licence with regard to any activity contemplated in section 22 may be dealt with by the Minister or the relevant licensing authority contemplated in subsections (1) to (4).

[Subs. (8) added by s. 5 of Act 20/2014]

(Commencement date of s. 36: 1 April 2010)

**37. Application for atmospheric emission licences**

- (1) A person must apply for an atmospheric emission licence by lodging with the licensing authority of the area in which the listed activity is or is to be carried out, an application in the form required by the licensing authority.

- (2) An application for an atmospheric emission licence must be accompanied by -
  - (a) the prescribed processing fee; and
  - (b) such documentation and information as may be required by the licensing authority.

(Commencement date of s. 37: 1 April 2010)

### **38. Procedure for licence applications**

- (1) The licensing authority -
  - (a) may, to the extent that it is reasonable to do so, require the applicant, at the applicant's expense, to obtain and provide it by a given date with other information, in addition to the information contained in or submitted in connection with the application;
  - (b) may conduct its own investigation on the likely effect of the proposed licence on air quality;
  - (c) may invite written comments from any organ of state which has an interest in the matter; and
  - (d) must afford the applicant an opportunity to make representations on any adverse statements or objections to the application.
- (2) Section 24 of the National Environmental Management Act applies to all applications for atmospheric emission licences, which are subject to an environmental impact assessment in terms of section 24 of the National Environmental Management Act, and both an applicant and the licensing authority must comply with that section and any applicable notice issued or regulation made in relation to that section.

[Subs. (2) substituted by s. 6 of Act 20/2014]

- (3)
  - (a) An applicant must, immediately after the submission of the application to the licensing authority, take appropriate steps to bring the application to the attention of relevant organs of state, interested persons and the public.

[Para. (a) substituted by s. 6 of Act 20/2014]

- (b) Such steps must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity applied for is or is to be carried out -
  - (i) describing the nature and purpose of the licence applied for;

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(ii) giving particulars of the listed activity, including the place where it is or is to be carried out;

(iiA) indicating where a copy of the application can be obtained;

[Subpara. (iiA) inserted by s. 6 of Act 20/2014]

(iii) stating a reasonable period within which written representations on or objections to the application may be submitted, and the address or place where representations or objections must be submitted; and

(iv) containing such other particulars as the licensing authority may require.

(Commencement date of s. 38: 1 April 2010)

**39. Factors to be taken into account by licensing authorities**

When considering an application for an atmospheric emission licence, the licensing authority must take into account all relevant matters, including -

(a) any applicable minimum standards set for ambient air and point source emissions that have been determined in terms of this Act;

(b) the pollution being or likely to be caused by the carrying out of the listed activity applied for and the effect or likely effect of that pollution on the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality;

(c) the best practicable environmental options available that could be taken -

(i) to prevent, control, abate or mitigate that pollution; and

(ii) to protect the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality, from harm as a result of that pollution;

(d) section 24 of the National Environmental Management Act and any applicable environmental impact assessment done, the decision taken on the application of the environmental authorisation, and any applicable notice issued or regulation made pursuant to that section;

[Para. (d) substituted by s. 7 of Act 20/2014]

(e) any relevant tradable emission scheme;

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- (f) whether the applicant is a fit and proper person as contemplated in section 49;
- (g) the applicant's submissions;
- (h) any submissions from organs of state, interested persons and the public; and
- (i) any guidelines issued by the Minister or MEC relating to the performance by licensing authorities of their functions.

(Commencement date of s. 39: 1 April 2010)

**40. Decisions of licensing authority**

- (1) The licensing authority may -
  - (a) grant an application; or
  - (b) refuse an application.
- (2) Any decision by a licensing authority to grant an application must be consistent with -
  - (a) this Act and any other applicable national or provincial legislation;
  - (b) any applicable national or provincial environmental management policies;
  - (c) section 24 of the National Environmental Management Act and any applicable environmental impact assessment done, the decision taken on the application for the environmental authorisation, and any applicable notice issued or regulation made pursuant to that section;

[Para. (c) substituted by s. 8 of Act 20/2014]

- (d) the national environmental management principles set out in section 2 of the National Environmental Management Act;
- (e) any transitional and other special arrangements contemplated in section 21(3)(b);
- (f) any minimum standards for atmospheric emissions of identified substances or mixtures of substances as contemplated in section 21(3);
- (g) any applicable pollution prevention plan contemplated in section 29;
- (h) the objectives of any applicable air quality management plan; and
- (i) any ambient air quality or emission standards that have been determined in terms of this Act.

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- (3) If the decision on the relevant application for an environmental authorisation has been made in terms of section 24 of the National Environmental Management Act, the licensing authority must decide the application within 60 days of the date on which the decision on the application for the environmental authorisation has been made.

[Subs. (3) substituted by s. 8 of Act 20/2014]

- (3A) Where the listed activity relates to a prospecting, mining, exploration or production activity contemplated in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), in the area for which the right has been applied for, and the Minister responsible for mineral resources has been identified as the competent authority in terms of section 24C of the National Environmental Management Act, 1998, the Minister, after consultation with the licensing authority contemplated in section 36(1) and (2) of this Act, must decide the application within the timeframes set out in the National Environmental Management Act, 1998.

[Subs. (3A) inserted by s. 8 of Act 20/2014]

- (4) After a licensing authority has reached a decision in respect of a licence application, it must within 30 days -
- (a) notify the applicant of the decision, and give written reasons if the application was unsuccessful;
  - (b) in a manner determined by the licensing authority, notify any persons who have objected to the application; and
  - (c) at the request of any person contemplated in paragraph (b), give written reasons for its decision or make public its reasons.

(Commencement date of s. 40: 1 April 2010)

### **41. Successful applications**

- (1) If an application for an atmospheric emission licence has been granted in terms of section 40(1)(a), the licensing authority must first issue a provisional atmospheric emission licence to enable the commissioning of the listed activity.
- (2) A provisional atmospheric emission licence is subject to such conditions and requirements -
- (a) as the licensing authority may determine; and
  - (b) as the Minister or MEC has prescribed for listed activities of the kind in question.

- (3) A provisional atmospheric emission licence is valid for a period of one year from the date of the commissioning of the listed activity, and may be extended for an additional one year on good cause shown to the licensing authority.

[Subs. (3) added by s. 9 of Act 20/2014]

(Commencement date of s. 41: 1 April 2010)

#### **42. Issuing of atmospheric emission licences**

- (1) The holder of a provisional atmospheric emission licence is entitled to an atmospheric emission licence when the commissioned facility has been in full compliance with the conditions and requirements of the provisional atmospheric emission licence for a period of at least six months.
- (2) An atmospheric emission licence is subject to such conditions and requirements -
- (a) as are specified in terms of section 43;
  - (b) as the licensing authority may determine; and
  - (c) as the Minister or MEC has prescribed for listed activities of the kind in question.

(Commencement date of s. 42: 1 April 2010)

#### **43. Contents of provisional atmospheric emission licences and atmospheric emission licences**

- (1) A provisional atmospheric emission licence and an atmospheric emission licence must specify -
- (a) the activity in respect of which it is issued;
  - (b) the premises in respect of which it is issued;
  - (c) the person to whom it is issued;
  - (d) the period for which the licence is issued;
  - (e) the name of the licensing authority;
  - (f) the periods at which the licence may be reviewed;
  - (g) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere -

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- (i) under normal working conditions; and
  - (ii) under normal start-up, maintenance and shut-down conditions;
  - (h) any other operating requirements relating to atmospheric discharges, including non-point source or fugitive emissions;
  - (i) point source emission measurement and reporting requirements;
  - (j) on-site ambient air quality measurement and reporting requirements;
  - (k) penalties for non-compliance;
  - (l) greenhouse gas emission measurement and reporting requirements; and
  - (m) any other matters which are necessary for the protection or enforcement of air quality.
- (2) A licence may -
- (a) specify conditions in respect of odour and noise;
  - (b) require the holder of the licence to comply with all lawful requirements of an environmental management inspector carrying out his or her duties in terms of the National Environmental Management Act, including a requirement that the holder of the licence must, on request, submit to the inspector a certified statement indicating -
    - (i) the extent to which the conditions and requirements of the licence have or have not been complied with;
    - (ii) particulars of any failure to comply with any of those conditions or requirements;
    - (iii) the reasons for any failure to comply with any of those conditions or requirements; and
    - (iv) any action taken, or to be taken, to prevent any recurrence of that failure or to mitigate the effects of that failure.

(Commencement date of s. 43: 1 April 2010)

**44. Transfer of provisional atmospheric emission licences and atmospheric emission licences**

- 1) If ownership of an activity for which a provisional atmospheric emission licence or an atmospheric emission licence was issued is transferred, the licence may, with the

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permission of a licensing authority, be transferred by the holder of the licence to the new owner of the activity.

(2)

(a) A person applying for permission for the transfer of a licence must lodge the application with the licensing authority of the area in which the listed activity is carried out.

(b) The application must be in the form required by the licensing authority.

(3) An application for the transfer of a licence must be accompanied by -

(a) the prescribed processing fee; and

(b) such documentation and information as may be required by the licensing authority.

(4)

(a) An applicant must take appropriate steps to bring the application for the transfer of an atmospheric emission licence to the attention of interested persons and the public.

(b) Such steps must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity applied for is carried out -

(i) describing the reasons for the transfer of an atmospheric emission licence;

(ii) giving particulars of the listed activity, including the place where it is carried out;

(iii) stating a reasonable period within which written representations on or objections to the application may be submitted, and the address or place where representations or objections must be submitted; and

(iv) containing such other particulars as the licensing authority may require.

(5) When considering an application for the transfer of a licence, the licensing authority must take into account all relevant matters, including whether the person to whom the licence is to be transferred is a fit and proper person as contemplated in section 49.

(Commencement date of s. 44: 1 April 2010)

**45. Review of provisional atmospheric emission licences and atmospheric emission licences**

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- (1) A licensing authority must review a provisional atmospheric emission licence or an atmospheric emission licence at intervals specified in the licence, or when circumstances demand that a review is necessary, on payment of the prescribed processing fee.

[Subs. (1) substituted by s. 48 of Act 14/2009]

- (2) The licensing authority must inform the licence holder and the relevant provincial air quality officer, in writing, of any proposed review, the reason for such review and the cost of the prescribed processing fee.

[Subs. (2) substituted by s. 48 of Act 14/2009]

- (3) For purposes of the review, an air quality officer may require the licence holder to compile and submit an atmospheric impact report contemplated in section 30.

(Commencement date of s. 45: 1 April 2010)

**46. Variation of provisional atmospheric emission licences and atmospheric emission licences**

- (1) A licensing authority may, by written notice to the holder of a provisional atmospheric emission licence or an atmospheric emission licence, vary the licence -

- (a) if it is necessary or desirable to prevent deterioration of ambient air quality;
- (b) if it is necessary or desirable for the purposes of achieving ambient air quality standards;
- (c) if it is necessary or desirable to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands;
- (d) at the written request of the holder of the licence;
- (e) if it is transferred to another person in terms of section 44; or
- (f) if it is reviewed in terms of section 45.

- (2) The variation of a licence includes -

- (a) the attaching of an additional condition or requirement to the licence;
- (b) the substitution of a condition or requirement;
- (c) the removal of a condition or requirement; or

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- (d) the amendment of a condition or requirement.
- (3) If a licensing authority receives a request from the holder of a licence in terms of subsection (1)(d), the licensing authority must require the holder of the licence to take appropriate steps to bring the request to the attention of relevant organs of state, interested persons and the public if -
- (a) the variation of the licence will authorise an increase in the environmental impact regulated by the licence;
  - (b) the variation of the licence will authorise an increase in atmospheric emissions; and
  - (c) the proposed variation has not, for any reason, been the subject of an authorisation in terms of any other legislation and public consultation.
- (4) Steps in terms of subsection (3) must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity authorised by the licence is, or will be, carried out -
- (a) describing the nature and purpose of the request;
  - (b) giving particulars of the listed activity, including the place where it is or will be carried out;
  - (c) stating a reasonable period within which written representations on or objections to the request may be submitted, and the address or place where representations or objections must be submitted; and
  - (d) containing such other particulars as the licensing authority may require.
- (5) Sections 38 and 40, read with the necessary changes as the context may require, apply to the variation of a licence.

(Commencement date of s. 46: 1 April 2010)

**47. Renewal of provisional atmospheric emission licences and atmospheric emission licences**

- (1) A provisional atmospheric emission licence or an atmospheric emission licence may, on application by the holder of the licence, be renewed by a licensing authority.
- (2) The holder of a licence must before the expiry date of the licence apply for the renewal of the licence to the licensing authority of the area in which the listed activity is carried out, by lodging to the licensing authority an application in the form required by the licensing authority.

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- (3) An application for the renewal of a licence must be accompanied by -
- (a) the prescribed processing fee;
  - (b) proof that the relevant provincial air quality officer has been notified of the application;  
and
  - (c) such documentation and information as may be required by the licensing authority.
- (4) The holder of a provisional atmospheric emission licence may not apply for the renewal of the provisional licence more than once.
- (5) Sections 38, 40 and 43, read with the necessary changes as the context may require, apply to an application for the renewal of a licence.

(Commencement date of s. 47: 1 April 2010)

### **48. Emission control officers**

- (1) An air quality officer may require the holder of a provisional atmospheric emission licence or an atmospheric emission licence to designate an emission control officer, having regard to the size and nature of the listed activity for which the licence was granted.
- (2) An emission control officer must have requisite air quality management competence in respect of the listed activity in question, and must -
- (a) work towards the development and introduction of cleaner production technologies and practices;
  - (b) take all reasonable steps to ensure compliance by the holder of the licence with the licence conditions and requirements; and
  - (c) promptly report any non-compliance with any licence conditions or requirements to the licensing authority through the most effective means reasonably available.
- (3) Nothing in this section affects the obligations and liability of the holder of a licence to comply with the conditions and requirements of the licence.

(Commencement date of s. 48: 1 April 2010)

### **49. Criteria for fit and proper persons**

In order to determine whether a person is a fit and proper person for the purposes of an application in terms of this Chapter, a licensing authority must take into account all relevant facts, including whether -

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- (a) that person has contravened or failed to comply with this Act, the Atmospheric Pollution Prevention Act or any other legislation applicable to air quality;
- (b) that person has held a provisional atmospheric emission licence, an atmospheric emission licence or other authority that has been suspended or revoked;
- (c) that person has been a director or senior manager who is or was a director or manager of a company, a juristic person or firm to whom paragraph (a) or (b) applies; or

[Para. (c) substituted by s. 49 of Act 14/2009 and s. 10 of Act 20/2014]

- (d) the management of the listed activity which is the subject of the application will or will not be in the hands of a technically competent person.

(Commencement date of s. 49: 1 April 2010)

## CHAPTER 6

### INTERNATIONAL AIR QUALITY MANAGEMENT

#### 50. Transboundary air pollution

- (1) The Minister may investigate any situation which creates, or may reasonably be anticipated to contribute to -
  - (a) air pollution across the Republic's boundaries; or
  - (b) air pollution that violates, or is likely to violate, an international agreement binding on the Republic in relation to the prevention, control or correction of pollution.
- (2) If the investigation contemplated in subsection (1) reveals that the release of a substance into the air from a source in the Republic may have a significant detrimental impact on air quality, the environment or health in a country other than the Republic, the Minister may prescribe measures to prevent, control or correct the releases within the Republic.
- (3) Before publishing regulations under subsection (2), the Minister must consult with -
  - (a) the Cabinet member responsible for foreign affairs; and
  - (b) the MEC concerned.
- (4) Regulations contemplated in subsection (2) may include provisions regarding -

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- (a) the quantity or concentration of the substance that may be released into the air;
  - (b) the manner in which and conditions under which the substance may be released into the air, either alone or in combination with any other substance;
  - (c) the maintenance of records for the administration of any regulation made under this section;
  - (d) the conduct of sampling, analyses, tests, measurements or monitoring of the substance and the submission of the results to the Minister; and
  - (e) the conditions, test procedures and laboratory practices to be followed for conducting sampling, analyses, tests, measurements or monitoring of the substance.
- (5) The Minister may, through the Cabinet member responsible for foreign affairs, advise the government of any country that would be affected by or benefit from the regulation before it is published.

## CHAPTER 7

### OFFENCES AND PENALTIES

#### 51. Offences

(1) A person is guilty of an offence if that person -

- (a) contravenes a provision of section 22, 25, 28 or 35(2);

[Para. (a) substituted by s. 11 of Act 20/2014]

- (b) fails to submit or to implement a pollution prevention plan as required by section 29(1)(b) or (2);
- (c) fails to submit an atmospheric impact report required in terms of section 30;
- (d) fails to notify the Minister as required by section 33;
- (e) contravenes or fails to comply with a condition or requirement of an atmospheric emission licence;

(Commencement date of para. (e): 1 April 2010)

- (f) supplies false or misleading information in any application for an atmospheric emission licence, or for the transfer, variation or renewal of such a licence;

(Commencement date of para. (f): 1 April 2010)

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- (g) supplies false or misleading information to an air quality officer;
  - (h) contravenes or fails to comply with a condition subject to which exemption from a provision of this Act was granted in terms of section 59.
- (2) A person operating a controlled emitter is guilty of an offence if the emissions from that controlled emitter do not comply with the standards established under section 24(1).
- (3) A person performing a listed activity is guilty of an offence if air pollutants at concentrations above the emission limits, specified in an atmospheric emission licence, are emitted as a result of that activity.

(Commencement date of subs. (3): 1 April 2010)

**52. Penalties**

- (1) A person convicted of an offence referred to in section 51 is liable to a fine not exceeding five million rand, or to imprisonment for a period not exceeding five years and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment.

[Subs. (1) substituted by s. 50 of Act 14/2009]

- (2) A fine contemplated in subsection (1) must be determined with due consideration of-
- (a) the severity of the offence in terms of its impact, or potential impact, on health, well-being, safety and the environment;
  - (b) the monetary or other benefits which accrued to the convicted person through the commission of the offence; and
  - (c) the extent of the convicted person's contribution to the overall pollution load of the area under normal working conditions.

[Subs. (2) substituted by s. 50 of Act 14/2009]

- (3) Notwithstanding anything to the contrary in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

[Subs. (3) added by s. 50 of Act 14/2009]

**CHAPTER 8**

**GENERAL MATTERS**

**Part 1: Regulations**

**53. Regulations by Minister**

The Minister may make regulations that are not in conflict with this Act, regarding -

- (a) any matter necessary to give effect to the Republic's obligations in terms of an international agreement relating to air quality and climate change;

[Para. (a) substituted by s. 12 of Act 20/2014]

- (aA) information relating to energy that is required for compiling atmospheric emissions;

[Para. (aA) inserted by s. 12 of Act 20/2014]

- (b) matters relating to environmental management co-operation agreements, to the extent that those agreements affect air quality;
- (c) emissions, including the prohibition of specific emissions, from point, non-point and mobile sources of emissions, including motor vehicles;
- (d) open fires and incinerators;
- (e) ozone-depleting substances;
- (f) codes of practice;
- (g) records and returns;
- (h) labelling;
- (i) trading schemes;
- (j) powers and duties of air quality officers;
- (k) appeals against decisions of officials in the performance of their functions in terms of the regulations;
- (l) incentives to encourage change in behaviour towards air pollution by all sectors in society;

## AIR QUALITY ACT

(IA) the procedure and criteria to be followed in the determination of an administrative fine in terms of section 22A.

[Para. (IA) inserted by s. 12 of Act 20/2014]

- (m) requirements in respect of monitoring;
- (n) the avoidance or reduction of harmful effects on air quality from activities not otherwise regulated in terms of this Act;
- (o) any matter that may or must be prescribed in terms of this Act; or
- (p) any other matter necessary for the implementation or application of this Act.

### **54. Regulations by MECs responsible for air quality**

The MEC may make regulations for the province concerned, not inconsistent with this Act, in respect of any matter for which the MEC may or must make regulations in terms of this Act, including a matter referred to in section 53(c) to (p).

### **55. General**

- (1) Regulations made in terms of this Act may -
  - (a) restrict or prohibit any act, either absolutely or conditionally;
  - (b) apply -
    - (i) generally to the Republic or a province, as the case may be, or only in a specified area or category of areas; or
    - (ii) generally to all persons or only to a specified category of persons;
  - (c) differentiate between different -
    - (i) areas or categories of areas; or
    - (ii) persons or categories of persons; and
  - (d) incorporate by reference any code of practice or any national or international standard relating to air quality.
- (2) Regulations made in terms of this Act may provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable in the case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period

## AIR QUALITY ACT

not exceeding five years and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years and in respect of both instances to both such fine and such imprisonment.

[Subs. (2) substituted by s. 37 of Act 14/2013]

(3)

- (a) Before publishing any regulation made in terms of this Act, or any amendment to the regulations, the Minister or MEC must follow a consultative process in accordance with sections 56 and 57.
- (b) Paragraph (a) need not be complied with if the regulations are amended in a non-substantive way.

### **Part 2: Consultative process**

#### **56. Consultation**

- (1) Before exercising a power which, in terms this Act, must be exercised in accordance with this section and section 57, the Minister or MEC must follow such consultative process as may be appropriate in the circumstances.
- (2) When conducting the consultations contemplated in subsection (1), the Minister must -
  - (a) consult all Cabinet members whose areas of responsibility will be affected by the exercise of the power;
  - (b) in accordance with the principles of co-operative governance as set out in Chapter 3 of the Constitution, consult the MEC responsible for air quality in each province that will be affected by the exercise of the power; and
  - (c) allow public participation in the process in accordance with section 57.
- (3) When conducting the consultations contemplated in subsection (1), the MEC must -
  - (a) consult all members of the Executive Council whose areas of responsibility will be affected by the exercise of the power;
  - (b) in accordance with the principles of co-operative governance as set out in Chapter 3 of the Constitution, consult the Minister and all other national organs of state that will be affected by the exercise of the power; and
  - (c) allow public participation in the process in accordance with section 57.

**57. Public participation**

- (1) Before exercising a power which, in terms of this Act, must be exercised in accordance with this section, the Minister or MEC must give notice of the proposed exercise of the relevant power -
  - (a) in the *Gazette*; and
  - (b) in at least one newspaper distributed nationally or, if the exercise of the power will affect only a specific area, in at least one newspaper distributed in that area.
- (2) The notice must -
  - (a) invite members of the public to submit to the Minister or MEC, within 30 days of publication of the notice in the *Gazette*, written representations on or objections to the proposed exercise of the power; and
  - (b) contain sufficient information to enable members of the public to submit meaningful representations or objections.
- (3) The Minister or MEC may in appropriate circumstances allow any interested person or community to present oral representations or objections to the Minister or MEC, or a person designated by the Minister or MEC.
- (4) The Minister or MEC must give due consideration to all representations or objections received or presented before exercising the power concerned.

**Part 3: Delegations and exemptions**

**58. Delegations**

- (1) The Minister or MEC, as the case may be, may delegate or assign to an official in their respective departments -
  - (a) any power or duty of the Minister or MEC contained in this Act, excluding the power to publish or amend a regulation in terms of section 53 or 54 or a notice in terms of section 7(1), 9(1), 10(1), 18(1), 21(1), 23(1) or 29(1); or
  - (b) any power or duty reasonably necessary to assist the Minister or MEC in exercising a power or performing a duty of the Minister or MEC.
- (2) The Minister or MEC must regularly review and, if necessary, amend or withdraw a delegation or assignment under subsection (1).
- (3) A delegation or assignment to an official under subsection (1)-

AIR QUALITY ACT

- (a) is subject to such limitations and conditions as the Minister or MEC may impose;
  - (b) may either be to a specific individual or to the holder of a specific post in the relevant department;
  - (c) may authorise that official to subdelegate or further assign, in writing, the power or duty concerned to another official in the department, or to the holder of a specific post in the department; and
  - (d) does not divest the Minister or MEC of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.
- (4) The Minister or MEC may confirm, vary or revoke any decision taken by an official as a result of a delegation or subdelegation in terms of this section, subject to any rights that may have become vested as a consequence of the decision.

**59. Exemptions**

- (1)
- (a) Any person or organ of state may, in writing, apply for exemption from the application of a provision of this Act to the Minister.
  - (b) No exemption from a provision of section 9, 22 or 25 may be granted in terms of paragraph (a).
- (2) An application in terms of subsection (1) must be accompanied by reasons.
- (3)
- (a) The Minister may require an applicant applying for exemption to take appropriate steps to bring the application to the attention of relevant organs of state, interested persons and the public.
  - (b) The steps contemplated in paragraph (a) must include the publication of a notice in at least two newspapers circulating nationally -
    - (i) giving reasons for the application; and
    - (ii) containing such other particulars concerning the application as the Minister may require.
- (4) The Minister may -
- (a) from time to time review any exemption granted in terms of this section; and

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- (b) on good grounds withdraw any exemption.
- (5) The Minister may on such conditions and limitations determined by the Minister delegate any of the powers contained in this section to -
  - (a) the MEC responsible for air quality in a province; or
  - (b) a metropolitan or district municipality.

**CHAPTER 9**

**MISCELLANEOUS**

**60. Repeal of legislation**

- (1) The legislation mentioned in the Table in Schedule 1 is hereby repealed or amended to the extent set out in the third column of the Table, subject to subsections (2) and (3) of this section and section 61.
- (2) Anything done or deemed to have been done under a provision repealed by subsection (1) and which can be done in terms of a provision of this Act must be regarded as having been done under that provision of this Act.
- (3) Anything done or deemed to have been done under a provision repealed by subsection (1) and which can be done in terms of the constitutional or statutory powers of a municipality, remains in force in the area of a municipality until repealed by the municipality of that area.

(Commencement date of s. 60: 1 April 2010)

**61. Transitional arrangements in respect of registration certificates issued in terms of Atmospheric Pollution Prevention Act**

- (1)
  - (a) Despite the repeal of the Atmospheric Pollution Prevention Act by section 60 of this Act, a provisional registration certificate issued in terms of that Act and which was a valid certificate immediately before the date on which section 60 took effect, continues to be valid for a period of two years from that date, subject to paragraph (c).
  - (b) During the period for which a provisional registration certificate continues to be valid, the provisions of this Act, read with the necessary changes as the context may require, apply in respect of -

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- (i) the holder of such a certificate as if that person is the holder of a provisional atmospheric emission licence issued in terms of section 41(1) of this Act for the activity for which the certificate was issued; and
  - (ii) the certificate as if the certificate is a provisional atmospheric emission licence.
- (c) If during the two-year period referred to in paragraph (a) -
- (i) a provisional atmospheric emission licence is issued to the holder of a provisional registration certificate following a revision in terms of section 45 or an application for renewal in terms of section 47, the certificate expires on the date of issue of the provisional licence; or
  - (ii) an atmospheric emission licence is issued to the holder of a provisional registration certificate in terms of section 42(1), the certificate expires on the date of issue of the licence.
- (2)
- (a) Despite the repeal of the Atmospheric Pollution Prevention Act by section 60 of this Act, a registration certificate issued in terms of that Act and which was a valid certificate immediately before the date on which section 60 took effect, continues to be valid for a period of four years from that date, subject to paragraph (d).
- (b) During the period for which a registration certificate continues to be valid, the provisions of this Act, read with the necessary changes as the context may require, apply in respect of -
- (i) the holder of such a certificate as if that person is the holder of an atmospheric emission licence issued in terms of section 42(1) of this Act for the activity for which the certificate was issued; and
  - (ii) the certificate as if the certificate is an atmospheric emission licence.
- (c) The holder of a registration certificate must within the first three years of the four-year period referred to in paragraph (a), lodge a renewal application in terms of section 47 with the licensing authority of the area in which the activity for which the certificate was issued is carried out.
- (d)
- (i) If the holder of a registration certificate fails to comply with paragraph (c), the certificate expires at the end of the three years referred to in paragraph (c).
  - (ii) If during the four-year period referred to in paragraph (a) an atmospheric emission licence is issued to the holder of a registration certificate following an

## AIR QUALITY ACT

application for renewal in terms of paragraph (c), the certificate expires on the date of issue of the licence.

- (iii) If during the period before the holder of a registration certificate lodges an application for renewal in terms of paragraph (c), an atmospheric emission licence is issued to the holder of the certificate following a revision in terms of section 45, the certificate expires on the date of issue of the licence. In such event compliance with paragraph (c) falls away.
- (3) Despite the repeal of the Atmospheric Pollution Prevention Act by section 60 of this Act, any application for a registration certificate made in terms of that Act which was not decided when section 60 took effect, must be proceeded with in terms of this Act as if such application was an application for an atmospheric emission licence in terms of section 37.

(Commencement date of s. 61: 1 April 2010)

### **62. ....**

[S. 62 repealed by s. 13 of Act 20/2014]

### **63. ....**

[S. 63 repealed by s. 14 of Act 20/2014]

### **64. Short title and commencement**

- (1) This Act is called the National Environmental Management: Air Quality Act, 2004, and takes effect on a date determined by the Minister by notice in the *Gazette*.
- (2) Different dates may be determined in terms of subsection (1) for different provisions of the Act.

AIR QUALITY ACT

**Schedule 1**

(Section 60)

**Legislation repealed**

<b>No. and year of Act</b>	<b>Short title</b>	<b>Extent of repeal or amendment</b>
Act No. 45 of 1965	Atmospheric Pollution Prevention Act, 1965	The whole
Act No. 17 of 1973	Atmospheric Pollution Prevention Amendment Act, 1973	The whole
Act No. 21 of 1981	Atmospheric Pollution Prevention Amendment Act, 1981	The whole
Act No. 15 of 1985	Atmospheric Pollution Prevention Amendment Act, 1985	The whole

[Schedule 1 substituted by s. 8 of Act 44/2008]

**Schedule 2**

[Schedule 2 repealed by s. 15 of Act 20/2014]



**NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT 39 OF 2004**

**GN 1210 OF 24 DECEMBER 2009**

**NATIONAL AMBIENT AIR QUALITY STANDARDS**

**SCHEDULE**

1. Definitions
2. General
  - 2.1 Reference conditions
  - 2.2 Reference methods
  - 2.3 Ambient air quality measurement requirements
3. NATIONAL AMBIENT AIR QUALITY STANDARDS
  - 3.1 National Ambient Air Quality Standards for Sulphur Dioxide (SO<sub>2</sub>)
  - 3.2 National Ambient Air Quality Standards for Nitrogen Dioxide (NO<sub>2</sub>)
  - 3.3 National Ambient Air Quality Standards for Particulate Matter (PM<sub>10</sub>)
  - 3.4 National Ambient Air Quality Standards for Ozone (O<sub>3</sub>)
  - 3.5 National Ambient Air Quality Standards for Benzene (C<sub>6</sub>H<sub>6</sub>)
  - 3.6 National Ambient Air Quality Standards for Lead (Pb)
  - 3.7 National Ambient Air Quality Standards for Carbon Monoxide (CO)

**1. DEFINITIONS**

“**averaging period**” means a period over which an average value is determined.

“**compliance date**” means the date in which compliance with the standard is required.

“**frequency of exceedence**” means a frequency (number/time) related to a limit value

## NATIONAL AMBIENT AIR QUALITY STANDARDS

representing the tolerated exceedence of that limit value at a specific monitoring location, i.e. if exceedences of limit value are within the tolerances, then there is still compliance with the standard. This exceedence is applicable to a calendar year.

“**limit value**” means a level fixed on the basis of scientific knowledge, with the aim of reducing harmful effects on human health (or the environment (or both)), to be attained within a given compliance period and not to be exceeded once attained.

## 2. GENERAL

### 2.1 Reference conditions

Concentrations shall be expressed at a standardised temperature of 25 Degree Celcius and a pressure of 101,3 kPa.

### 2.2 Reference methods

Where test methods are specified, any other method which can be demonstrated to give equivalent results may be used. Documentary proof of equivalence in the form of test results from a SANAS accredited laboratory or a peer-reviewed report shall be provided. The obligation to provide sufficient proof shall lie with the proponent.

### 2.3 Ambient air quality measurement requirements

Assessment of all ambient pollutant concentrations shall be conducted in terms of section 5.2.1.3 of the National Framework for Air Quality Management in the Republic of South Africa.

## 3. NATIONAL AMBIENT AIR QUALITY STANDARDS

### 3.1 National Ambient Air Quality Standards for Sulphur Dioxide (SO<sub>2</sub>)

Averaging Period	Concentration	Frequency of Exceedence	Compliance Date
10 minutes	500 µg/m <sup>3</sup> (191 ppb)	526	Immediate
1 hour	350 µg/m <sup>3</sup> (134 ppb)	88	Immediate
24 hours	125 µg/m <sup>3</sup> (48 ppb)	4	Immediate
1 year	50 µg/m <sup>3</sup> (19ppb)	0	Immediate

The reference method for the analysis of sulphur dioxide shall be ISO 6767

NATIONAL AMBIENT AIR QUALITY STANDARDS

**3.2 National Ambient Air Quality Standards for Nitrogen Dioxide (NO<sub>2</sub>)**

Averaging Period	Concentration	Frequency of Exceedence	Compliance Date
1 hour	200 µg/m <sup>3</sup> (106ppb)	88	Immediate
1 year	40 µg/m <sup>3</sup> (21ppb)	0	Immediate
The reference method for the analysis of nitrogen dioxide shall be ISO 7996			

**3.3 National Ambient Air Quality Standards for Particulate Matter (PM<sub>10</sub>)**

Averaging Period	Concentration	Frequency of Exceedence	Compliance Date
24 hours	120 µg/m <sup>3</sup>	4	Immediate – 31 December 2014
24 hours	75 µg/m <sup>3</sup>	4	1 January 2015
1 year	50 µg/m <sup>3</sup>	0	Immediate – 31 December 2014
1 year	40 µg/m <sup>3</sup>	0	1 January 2015
The reference method for the determination of the particulate matter fraction of suspended particulate matter shall be EN 12341			

**3.4 National Ambient Air Quality Standards for Ozone (O<sub>3</sub>)**

Averaging Period	Concentration	Frequency of Exceedence	Compliance Date
8 hours (running)	120 µg/m <sup>3</sup> (61 ppb)	11	Immediate
The reference method for the analysis of ozone shall be UV photometric method as described in SANS 13964			

**3.5 National Ambient Air Quality Standards for Benzene (C<sub>6</sub>H<sub>6</sub>)**

Averaging Period	Concentration	Frequency of Exceedence	Compliance Date
1 year	10 µg/m <sup>3</sup> (3.2 ppb)	0	Immediate – 31 December 2014
1 year	5 µg/m <sup>3</sup> (1.6 ppb)	0	1 January 2015
The reference methods for the sampling and analysis of benzene shall either be EPA compendium method TO-14 A or method TO-17			

NATIONAL AMBIENT AIR QUALITY STANDARDS

**3.6 National Ambient Air Quality Standards for Lead (Pb)**

<b>Averaging Period</b>	<b>Concentration</b>	<b>Frequency of Exceedence</b>	<b>Compliance Date</b>
1 year	0.5 µg/m <sup>3</sup>	0	Immediate
The reference method for the analysis of lead shall be ISO 9855			

**3.7 National Ambient Air Quality Standards for Carbon Monoxide (CO)**

<b>Averaging Period</b>	<b>Concentration</b>	<b>Frequency of Exceedence</b>	<b>Compliance Date</b>
1 hour	30 mg/m <sup>3</sup> (26 ppm)	88	Immediate
8 hour (calculated on 1 hourly averages)	10 mg/m <sup>3</sup> (8.7 ppm)	1	Immediate
The reference method for analysis of Carbon Monoxide shall be ISO 4224			

NATIONAL AMBIENT AIR QUALITY STANDARD FOR PARTICULATE MATTER WITH  
AERODYNAMIC DIAMETER LESS THAN 2.5 MICRON METRES (PM<sub>2.5</sub>)

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT 39 OF 2004**

**GN 486 OF 29 JUNE 2012:**

**NATIONAL AMBIENT AIR QUALITY STANDARD FOR  
PARTICULATE MATTER WITH AERODYNAMIC DIAMETER LESS  
THAN 2.5 MICRON METRES (PM<sub>2.5</sub>)**

**SCHEDULE**

1. Definitions
2. General
3. National ambient air quality standard for particulate matter (PM<sub>2.5</sub>)

**1. Definitions**

- (1) In this notice, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the National Environmental Management: Air Quality Act, 2004, has the same meaning, and -

“**averaging period**” means a period over which an average value is determined;

“**compliance date**” means the date on which compliance with the standard is required; and

“**frequency of exceedence**” means a frequency (number/time) related to a limit value representing the tolerated exceedence of that limit value, i.e. if exceedences of limit value are within the tolerances, then there is still compliance with the standard. This exceedence is applicable to a calendar year.

**2. General**

- (1) Reference conditions

Concentrations shall be expressed at a standardised temperature of 25 degree C and a pressure of 101,3 kPa.

- (2) Reference methods

Where test methods are specified, any other method which can be demonstrated to give equivalent results may be used.

NATIONAL AMBIENT AIR QUALITY STANDARD FOR PARTICULATE MATTER WITH  
AERODYNAMIC DIAMETER LESS THAN 2.5 MICRON METRES (PM<sub>2.5</sub>)

(3) Ambient air quality measurement requirements

Assessment of all ambient pollutant concentrations shall be conducted in terms of paragraph 5.2.1.3 of the National Framework for Air Quality Management in the Republic of South Africa.

**3. National ambient air quality standard for particulate matter (PM<sub>2.5</sub>)**

Averaging period	Concentration	Frequency of exceedence	Compliant date
24 hours	65 µg/m <sup>3</sup>	4	Immediate - 31 December 2015
24 hours	40 µg/m <sup>3</sup>	4	1 January 2016 - 31 December 2029
24 hours	25 µg/m <sup>3</sup>	4	1 January 2030
1 year	25 µg/m <sup>3</sup>	0	Immediate - 31 December 2015
1 year	20 µg/m <sup>3</sup>	0	1 January 2016 - 31 December 2029
1 year	15 µg/m <sup>3</sup>	0	1 January 2030
The reference method for the determination of PM <sub>2.5</sub> fraction of suspended particulate matter shall be EN 14907			

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT 39 OF 2004**

**GNR 827 OF 1 NOVEMBER 2013**

**NATIONAL DUST CONTROL REGULATIONS, 2013**

**SCHEDULE**

1. Definitions
2. Purpose of the regulations
3. Dustfall standard
4. Dustfall monitoring programme
5. Dustfall monitoring report
6. Measures for the control of dust
7. Ambient air quality monitoring for PM<sub>10</sub>
8. Offences
9. Penalties
10. Short title and commencement

**1. Definitions**

In these regulations any word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context indicates otherwise:

**“ASTM D1739”** means the American Standard for Testing and Materials method D1739, which is the standard test method for the collection and measurement of dust fall;

**“dust (or settleable particulate matter)”** means any material composed of particles small enough to pass through a 1 mm screen and large enough to settle by virtue of their weight into the sampling container from the ambient air;

**“dustfall”** means the deposition of dust;

**“dustfall monitoring programme”** means monitoring of the dustfall on a continuous basis;

**“Non- residential area”** means any area not classified for residential use as per local town planning scheme;

**“premises”** means any land and structures thereon including stockpiles of materials, roadways and other means of conveyance, from which dust may be generated through anthropogenic or natural activities or processes;

“**residential area**” means any area classified for residential use in terms of the local town planning scheme; and

“**the Act**” means National Environmental Management: Air Quality Act, 2004 (Act No.39 of 2004).

## 2. Purpose of the regulations

The purpose of the regulations is to prescribe general measures for the control of dust in all areas.

## 3. Dustfall standard

- (1) A standard for the acceptable dustfall rate is set out in Table 1 for residential and non-residential areas.

Table 1: Acceptable dust fall rate

Restriction Areas	Dustfall rate (D) (mg/m <sup>2</sup> /day, 30-days average)	Permitted frequency of exceeding dust fall rate
Residential area	D < 600	Two within a year, not sequential months
Non-residential area	600 < D < 1200	Two within a year, not sequential months

- (2) The method to be used for measuring dustfall rate and the guideline for locating sampling points shall be ASTM D1739:1970, or equivalent method approved by any internationally recognized body.

## 4. Dustfall monitoring programme

- (1) The air quality officer may require any person, through a written notice, to undertake a dustfall monitoring programme as contemplated in subregulation (5) if:
  - (a) the air quality officer reasonably suspects that the person is contravening regulation 3; or
  - (b) the activity being conducted by the person requires a fugitive dust emission management plan as per the notice published in terms of section 21 of the Act.
- (2) Any person who conducts any activity in such a way as to give rise to dust in quantities and concentrations that may exceed the dustfall standard set out in regulation 3 must, upon receipt of a notice from the air quality officer, implement dustfall monitoring programme.
- (3) A person required to implement the dustfall monitoring programme must, within a specified period, submit a dustfall monitoring report to the air quality officer.
- (4) If a person who is required to implement the dustfall monitoring programme has an existing one, the reports of that programme shall be accepted by the air quality officer if it meets the requirements of regulation 5.

(5) A dustfall monitoring programme must include:

- (a) the establishment of a network of dust monitoring points using method ASTM D1739: 1970 (or equivalent), sufficient in number to establish the contribution of the person to dustfall in residential and non-residential areas in the vicinity of the premises, to monitor identified or likely sensitive receptor locations, and to establish the baseline dustfall for the district; and
- (b) a schedule for submitting to the air quality officer, dustfall monitoring reports annually or at more frequent intervals if so requested by the air quality officer.

#### **5. Dustfall monitoring report**

A dustfall monitoring report must provide:

- (a) information on the location of sampling sites, including latitudinal and longitudinal coordinates, and a position indicator on a topographic map;
- (b) classification of the area where samplers are located, in terms of residential and non-residential, and identification of sensitive receptors;
- (c) reference to the standard methods used for site selection, sampling and analysis, and any methods/laboratory accreditation, if applicable;
- (d) the dustfall monitoring results including a comparison of current year and historical results (if any) for each site, and including a tabular summary of compliance with the dustfall standard set out in regulation 3;
- (e) meteorological data (wind speed and direction, rainfall) for the sampling area; and
- (f) any other relevant data that might influence the results.

#### **6. Measures for the control of dust**

- (1) Any person who has exceeded the dustfall standard set out in regulation 3 must, within three months after submission of the dustfall monitoring report, develop and submit a dust management plan to the air quality officer for approval.
- (2) A dust management plan, contemplated in subregulation (1), must:
  - (a) identify all possible sources of dust within the affected site;
  - (b) detail the best practicable measures to be undertaken to mitigate dust emissions;
  - (c) detail an implementation schedule;

- (d) identify the line management responsible for implementation;
  - (e) incorporate the dust fallout monitoring plan; and
  - (f) establish a register for recording all complaints received by the person regarding dustfall, and for recording follow up actions and responses to the complainants.
- (3) A dust management plan contemplated in subregulation (1) must be implemented within a month of the date of approval.
- (4) An implementation progress report must be submitted to the air quality officer at agreed time intervals.

#### **7. Ambient air quality monitoring for PM<sub>10</sub>**

An air quality officer may require any person to undertake continuous ambient air quality monitoring for PM<sub>10</sub> in accordance with a notice published in terms of section 9 of the Act, if the dustfall monitoring report contemplated in regulation 5 indicates non-compliance with regulation 3.

#### **8. Offences**

A person is guilty of an offence if that person contravenes or fails to comply with a provision of regulation 4(2) and (3), 6(1); (3) and (4) or 7.

#### **9. Penalties**

A person convicted of an offence referred to in regulation 8 is liable to in the case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years; and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years and in respect of both instances to both such fine and such imprisonment.

#### **10. Short title and commencement**

These regulations are called the National Dust Control Regulations, 2013.

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT 39 OF 2004**

**GN 831 OF 1 NOVEMBER 2013:**

**DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS**

**SCHEDULE**

**Part 1: Definitions**

**Definitions**

In this Notice a word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates -

“**biomass**” means non-fossilised and biodegradable organic material originating from plants, animals and micro-organisms excluding -

(a) sewage; and

(b) treated or coated wood waste which may contain halogenated organic compounds or heavy metals;

“**black smoke**” means a smoke as dark or darker than Shade 4 of the Ringelmann chart, which refers to an equivalent of 80% black as contemplated in Annexure B to this Notice;

“**boiler**” means a combustion appliance designed to heat water;

“**dark smoke**” means a smoke as dark or darker than Shade 2 of the Ringelmann chart, which refers to an equivalent of 40% black as contemplated in Annexure B to this Notice;

“**existing small boiler**” means any small boiler that was manufactured before the date on which this Notice takes effect;

“**new small boiler**” means any small boiler manufactured after the date on which this Notice takes effect;

“**operator**” means a person who owns, manages, or controls a small boiler;

“**small boiler**” means any boiler with a design capacity equal to 10MW but less than 50MW net heat input per unit, based on the lower calorific value used;

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

“**soot blowing**” means a method of cleaning deposited carbon from the internal surfaces of a boiler, which usually includes the use of a jet of air or steam onto heat exchange surfaces to clean deposits.

**Part 2: General**

**Application**

1. This Notice shall apply to any small boiler under normal operating conditions subject to the provisions for start-up, soot-blowing and incidences of abnormal conditions.

**Provisions for start-up, soot-blowing and incidences of abnormal conditions**

2. During small boiler start-up, black smoke shall be limited to a period of twenty (20) minutes.
3. During soot blowing of a small boiler and abnormal conditions, dark smoke shall be limited to the following periods:

Number of small boilers per shared stack	Permitted emissions of dark smoke in any period of 8 hours	
	Abnormal conditions	Soot blowing
One (1)	10 minutes	14 minutes
Two (2)	18 minutes	25 minutes
Three (3)	24 minutes	34 minutes
Four or more (4 +)	29 minutes	41 minutes

**Implementation**

4. An air quality officer shall be responsible for co-ordinating implementation matters pertaining to this Notice.

**Compliance timeframes**

5. A new small boiler must comply with the new small boiler emission standards as contained in Part 3 on the date of publication of this Notice in the *Gazette*.
6. An existing small boiler must comply with the existing small boiler emission standards as contained in Part 3 within 5 years from the date of publication of this Notice in the *Gazette*.

**Emission measurements**

7. The concentration or mass of pollutant for which emissions standards have been set in this Notice shall be reported as the average of at least three (3) measurements; measured

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

over a minimum sample period of 60 minutes, under normal operating conditions to obtain a representative sample.

8. The manner in which measurements shall be carried out must be in accordance with the standard sampling and analysis methods listed in Annexure A to this Notice.
9. Methods other than those contained in Annexure A to this Notice may be used with the written consent of the National Air Quality Officer.
10. In seeking the written consent referred to in paragraph 9 above, an applicant must provide the National Air Quality Officer with any information that supports the equivalence of the method other than those listed in Annexure A to this Notice.

**Reporting requirements**

11. The operator of a small boiler must -
  - (1) submit at least one (1) emissions report per annum to the relevant air quality officer in the format set out in Annexure C to this Notice;
  - (2) submit the first emissions report to the relevant air quality officer within 12 months from the date on which this Notice takes effect;
  - (3) provide any additional emission reports as requested by an air quality officer, for the implementation of this Notice;
  - (4) record all measurement results and keep a copy of this record for at least five (5) years after obtaining the results; or
  - (5) produce the record of the measurement results for inspection if requested to do so by an air quality officer.
12. For reporting requirements, emissions shall be measured by stack emission measurement and may be supplemented by means of mass balances or engineering calculations.

**Part 3: Emission Standards**

**Emission Standards**

A small boiler must comply with the emission and requirements as scheduled in the tables below. All limit values are expressed on daily averages, at specified reference conditions

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**1. Solid fuel-fired small boiler**

<b>Description</b>	Small boilers fuelled with solid fuels.		
<b>Application</b>	All small boilers fuelled with hydrocarbon based solid fuel, excluding biomass.		
<b>Substance or mixture of substances</b>		<b>Small boiler status</b>	<b>Limit value (dry mg/ Nm<sup>3</sup> at 273K; 101.3kPa and 10% O<sub>2</sub>)</b>
<b>Common name</b>	<b>Chemical/Commonly-used symbol</b>		
Particulate matter	PM	New	120
	Existing	250	
Sulphur dioxide	SO <sub>2</sub>	New	2800
	Existing	2800	

**(2) Liquid fuel-fired small boiler**

<b>Description</b>	Small boilers fuelled with liquid fuels.		
<b>Application</b>	All liquid fuel-fired small boilers		
<b>Substance or mixture of substances</b>		<b>Small boiler status</b>	<b>Limit value (dry mg/ Nm<sup>3</sup> at 273K; 101.3kPa and 3% O<sub>2</sub>)</b>
<b>Common name</b>	<b>Chemical/Commonly-used symbol</b>		
Particulate matter	PM	New	100
	Existing	150	
Sulphur dioxide	SO <sub>2</sub>	New	500
	Existing	3500	

**(3) Gaseous fuel-fired small boiler (using natural gas and liquefied petroleum gas)**

<b>Description</b>	Small boilers fuelled with gaseous fuels.		
<b>Application</b>	All small boilers fuelled with low particulate matter content gaseous fuels.		
<b>Substance or mixture of substances</b>		<b>Small boiler status</b>	<b>Limit value (dry mg/ Nm<sup>3</sup> at 273K; 101.3kPa and 3% O<sub>2</sub>)</b>
<b>Common name</b>	<b>Chemical/Commonly-used symbol</b>		
Particulate matter	PM	New	10
	Existing	20	
Sulphur dioxide	SO <sub>2</sub>	New	35
	Existing	100	

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**(4) Gaseous fuel-fired small boiler (using process gas)**

<b>Description</b>	Small boilers fuelled with gaseous fuels.		
<b>Application</b>	All small boilers fuelled with gaseous fuels generated by industrial processes.		
<b>Substance or mixture of substances</b>		<b>Small boiler status</b>	<b>Limit value (dry mg/ Nm<sup>3</sup> at 273K; 101.3kPa and 3% O<sub>2</sub>)</b>
<b>Common name</b>	<b>Chemical/ Commonly-used symbol</b>		
Particulate matter	PM	New	90
	Existing	130	
Sulphur dioxide	SO <sub>2</sub>	New	1000
	Existing	3500	

**(5) Solid biomass fuel-fired small boiler**

<b>Description</b>	Small boilers fuelled with solid biomass fuels		
<b>Application</b>	All small boilers fuelled with biomass fuels		
<b>Substance or mixture of substances</b>		<b>Small boiler status</b>	<b>Limit value (dry mg/ Nm<sup>3</sup> at 273K; 101.3kPa and 10% O<sub>2</sub>)</b>
<b>Common name</b>	<b>Chemical/Commonly-used symbol</b>		
Particulate matter	PM	New	120
	Existing	250	
Sulphur dioxide	SO <sub>2</sub>	New	1000
	Existing	1000	

**(6) Co-feeding**

Where a small boiler is fired simultaneously with two or more fuels, the emission standards for the main fuel shall be applicable.

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**ANNEXURE A: EMISSION MEASUREMENT METHODS AND ANALYSIS**

The following referenced documents are indispensable for the application of the Notice. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies. Information on currently valid national and international standards can be obtained from Standards South Africa.

(1) ISO Standards

- (a) ISO 7934:1989 Stationary source emissions – Determination of the mass concentration of sulphur dioxide – Hydrogen peroxide/barium perchlorate/Thorin method.
- (b) ISO 7934:1989/Amd 1:1998.
- (c) ISO 7935: Stationary source emissions – Determination of the mass concentration of sulphur dioxide – Performance characteristics of automated measuring method.
- (d) ISO 9096: Stationary source emissions – Manual Determination of mass concentration of particulate matter.
- (e) ISO 10155: Stationary source emissions – Automated monitoring of mass concentrations of particles – Performance characteristics, test methods and specifications.
- (f) ISO 10396: Stationary source emissions – Sampling for the automated determination of gas emissions concentrations for permanently-installed monitoring systems.
- (g) ISO 10780: Stationary source emissions – Measurement of velocity volume flow rate of gas steams in ducts.
- (h) ISO 11632: Stationary source emissions – Determination of mass concentration of sulphur dioxide – Iron chromatography method.
- (i) ISO 12141: Stationary source emissions – Determination of mass concentration of particulate matter (dust) at low concentrations – Manual gravimetric method.
- (j) ISO 14164: Stationary source emissions – Determination of the volume flow-rate of gas streams in ducts – Automated method.

(2) EPA methods

- (a) Method 1 – Traverse Points.
- (b) Method 1A – Small Ducts.

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

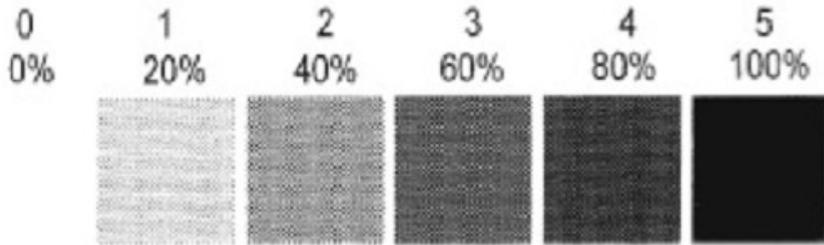
- (c) Method 2 – Velocity – S-type Pitot.
- (d) Method 2A – Volume Meters.
- (e) Method 2B – Exhaust Volume Flow Rate.
- (f) Method 2C – Standard Pitot.
- (g) Method 2D – Rate Meters.
- (h) Method 2F – Flow Rate Measurement with 3-D Probe.
- (i) Method 2G – Flow Rate Measurement with 2-D Probe.
- (j) Method 2H – Flow Rate Measurement with Velocity Decay Near Stack Walls.
- (k) Memo – New Test Procedures of Stack Gas Flow Rate in Place of Method 2.
- (l) Method 3 – Molecular Weight.
- (m) Method 3A – CO<sub>2</sub>, O<sub>2</sub> by instrumental methods.
- (n) Method 3B – CO<sub>2</sub>, O<sub>2</sub> by Orsat apparatus.
- (o) Method 3C – CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>, O<sub>2</sub> by determined by thermal conductivity.
- (p) Method 4 – Moisture Content.
- (q) Method 5 – Particulate Matter (PM).
- (r) Method 5D – PM Baghouses (Particulate Matter).
- (s) Method 5I – Determination of Low Level Particulate Matter Emissions.
- (t) Method 6 – Sulphur Dioxide (SO<sub>2</sub>).
- (u) Method 6A – SO<sub>2</sub>, CO<sub>2</sub>.
- (v) Method 6B – SO<sub>2</sub>, CO<sub>2</sub> – Long Term Integrated.
- (w) Method 6C – SO<sub>2</sub> – Instrumental.
- (x) Method 6C – Figures SO<sub>2</sub>.
- (y) Method 8 – Sulfuric Acid Mist.

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

- (z) Method 9 – Visual Opacity.
  - (aa) Method 17 – In-Stack Particulate (PM).
  - (bb) Method 19 – SO<sub>2</sub> Removal & PM, SO<sub>2</sub>, NO<sub>x</sub> Rates from Electric Utility Steam Generators.
  - (cc) Method 22 – Fugitive Opacity.
  - (dd) Method 28A – Air to Fuel Ratio, Burn Rate – Wood-fired Appliances.
  - (ee) Methods 203A, B, and C – Opacity Determination for Time-Averaged Regulations.
- (3) British standards
  - (a) BS 3405:1983 Method for measurement of particulate emission including grit and dust (simplified method).
  - (b) BS EN 14181:2004 Stationary source emissions. Quality assurance of automated measuring systems.
  - (c) BS EN 15259: Air quality. Measurement of stationary source emissions. Measurement strategy, measurement planning, reporting and design of measurement sites.
  - (d) BS EN 15267-1: Air quality. Certification of automated measuring systems. General principles.
  - (e) BS EN 15267-2: Air quality. Certification of automated measuring systems. Initial assessment of the AMS manufacturer's quality management system and post certification surveillance for the manufacturing process.
  - (f) BS EN 15267-3: Air quality. Certification of automated measuring systems. Performance criteria and test procedures for automated measuring systems for monitoring emissions from stationary sources.

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**ANNEXURE B: RINGELMANN SMOKE CHART**



DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**ANNEXURE C: TEMPLATE FOR REPORTING EMISSIONS**

**Emission Measurements Report for a Small Boiler**

**Name of Enterprise:** .....

Declaration of accuracy of information provided:

I, ....., declare that the information provided in this report is in all respects factually true and correct.

Signed at ..... on this ..... day of .....

\_\_\_\_\_

**SIGNATURE**

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**CAPACITY OF SIGNATORY**

**1. Enterprise Details**

Enterprise Name	
Trading as	
Postal Address	
Telephone Number (General)	
Fax Number (General)	
Industry Type? Nature of Trade	
Land Use Zoning as per Town Planning Scheme	
Land Use Rights if outside Town Planning Scheme	

**2. Contact details**

Responsible Person Name	
Telephone Number	
Cell Phone Number	
Fax Number	
E-mail address	

**3. Serial number, product name and model of the small boiler**

Serial Number	Product Name	Product Model	Net Heat Input (MW)

**4. Energy used**

Energy source	Sulphur content of fuel (%) (if applicable)	Ash content of fuel (%) (if applicable)	Design consumption rate (volume)	Actual consumption rate (volume)	Units (quantity/ period)

DECLARATION OF A SMALL BOILER AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**5. Point source parameters**

Unique stack ID	Point source name	Height of release above ground	Height above nearby building [m]	Diameter at stack tip/vent exit [m]	Actual gas exit temperature	Actual gas volumetric flow	Actual gas exit velocity [m/s]

**6. Point source emissions**

Unique stack ID	Pollutant name	Daily Average Values			Emission hours [e.g. 07H00 – 17H00]	Type of emission [continuous/intermittent]

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT 39 OF 2004**

**GN 201 OF 28 MARCH 2014**

**DECLARATION OF TEMPORARY ASPHALT PLANTS  
AS A CONTROLLED EMITTER AND ESTABLISHMENT  
OF EMISSION STANDARDS**

**SCHEDULE**

**Part 1: Definitions**

**Definitions**

In this Notice a word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates:-

**‘asphalt plant’** means plant that produces asphalt for road, driveway or pathway surfacing by mixing aggregate, bitumen, and other additives to produce hot mixed asphalt and/or warm mix asphalt;

**‘existing asphalt plant’** means any plant that was built before the date on which this Notice takes effect;

**‘new asphalt plant’** means any plant that is built after the date on which this Notice takes effect;

**‘operator or owner’** means a person or legal entity that owns, manages, or controls asphalt plant; and

**‘temporary asphalt plant’** means an asphalt plant that is used for the sole purpose of supplying asphalt for a specific road paving contract not exceeding a period of 24 months.

**Part 2: General**

**Application**

1. This Notice shall apply to all temporary asphalt plants which are operating anywhere in the country.

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**Implementation**

2. An air quality officer shall be responsible for co-ordinating matters pertaining to this Notice.

**Compliance timeframes**

3. New temporary asphalt plant must comply with the new temporary asphalt plants emission standards as contained in Part 3 on the date of publication of this Notice.
4. Existing temporary asphalt plant must comply with existing temporary asphalt plants emission standards as contained in Part 3 within 5 years from the date of publication of this Notice in the Gazette.

**Emission measurements**

5. The concentration or mass of pollutant for which emissions standards have been set in this Notice shall be reported as the average of at least three (3) measurements; measured over a minimum sample period of 60 minutes, under normal operating conditions to obtain a representative sample.
6. The manner in which measurements shall be carried out must be in accordance with the standard sampling and analysis methods listed in Annexure A to this Notice.
7. Methods other than those contained in Annexure A to this Notice may be used with the written consent of the National Air Quality Officer.
8. In seeking the written consent referred to paragraph 7 above, an applicant must provide the National Air Quality Officer with any information that supports the equivalence of the method other than those listed in Annexure A to this Notice.

**Reporting requirements**

9. The operator of a temporary asphalt plant must-
  - (1) submit at least one (1) emission report every six months to the relevant air quality officer in the format set out in Annexure A to this Notice;
  - (2) provide any additional emission reports as requested by an air quality officer; and
  - (3) produce the record of the measurement results for inspection if requested to do so by an air quality officer.
10. For reporting requirements, emissions shall be measured by stack emission measurement and may be supplemented by means of mass balances or engineering calculations.

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**Part 3: Emission Standards**

**Emission Standards**

- (1) All temporary asphalt plants must comply with the emission limits and requirements as scheduled in the tables below. All limit values are expressed on daily averages, at specified reference conditions.

<b>Description</b>	The production mixtures of aggregate and tar or bitumen to produce road surfacing in temporary asphalt plants.		
<b>Application</b>	All temporary asphalt plants.		
	<b>Substance or mixture of substances</b>	<b>Plant status</b>	<b>Limit value (dry mg / Nm<sup>3</sup> at 273K and 101.3kPa)</b>
	<b>Common name</b>	<b>Chemical / Commonly-used Symbol</b>	
Particulate matter	N/A	New	50
		Existing	120
Sulphur dioxide	SO <sub>2</sub>	New	1000
		Existing	1000
Total volatile organic compounds from vapour recovery or thermal destruction units.	N/A	New	150
		Existing	150

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**ANNEXURE A**

**EMISSION MEASUREMENT METHODS AND ANALYSIS**

The following referenced documents are indispensable for the application of the Notice. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies. Information on currently valid national and international standards can be obtained from Standards South Africa.

(1) ISO Standards

- (a) ISO 7934:1989 Stationary source emissions - Determination of the mass concentration of sulphur dioxide - Hydrogen peroxide/barium perchlorate/Thorin method.
- (b) ISO 7934:1989/Amd 1:1998
- (c) ISO 7935: Stationary source emissions - Determination of the mass concentration of sulphur dioxide - Performance characteristics of automated measuring method.
- (d) ISO 9096: Stationary source emissions - Manual Determination of mass concentration of particulate matter.
- (e) ISO 10155: Stationary source emissions - Automated monitoring of mass concentrations of particles - Performance characteristics, test methods and specifications
- (f) ISO 10396: Stationary source emissions - Sampling for the automated determination of gas emissions concentrations for permanently-installed monitoring systems
- (g) ISO 10780: Stationary source emissions - Measurement of velocity volume flow rate of gas steams in ducts.
- (h) ISO 11632: Stationary source emissions - Determination of mass concentration of sulphur dioxide - Iron chromatography method.
- (i) ISO 12141: Stationary source emissions - Determination of mass concentration of particulate matter (dust) at low concentrations - Manual gravimetric method.
- (j) ISO 14164: Stationary source emissions - Determination of the volume flow-rate of gas streams in ducts - Automated method.

(2) EPA methods

- (a) Method 1 - Traverse Points

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

- (b) Method 1A-Small Ducts
- (c) Method 2 - Velocity - S-type Pitot
- (d) Method 2A - Volume Meters
- (e) Method 2B - Exhaust Volume Flow Rate
- (f) Method 2C- Standard Pitot
- (g) Method 2D-Rate Meters
- (h) Method 2F - Flow Rate Measurement with 3-D Probe
- (i) Method 2G - Flow Rate Measurement with 2-D Probe
- (j) Method 2H - Flow Rate Measurement with Velocity Decay Near Stack Walls
- (k) Memo - New Test Procedures of Stack Gas Flow Rate in Place of Method 2
- (l) Method 3 - Molecular Weight
- (m) Method 3A - CO<sub>2</sub>, O<sub>2</sub> by instrumental methods
- (n) Method 3B - CO<sub>2</sub>, O<sub>2</sub> by Orsat apparatus
- (o) Method 3C - CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>, O<sub>2</sub> by determined by thermal conductivity
- (p) Method 4 - Moisture Content
- (q) Method 5 - Particulate Matter (PM)
- (r) Method 5D - PM Baghouses (Particulate Matter)
- (s) Method 51 - Determination of Low Level Particulate Matter Emissions
- (t) Method 6 - Sulphur Dioxide (SO<sub>2</sub>)
- (u) Method 6A-SO<sub>2</sub>, CO<sub>2</sub>
- (v) Method 6B - SO<sub>2</sub>, CO<sub>2</sub> - Long Term Integrated
- (w) Method 6C - SO<sub>2</sub> - Instrumental
- (x) Method 6C- Figures SO<sub>2</sub>

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

- (y) Method 8 - Sulfuric Acid Mist
- (z) Method 9 - Visual Opacity
  - (aa) Method 17 - in-Stack Particulate (PM)
  - (bb) Method 19 - SO<sub>2</sub> Removal and PM, SO<sub>2</sub>, NO<sub>x</sub> Rates from Electric Utility Steam Generators
  - (cc) Method 22 - Fugitive Opacity
  - (dd) Method 28A - Air to Fuel Ratio, Burn Rate - Wood-fired Appliances
  - (ee) Methods 203A, B, and C - Opacity Determination for Time-Averaged Regulations
- (3) British standards
  - (a) BS 3405:1983 Method for measurement of particulate emission including grit and dust (simplified method).
  - (b) BS EN 14181:2004 Stationary source emissions. Quality assurance of automated measuring systems.
  - (c) BS EN 15259: Air quality. Measurement of stationary source emissions. Measurement strategy, measurement planning, reporting and design of measurement sites.
  - (d) BS EN 15267-1: Air quality. Certification of automated measuring systems. General principles.
  - (e) BS EN 15267-2: Air quality. Certification of automated measuring systems. Initial assessment of the AMS manufacturer's quality management system and post certification surveillance for the manufacturing process.
  - (f) BS EN 15267-3: Air quality. Certification of automated measuring systems. Performance criteria and test procedures for automated measuring systems for monitoring emissions from stationary sources.

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**ANNEXURE B**

**TEMPLATE FOR REPORTING EMISSIONS**

**Emission Measurements Report for Temporary Asphalt Plants**

**Name of Enterprise:** .....

Declaration of accuracy of information provided:

I, ....., declare that the information provided in this report is in all respects factually true and correct.

Signed at ..... on this ..... day of .....

**SIGNATURE**

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**CAPACITY OF SIGNATORY**

**1. Enterprise Details**

Enterprise Name	
Trading as	
Postal Address	
Telephone Number (General)	
Fax Number (General)	
Industry Type? Nature of Trade	
Land Use Zoning as per Town Planning Scheme	
Land Use Rights if outside Town Planning Scheme	

**2. Contact details**

Responsible Person Name	
Telephone Number	
Cell Phone Number	
Fax Number	
E-mail address	

**3. Serial number, product name and model of the temporary asphalt plant**

Serial Number	Product Name	Product Model	Capacity

**4. Energy used**

Energy source	Sulphur content of fuel (%) (if applicable)	Ash content of fuel (%) (if applicable)	Design consumption rate (volume)	Actual consumption rate (volume)	Units (quantity/ period)

DECLARATION OF TEMPORARY ASPHALT PLANTS AS A CONTROLLED EMITTER  
AND ESTABLISHMENT OF EMISSION STANDARDS

**5. Point source parameters**

Unique stack ID	Point source name	Height of release above ground	Height above nearby building [m]	Diameter at stack tip/vent exit [m]	Actual gas exit temperature	Actual gas volumetric flow	Actual gas exit velocity [m/s]

**6. Point source emissions**

Unique stack ID	Pollutant name	Daily Average Values			Emission hours [e.g. 07H00 – 17H00]	Type of emission [continuous/intermittent]

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the word “Daliy” is intended to be “Daily”.)



**NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT 39 OF 2004**

**GN 351 OF 8 MAY 2014**

**REGULATIONS REGARDING THE PHASING-OUT AND MANAGEMENT  
OF OZONE-DEPLETING SUBSTANCES**

**SCHEDULE**

**CHAPTER 1  
DEFINITIONS AND PURPOSE OF REGULATIONS**

1. Definitions
2. Purpose of Regulations

**CHAPTER 2  
PROHIBITIONS AND PHASE OUT SCHEDULES**

3. Prohibition of production, importation, exportation, use or placing on market of ozone-depleting substances
4. General prohibition of stockpiling
5. Phase out schedule for HCFCs, HCFC-141 b and equipment charged with HCFC 22

**CHAPTER 3  
RECLAMATION, DISCHARGE OR RELEASE OF OZONE  
DEPLETING SUBSTANCES**

6. Reclamation or destruction of ozone depleting substances
7. Discharge or release of ozone depleting substances

**CHAPTER 4  
INFORMATION MANAGEMENT**

8. Importers and exporters of ozone depleting substances

**CHAPTER 5  
GENERAL MATTERS**

9. Offences and penalties
10. Short title and commencement

## APPENDIX A: OZONE DEPLETING SUBSTANCES

### CHAPTER 1

#### DEFINITIONS AND PURPOSE OF REGULATIONS

##### 1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), has that meaning, and unless the context indicates otherwise-

“**critical use(s)**” means the use(s) necessary for health, safety or critical functioning of society, and there are no available technically and economically feasible alternative substitutes that are acceptable;

“**destruction**” means a process, when applied to ozone depleting substances, resulting in the permanent transformation or decomposition of all or a significant portion of such substances;

“**export**” has the meaning assigned to it in section 1 of the International Trade Administration Act, 2002 (Act No. 71 of 2002);

“**feedstock**” means any ozone depleting substance that undergoes chemical transformation in a process in which it is entirely converted from its original composition and whose emissions are insignificant;

“**HCFC**” means hydrochloroflourocarbons;

“**import**” has the meaning assigned to it in section 1 of the International Trade Administration Act, 2002 (Act No. 71 of 2002);

“**processing agent**” means an ozone depleting substance used as chemical processing agent and where emissions are insignificant;

“**stockpiling**” means to store ozone depleting substances for a period longer than 18 months and;

“**reclaim or reclamation**” means the extraction or retrieval of an ozone depleting substance for reuse.

##### 2. Purpose of Regulations

The purpose of these Regulations is to regulate the management and phasing out of the ozone depleting substances.

## CHAPTER 2

### PROHIBITIONS AND PHASE OUT SCHEDULES

#### **3. Prohibition of production, importation, exportation, use or placing on the market of ozone-depleting substances and equipment**

(1) A person is prohibited from producing, importing, exporting, using or placing on the market any of the following ozone-depleting substances including equipment or products containing such substances, unless it is for critical use-

- (a) Chlorofluorocarbons;
- (b) bromochlorofluorocarbons;
- (c) halons;
- (d) carbon tetrachloride;
- (e) 1,1,1 trichloroethane;
- (f) hydrobromofluorocarbons; and
- (g) bromochloromethane.

(2) Sub-regulation (1) does not apply to-

- (a) the placing on the market and use of halons that have been reclaimed from existing fire protection systems before the coming into effect of these regulations; and
- (b) the placing on the market and use of halons for critical use.

(3) A person wanting to use recovered halons in existing fire protection systems, after the date of coming effect of these Regulations, must apply for approval to the Director-General.

(4) The application contemplated in sub-regulation (3) must be done in a letter format and include the following information-

- (a) applicant's name and contact details;
- (b) brief description of applicant business activity in relation to the use of halons;
- (c) quantities of halons requested for use in existing fire protection systems or placing on the market; and

REGULATIONS REGARDING THE PHASING-OUT AND MANAGEMENT OF OZONE-DEPLETING SUBSTANCES

- (d) measures in place to reduce the emissions.
- (5) The Director General may upon receipt of the application contemplated in sub-regulation (4) in writing-
  - (a) grant approval and provide a reference number and any conditions or
  - (b) requirements which must be adhered to;
  - (b) refuse the application and provide reasons for the decision; or
  - (c) require the applicant to make amendments, and specify the timeframe within which the applicant must resubmit.
- (6) The provisions of sub-regulation(1) are not applicable to the use, export or placing on the market of products or equipment containing the ozone depleting substances contemplated in sub-regulation (1) which were manufactured or imported before the coming into effect of these Regulations.
- (7) No person is allowed to import, place on the market or use methyl bromide after 1 January 2015, unless it is for critical use.

**4. General prohibition of stockpiling**

- (1) The stockpiling of the ozone-depleting substances, listed in Appendix A to these Regulations, is prohibited.
- (2) A person who is in possession of a stockpile of ozone-depleting substances contemplated in sub-regulation (1) on the date of coming into effect of these regulations must, within 12 months of coming into effect of these Regulations, submit to the Director-General a stockpile abatement plan which must at least contain the following information-
  - (a) the name of the stockpile owner;
  - (b) the physical address where the stockpile is located;
  - (c) the legal persona's registration number;
  - (d) the type of the substances stockpiled;
  - (e) the quantity of each type;
  - (f) a proposal on how the owner intends to eliminate the stockpile; and
  - (g) time frames for complete elimination of the stockpile.

REGULATIONS REGARDING THE PHASING-OUT AND MANAGEMENT OF OZONE-DEPLETING SUBSTANCES

- (3) The Director-General may, upon receipt of the stockpile abatement plan, in writing-
- (a) approve the plan, provide the reference number and notify the applicant of the approval; or
  - (b) require for amendments to be effected on the plan and a revised plan to be resubmitted within a specified time frame.
- (4) Failure to submit the amended stockpile abatement plan in accordance to sub regulation (3)(b) is regarded as failure to submit a plan
- (5) A person whose stockpile abatement plan has been approved in accordance with sub-regulation 3(a) must-
- (a) adhere to the stockpile abatement plan; and
  - (b) notify the Director-General of any changes in any material detail which has been provided as part of the plan, within 30 days of such change taking place.

**5. Phase out schedule for HCFCs, HCFC-141b and equipment charged with HCFC 22**

- (1) The following is the phase out schedule for hydrochlorofluorocarbons-
- (a) the hydrochlorofluorocarbons which an importer place on the market or use per annum, in the period from 01 January 2014 to 31 December 2015, must not exceed 90 percent of the baseline consumption of HCFCs;
  - (b) the hydrochlorofluorocarbons which an importer place on the market or use per annum, in the period from 01 January 2016 to 31 December 2020, must not exceed 65 percent of the baseline consumption of HCFCs;
  - (c) the hydrochlorofluorocarbons which an importer place on the market or use per annum, in the period from 01 January 2021 to 31 December 2025, must not exceed 32.5 percent of the baseline consumption of HCFCs;
  - (d) the hydrochlorofluorocarbons which an importer place on the market or use per annum, in the period from 01 January 2026 to 31 December 2030, must not exceed 2.5 percent of the baseline consumption of HCFCs;
  - (e) from 01 January 2031 until 31 December 2040, 2.5 percent of the baseline consumption must only be used for servicing activities; and
  - (f) from 01 January 2040 no person is allowed to import, place on the market, or use HCFCs.

- (2) A person is prohibited from-
- (a) importing HCFC-141b either in pure form or as a component of blended chemicals, for the purpose of placing on the market or use in the production of polyurethane foams or as solvents or any other application, from 1 January 2016;
  - (b) importing any new or used refrigeration and air-conditioning systems or equipment containing HCFC-22 or any refrigerant or refrigerant blend containing any HCFC, from 1 July 2014; and
  - (c) using HCFC-22 ,or any other refrigerant containing HCFCs, either in pure form or as a component of blended refrigerants, in the construction, assembly or installation of any new refrigeration or air-conditioning system or equipment, from 1 January 2015.

### **CHAPTER 3**

#### **RECLAMATION, DESTRUCTION, DISCHARGE OR RELEASE OF OZONE DEPLETING SUBSTANCES**

##### **6. Reclamation or destruction of ozone depleting substances**

A person who reclaims or destroys any ozone depleting substances must ensure that the substances are not released into the environment.

##### **7. Discharge or release of ozone depleting substances**

A person must not discharge or release ozone depleting substances into the atmosphere.

### **CHAPTER 4**

#### **INFORMATION MANAGEMENT**

##### **8. Importers or exporters of ozone depleting substances**

- (1) A person who imports or exports of ozone depleting substances listed in Appendix A must, annually, at the end of January every year, report to the Department the total quantities imported or exported for the previous year.
- (2) The report contemplated in sub-regulation (1) must be in a table format, containing the following information-
  - (a) the name of the importer or exporter;

## REGULATIONS REGARDING THE PHASING-OUT AND MANAGEMENT OF OZONE-DEPLETING SUBSTANCES

- (b) the physical address of the importer or exporter;
  - (c) the name, surname and contact details of the person in charge of the import or export;
  - (d) the import or export permit number, issued in terms of the International Trade Administration Commission Act, 2002 (Act No. 71 of 2002);
  - (e) the total quantities of ozone depleting substances imported or exported for the reporting period in question;
- (3) Before the end of January every year, every user who has been granted approval for a critical use must, for each ozone depleting substance, report to the Department annually the nature of the use, the quantities used during the previous year and the quantities held in stock.
- (4) An importer or exporter contemplated in sub-regulation (1) must keep a copy of the annual report for 5 years after submission to the Department.

## CHAPTER 5

### GENERAL MATTERS

#### 9. Offences and penalties

- (1) A person is guilty of an offence if that person-
- (a) contravenes regulations 3,4, 5,6,7 or 8 of these Regulations;
  - (b) Intentionally supplies false or misleading information in any application contemplated under these regulations;
  - (c) contravenes or fails to comply with a. condition or requirement of an approval issued in terms of these Regulations.
- (2) A person convicted of an offence contemplated in sub-regulation (1) is liable in the case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years and in respect of both instances to both such fine and such imprisonment.

#### 10. Short title and commencement

These Regulations are called the Regulations regarding the Phasing-Out and Management of Ozone Depleting Substances and come into operation on the date of publication.

## APPENDIX A

## LIST OF OZONE DEPLETING SUBSTANCES

1,1,1- Trichloroethane (methyl chloroform)
Bromomethane (Methyl Bromide)
Carbon Tetrachloride
Trichlorofluoromethane (CFC 11)
Dichlorodifluoromethane (CFC 12)
Trichlorotrifluoroethanes (CFC 113)
Dichlorotetrafluoroethanes (CFC 114)
Chlorotrifluoromethane
Pentachlorofluoroethane
Tetrachlorodifluoroethanes
Heptachlorofluoropropanes
Hexachlorodifluoropropanes
Pentachlorotrifluoropropanes
Tetrachlorotrifluoropropanes
Trichloropentafluoropropanes
Dichlorohexafluoropropanes
Chloroheptafluoropropanes
Other derivatives perhalogenated only with fluorine and chlorine
Bromochlorodifluoromethane (Halon 1211), bromotrifluoromethane (Halon 1301) and dibromotetrafluoroethanes (Halon 2402)
Chlorodifluoromethane [ <i>sic</i> ] (HCFC 22)
Dichlorotrifluoroethanes [ <i>sic</i> ]
Chlorotetrafluoroethanes
Dichlorofluoroethanes
Dichlorodifluoroethanes
Dichloropentafluoropropanes
Other derivatives of methane, ethane or propane, halogenated only with fluorine and chlorine
Derivatives of methane, ethane or propane, halogenated only with fluorine and bromine
Insecticides, containing bromomethane (methyl bromide) or Bromochloromethane
Fungicides, other, containing bromomethane (methyl bromide) or Bromochloromethane
Herbicides, anti-sprouting products and plant-growth regulators, other, containing bromomethane (methyl bromide) or bromochloromethane
Disinfectants, other, containing bromomethane (methyl bromide) or Bromochloromethane
Other: containing bromomethane (methyl bromide) or bromochloromethane

REGULATIONS REGARDING THE PHASING-OUT AND MANAGEMENT OF OZONE-DEPLETING SUBSTANCES

Preparations and charges for fire-extinguishers; charged fire extinguishing grenades: other, containing bromochlorodifluoromethane, bromotrichloromethane or dibromotetrafluoroethanes
Other, containing methane, ethane or propane hydrobromofluorocarbons (HBFCs)
Other, containing methane, ethane or propane hydrochlorofluorocarbons (HCFCs)
Other, containing bromochloromethane
Organic composite solvents and thinners, not elsewhere specified or included; prepared plant or varnish removers: Containing methane, ethane or propane chlorofluorocarbons (CFCs), whether or not containing hydrochlorofluorocarbons (HCFCs)
Containing methane, ethane or propane hydrochlorofluorocarbons (HCFCs), but not containing chlorofluorocarbons (CFCs)
Containing carbon tetrachloride, bromochloromethane or 1,1,1- trichloroethane (methyl chloroform)
Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products, not elsewhere specified or included); Containing chlorofluorocarbons (CFCs), whether or not containing hydrochlorofluorocarbons (HCFCs), perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs)
Containing bromochlorodifluoromethane, bromotrifluoromethane or dibromotetrafluoroethanes
Containing hydrobromofluorocarbons (HBFCs)
Containing hydrochlorofluorocarbons (HCFCs), whether or not containing perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs), but not containing chlorofluorocarbons (CFCs)
Containing carbon tetrachloride
Containing 1,1,1-trichloroethane (methyl chloroform)
Containing bromomethane (methyl bromide) or bromochloromethane



**NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT 39 OF 2004**

**GN 893 OF 22 NOVEMBER 2013:**

**LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION  
STANDARDS IDENTIFIED IN TERMS OF SECTION 21 OF THE  
NATIONAL ENVIRONMENTAL MANAGEMENT:  
AIR QUALITY ACT, 2004 (ACT NO. 39 OF 2004)**

**SCHEDULE**

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Definitions

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- (4) Subcategory 1.4: Gas Combustion Installations
- (5) Subcategory 1.5: Reciprocating Engines
- (6) Subcategory 1.6: Waste Co-feeding Combustion Installations

Category 2: Petroleum Industry, the production of gaseous and liquid fuels as well as  
petrochemicals from crude oil, coal, gas or biomass

- (1) Subcategory 2.1: Combustion Installations

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004

- (2) Subcategory 2.2: Catalytic Cracking Units
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- (5) Subcategory 2.5: Industrial Fuel Oil Recyclers

Category 3: Carbonization and Coal Gasification

- (1) Subcategory 3.1: Combustion Installations
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Category 4: Metallurgical Industry

- (1) Subcategory 4.1: Drying and Calcining
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- (3) Subcategory 4.3: Primary Aluminium Production
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- (5) Subcategory 4.5: Sinter Plants
- (6) Subcategory 4.6: Basic Oxygen Furnaces
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- (9) Subcategory 4.9: Ferro-alloy Production
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- (14) Subcategory 4.14: Production and Processing of Zinc, Nickel and Cadmium
- (15) Subcategory 4.15: Processing of Arsenic, Antimony, Beryllium, Chromium and Silicon
- (16) Subcategory 4.16: Smelting and Converting of Sulphide Ores
- (17) Subcategory 4.17: Precious and Base Metal Production and Refining
- (18) Subcategory 4.18: Vanadium Ore Processing
- (19) Subcategory 4.19: Production and or Casting of Bronze, Brass and Copper
- (20) Subcategory 4.20: Slag Processes
- (21) Subcategory 4.21: Metal Recovery
- (22) Subcategory 4.22: Hot Dip Galvanizing
- (23) Subcategory 4.23: Metal Spray

Category 5: Mineral Processing, Storage and Handling

- (1) Subcategory 5.1: Storage and Handling of Ore and Coal
- (2) Subcategory 5.2: Drying
- (3) Subcategory 5.3: Clamp Kilns for Brick Production
- (4) Subcategory 5.4: Cement Production (using conventional fuels and raw materials)
- (5) Subcategory 5.5: Cement Production (using alternative fuels and/or resources)

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
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- (6) Subcategory 5.6: Lime Production
- (7) Subcategory 5.7: Lime Production (using alternative fuels and/or resources)
- (8) Subcategory 5.8: Glass and Mineral Wool Production
- (9) Subcategory 5.9: Ceramic Production
- (10) Subcategory 5.10: Macadam Preparation
- (11) Subcategory 5.11: Alkali Processes

Category 6: Organic Chemicals Industry

Category 7: Inorganic Chemicals Industry

- (1) Subcategory 7.1: Production and or Use in Manufacturing of Ammonia, Fluorine, Fluorine Compounds, Chlorine, and Hydrogen Cyanide
- (2) Subcategory 7.2: Production of Acids
- (3) Subcategory 7.3: Production of Chemical Fertilizer
- (4) Subcategory 7.4: Production, Use in Production or Recovery of Antimony, Arsenic, Beryllium, Cadmium, Chromium, Cobalt, Lead, Mercury, and or Selenium, by the Application of Heat
- (5) Subcategory 7.5: Production of Calcium Carbide
- (6) Subcategory 7.6: Production or Use of Phosphorus and Phosphate Salts not mentioned elsewhere
- (7) Subcategory 7.7: Production of Caustic Soda

Category 8: Thermal Treatment of Hazardous and General Waste

- (1) Subcategory 8.1: Thermal Treatment of General and Hazardous Waste
- (2) Subcategory 8.2: Crematoria and Veterinary Waste Incineration
- (3) Subcategory 8.3: Burning Grounds
- (4) Subcategory 8.4: Drum Recycling Processes

Category 9: Pulp and Paper Manufacturing Activities, including By-Products Recovery

- (1) Subcategory 9.1: Lime Recovery Kiln
- (2) Subcategory 9.2: Chemical Recovery Furnaces
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- (4) Subcategory 9.4: Chlorine Dioxide Plants
- (5) Subcategory 9.5: Wood Burning, Drying and the Production of Manufactured Wood Products

Category 10: Animal Matter Processing

ANNEXURE A: METHODS FOR SAMPLING AND ANALYSIS

Repeal of the list of activities which result in atmospheric emissions which have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, 2010

Short title and commencement

**Part 1**  
**Definitions**

**Definitions**

In this Notice a word or expression to which a meaning has been assigned in this Act has that meaning and, unless the context otherwise indicates: -

“**Act**” means the National Environmental Management: Air Quality Act, 2004 (Act No.39 of 2004).

“**alternative fuels and resources**” means general and hazardous wastes which are used to substitute conventional or primary fossil fuels and/or virgin raw materials in cement kilns and other industrial thermal processes.

“**atmospheric emission license**” means an atmospheric emission license contemplated in Chapter 5 of this Act.

“**biomass**” means non-fossilised and biodegradable organic material originating from plants, animals and micro-organisms excluding - (a) sewage; and (b) treated or coated wood waste which may contain halogenated organic compounds or heavy metals.

“**bottom loading**” means the transfer of compounds in a liquid state to a suitable vessel by filling from the bottom by means of bottom valve or from the top utilizing a transfer pipe extended to the bottom of the vessel.

“**design capacity**” means capacity as installed.

“**existing plant**” unless where specified, shall mean any plant or process that was legally authorized to operate before 01 April 2010 or any plant where an application for authorisation in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), was made before 01 April 2010.

“**flare**” means a combustion device that uses an open flame to burn combustible gases with combustion air provided by ambient air around the flame. Combustion may be steam or air assisted. Flares may be either continuous or intermittent. This term includes both ground and elevated flares.

**“fugitive emissions”** means emissions to the air from a facility for which an emission license has been issued, other than those emitted from a point source.

**“incineration”** means any method, technique or process to convert waste to flue gases and residues by means of oxidation.

**“licensing authority”** means an authority referred to in sections 36(1), (2), (3) or (4) responsible for implementing the licensing system set out in chapter 5 of this act.

**“listed activities”** includes the singular.

**“new plant”** unless where specified, shall mean any plant or process where the application for authorisation in terms of the National Environmental Management Act 1998, (Act No. 107 of 1998), was made on or after 01 April 2010.

**“normal operating condition”** means any condition that constitutes operation as designed.

**“non-thermal treatment of volatile organic compounds”** means the removal of volatile organic compounds through non-combustion processes including but not limited to cryogenic cooling, scrubbing and vapour recovery.

**“oxides of nitrogen (NO<sub>x</sub>)”** means the sum of nitrogen oxide (NO) and nitrogen dioxide (NO<sub>2</sub>) expressed as nitrogen dioxide (NO<sub>2</sub>)

**“particulate matter (PM)”** means total particulate matter, that is the solid matter contained in the gas stream in the solid state as well as the insoluble and soluble solid matter contained in entrained droplets in the gas stream, as measured by the appropriate method listed in Annexure A.

**“petrochemicals”** means ethylene and its polymers, ethylene oxide, ethylene glycol, glycol ethers, ethoxylates, vinyl acetate, 1,2- dichloroethane, trichloroethylene, tetrachloroethylene, vinyl chloride, propylene, propyl alcohols, acrylonitrile, propylene oxide, isomers of butylene, butyl ethers, butadienes, polyolefins and alpha-olefins, all alcohols (except those produced during the production of beverages), acrylic acid, allyl chloride, epichlorohydrin, benzene and alkylbenzenes, toluene, o-, m- and p-xylene, ethylbenzene, styrene, cumene, phenols, acetone, cyclohexane, adipic acid, nitrobenzene, chlorobenzene, aniline, methylene diphenyl diisocyanate (mdi), toluene di-isocyanate or other di-isocyanates of comparable volatility, benzoic acid.

**“point source”** means a single identifiable source and fixed location of atmospheric emission, and includes smoke stacks and residential chimneys.

**“point of compliance”** means any point within the off gas line, where a sample can be taken, from the last vessel closest to the point source of an individual listed activity to the open-end of the point source or in the case of a combinations of listed activities sharing a common point source, any point from the last vessel closest to the point source up to the point within the point source prior to the combination/interference from another Listed Activity.

**“pyrolysis”** means the decomposition of a material by heat in the absence of oxygen.

**“SANAS”** means the South African National Accreditation System established by Section 3 of the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2006 (Act No. 19 of 2006).

**“sulphur recovery plant”** means a unit that processes sulphur containing gases obtained from the processing of crude mineral oil or the coking or gasification of coal and produces a final product of sulphur containing compounds.

**“thermal treatment”** means incineration, co-processing and other high temperature treatment of hazardous and general waste.

**“thermal treatment of volatile organic compounds”** means the destruction of volatile organic compounds through combustion processes.

**“total volatile organic compounds”** means organic compounds listed under US- EPA Compendium Method TO - 14.

**“upset conditions”** means any temporary failure of air pollution control equipment or process equipment or failure of a process to operate in a normal or usual manner that leads to an emission standard being exceeded.

## **Part 2 General**

### **Applicability of the Notice**

- (1) Minimum emission standards as contained in this Notice shall apply to both permanently operated plants and for experimental (pilot) plants with a design capacity equivalent to the one of a listed activity.
- (2) Minimum emission standards are applicable under normal operating conditions.
- (3) Should normal start-up, maintenance, upset and shut-down conditions exceed a period of 48 hours, Section 30 of the National Environmental Management, 1998 (Act No. 107 of 1998), shall apply unless otherwise specified by the Licensing Authority.

### **Averaging Period**

- (4) Unless where otherwise specified, minimum emission standards are expressed on a daily average basis, under normal conditions of 273 K, 101.3 kPa, specific oxygen percentage and dry gas.

### **Emission measurement**

- (5) The manner in which measurements of minimum emissions standards, as required by Section 21(3)(a)(ii) of this Act, shall be carried out must be in accordance with the standard sampling and analysis methods listed in Annexure A of this Notice.
- (6) Methods other than those contained in Annexure A may be used with the written consent of the National Air Quality Officer.
- (7) In seeking the written consent referred to in paragraph (6), an applicant must provide the National Air Quality Officer with any information that supports the equivalence of the method other than that contained in Annexure A to a method contained in Annexure A.

### **Compliance time frames**

- (8) New plant must comply with the new plant minimum emission standards as contained in Part 3 from 01 April 2010.
- (9) Existing plant must comply with minimum emission standards for existing plant as contained in Part 3 by 01 April 2015, unless where specified.
- (10) Existing plant must comply with minimum emission standards for new plant as contained in Part 3 by 01 April 2020, unless where specified.

### **Postponement of compliance time frames**

- (11) As contemplated in the National Framework for Air Quality Management in the Republic of South Africa, published in terms of Section 7 of this Act, an application may be made to the National Air Quality Officer for the postponement of the compliance time frames in paragraphs (9) and (10) for an existing plant.
- (12) The application contemplated in paragraph (11) must include -
  - (a) An air pollution impact assessment compiled in accordance with the regulations prescribing the format of an Atmospheric Impact Report (as contemplated in Section 30 of the AQA), by a person registered as a professional engineer or as a professional natural scientist in the appropriate category;
  - (b) a detailed justification and reasons for the application; and
  - (c) a concluded public participation process undertaken as specified in the NEMA Environmental Impact Assessment Regulations.
- (13) The National Air Quality Officer, with the concurrence of the Licensing Authority as contemplated in Section 36 of this Act, may grant a postponement of the compliance time

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004

frames in paragraphs (9) and (10) for an existing plant for a period, not exceeding 5 years per postponement.

(14) The National Air Quality Officer, with the concurrence of the Licensing Authority, may -

- (a) from time to time review any postponement granted in terms of paragraph (13) should ambient air quality conditions in the affected area of the plant not conform to ambient air quality standards; and
- (b) on good grounds, withdraw any postponement following -
  - (i) representations from the affected plant; and
  - (ii) representations from the affected communities.

**Compliance monitoring**

(15) Where continuous emission monitoring is required for a listed activity -

- (a) the averaging period for the purposes of compliance monitoring shall be expressed on a daily average basis or as prescribed in the Atmospheric Emission License.
- (b) the emission monitoring system must be maintained to yield a minimum of 80% valid hourly average values during the reporting period.
- (c) the emission monitoring system must be maintained and calibrated as per the original equipment manufacturers' specifications.
- (d) continuous emission monitoring systems must be audited by a SANAS accredited laboratory at least once every two (2) years.

(16) Where periodic emission monitoring is required for a listed activity -

- (a) the averaging period for the purposes of compliance monitoring shall be expressed on a hourly average basis or as prescribed in the Atmospheric Emission License.
- (b) emission measurement will be conducted in accordance with paragraphs (5); (6); and (7) of this notice.
- (c) measurements shall take place on, at least, an annual basis unless otherwise prescribed in the Atmospheric Emission License.
- (d) sampling will take place under normal operating conditions using the permitted feed-stock or raw material.

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
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- (e) all tests will be conducted by SANAS accredited laboratories or laboratories accredited by similar foreign authorities.

**Reporting Requirements**

(17) Notwithstanding the compliance time frames established in terms of paragraphs (8); (9); and (10), the Atmospheric Emission License holder shall submit an emission report in the form specified by the National Air Quality Officer to the Licensing Authority -

- (a) within one (1) year of the date of publication of this Notice; and
- (b) annually thereafter unless otherwise prescribed in the Atmospheric Emission License.

(18) The report contemplated in paragraph (17) shall include -

- (a) The name, description and license reference number of the plant as reflected in the Atmospheric Emission License.
- (b) Where periodic emission monitoring is required for a listed activity, the report contemplated in paragraph (17) shall further include -
  - (i) the name and address of the accredited measurement service-provider that carried out or verified the emission test, including the test report produced by the accredited measurement service-provider;
  - (ii) the date and time on which the emission test was carried out;
  - (iii) a declaration by the Atmospheric Emission License holder to the effect that normal operating conditions were maintained during the emission tests;
  - (iv) the total volumetric flow of gas, expressed in normal cubic meters (Nm<sup>3</sup>) per unit time and mass flow (kg per unit time) being emitted by the listed activity or activities measured during the emission test, as the average of at least three (3) measurements;
  - (v) the concentration or mass of pollutant for which emissions standards have been set in this Notice emitted by listed activity or activities as the average of at least three (3) measurements; each measured over a minimum sample period of 60 minutes and a maximum of 8 hours to obtain a representative sample, and
  - (vi) the method or combination of methods used for determining the flow rate and concentration as contemplated in paragraphs (5); (6); and (7).

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
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- (c) Where continuous emission monitoring is required for a listed activity, the report contemplated in paragraph (17) shall further include -
- (i) results of the spot measurements or correlation tests carried out to verify the accuracy of the continuous emission measurements;
  - (ii) the most recent correlation tests; and
  - (iii) the availability of the system as contemplated in (15)(b) in terms of the number of full hours per annum that valid results were obtained.
- (d) Following the compliance time frames established in terms of paragraphs (8); (9); and (10), an explanation of all instances where minimum emission standards were exceeded and remediation measures and associated implementation plans aimed at ensuring that the accidents do not re-occur.
- (e) Any other relevant information as required by the National Air Quality Officer from time to time.
- (19) In January 2014, the National Air Quality Officer will establish an internet-based National Atmospheric Emissions Inventory System. Once established, the reports contemplated in paragraph (17) must be made in the format required for the internet-based National Atmospheric Emissions Inventory System.

**General special arrangement**

- (20) A fugitive emissions management plan must be included in the Atmospheric Emission Licenses for listed activities that are likely to generate such emissions.

**Part 3**  
**Minimum Emission Standards**

Category 1: Combustion Installations

Category 2: Petroleum Industry, the production of gaseous and liquid fuels as well as petrochemicals from crude oil, coal, gas or biomass

Category 3: Carbonization and Coal Gasification

Category 4: Metallurgical Industry

Category 5: Mineral Processing, Storage and Handling

Category 6: Organic Chemicals Industry

Category 7: Inorganic Chemicals Industry

Category 8: Thermal Treatment of Hazardous and General Waste

Category 9: Pulp and Paper Manufacturing Activities, including By-Products Recovery

Category 10: Animal Matter Processing

## **ANNEXURE A**

### **METHODS FOR SAMPLING AND ANALYSIS**

The following referenced documents are indispensable for the application of the Notice. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies. Information on currently valid national and international standards can be obtained from Standards South Africa.

#### (1) ISO Standards

- (a) ISO 7934:1989 Stationary source emissions - Determination of the mass concentration of sulfur dioxide - Hydrogen peroxide/barium perchlorate/Thorin method.
- (b) ISO 7934:1989/Amd 1:1998
- (c) ISO 7935: Stationary source emissions - Determination of the mass concentration of sulfur dioxide - Performance characteristics of automated measuring method.
- (d) ISO 9096: Stationary source emissions - Manual Determination of mass concentration of particulate matter.
- (e) ISO 10155: Stationary source emissions - Automated monitoring of mass concentrations of particles - Performance characteristics, test methods and specifications
- (f) ISO 10396: Stationary source emissions - Sampling for the automated determination of gas emissions concentrations for permanently-installed monitoring systems
- (g) ISO 10397: Stationary source emissions - Determination of asbestos plant emissions method by fibre counting measurement
- (h) ISO 10780: Stationary source emissions - Measurement of velocity volume flow rate of gas steams in ducts.
- (i) ISO 10849: Stationary source emissions - Determination of the mass concentration of nitrogen oxides – Performance characteristics of automated measuring systems

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004

- (j) ISO 11338-1: Stationary source emissions - Determination of gas and particle-phase polycyclic aromatic hydrocarbons Part 1: Sampling.
  - (k) ISO 11338-2: Stationary source emissions - Determination of gas and particle-phase polycyclic aromatic hydrocarbons Part 2: Sample preparation, clean-up and determination.
  - (l) ISO 11564: Stationary source emissions - Determination of the mass concentration of nitrogen oxides –Naphthylethylenediamine photometric method.
  - (m) ISO 11632: Stationary source emissions - Determination of mass concentration of sulphur dioxide - Iron chromatography method.
  - (n) ISO 12039: Stationary source emissions - Determination of carbon monoxide, carbon dioxide and oxygen - Performance characteristics and calibration of automated measuring systems.
  - (o) ISO 12141: Stationary source emissions - Determination of mass concentration of particulate matter (dust) at low concentrations- Manual gravimetric method.
  - (p) ISO 14164: Stationary source emissions - Determination of the volume flow-rate of gas streams in ducts - Automated method.
  - (q) ISO 15713: Stationary source emissions - Sampling and determination of gaseous fluoride content.
- (2) EPA methods
- (a) Method 1 - Traverse Points
  - (b) Method 1A-Small Ducts
  - (c) Method 2 - Velocity - S-type Pitot
  - (d) Method 2A - Volume Meters
  - (e) Method 2B - Exhaust Volume Flow Rate
  - (f) Method 2C-Standard Pitot
  - (g) Method 2D - Rate Meters
  - (h) Method 2F - Flow Rate Measurement with 3-D Probe
- (1) Method 2G - Flow Rate Measurement with 2-D Probe

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004

- (j) Method 2H - Flow Rate Measurement with Velocity Decay Near Stack Walls
- (k) Memo - New Test Procedures of Stack Gas Flow Rate in Place of Method 2
- (l) Method 3 - Molecular Weight
- (m) Method 3A - CO<sub>2</sub>, O<sub>2</sub> by instrumental methods
- (n) Method 3B - CO<sub>2</sub>, O<sub>2</sub> by Orsat apparatus
- (o) Method 3C - CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>, O<sub>2</sub> by determined by thermal conductivity
- (p) Method 4 - Moisture Content
- (q) Method 5 - Particulate Matter (PM)
- (r) Method 5D - PM Baghouses (Particulate Matter)
- (s) Method 5E - PM Fiberglass Plants (Particulate Matter)
- (t) Method 5F - PM Fluid Catalytic Cracking Unit
- (u) Method 5I - Determination of Low Level Particulate Matter Emissions
- (v) Method 6 - Sulphur Dioxide (SO<sub>2</sub>)
- (w) Method 6A - SO<sub>2</sub>, CO<sub>2</sub>
- (x) Method 6B - SO<sub>2</sub>, CO<sub>2</sub> - Long Term Integrated
- (y) Method 6C - SO<sub>2</sub> - Instrumental
- (z) Method 6C - Figures SO<sub>2</sub>
  - (aa) Method 7 - Nitrogen Oxide (NO<sub>x</sub>)
  - (bb) Method 7A - NO<sub>x</sub> - Ion Chromatographic Method
  - (cc) Method 7B - NO<sub>x</sub> - Ultraviolet Spectrophotometry
  - (dd) Method 7C - NO<sub>x</sub> - Colorimetric Method
  - (ee) Method 7D - NO<sub>x</sub> - Ion Chromatographic
  - (ff) Method 7E - NO<sub>x</sub> - Instrumental

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004

- (gg) Method 8 - Sulfuric Acid Mist
- (hh) Method 9 - Visual Opacity
- (ii) Method 10 - Carbon Monoxide-NDIR
- (jj) Method 10A - CO for Certifying CEMS
- (kk) Method 10B - CO from Stationary Sources
- (ll) Method 11 -H<sub>2</sub>S Content of Fuel
- (mm) Method 12 - Inorganic Lead
- (nn) Method 13A - Total Fluoride (SPADNS Zirconium Lake)
- (oo) Method 13B - Total Fluoride (Specific Ion Electrode)
- (pp) Method 14 - Fluoride for Primary Aluminium Plants
- (qq) Method 14A - Total Fluoride Emissions from Selected Sources at Primary Aluminium Plants
- (rr) Method 15 - Hydrogen Sulfide, Carbonyl Sulfide, and Carbon Disulfide
- (ss) Method 15A - Total Reduced Sulfur (TRS Alt.)
- (tt) Method 16 - Sulfur (Semicontinuous Determination)
- (uu) Method 16A - Total Reduced Sulfur (Impinger)
- (vv) Method 16B - Total Reduced Sulfur (GC Analysis)
- (ww) Method 17 - In-Stack Particulate (PM)
- (xx) Method 18 -VOC by GC
- (yy) Method 19 - SO<sub>2</sub> Removal & PM, SO<sub>2</sub>, NO<sub>x</sub> Rates from Electric Utility Steam Generators
- (zz) Method 20 - NO<sub>x</sub> from Stationary Gas Turbines
  - (aaa) Method 21-VOC Leaks
  - (bbb) Method 22 - Fugitive Opacity

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004

- (ccc) Method 23 - Dioxin and Furan (02/91 FR Copy).
  - (ddd) Method 25 - Gaseous Nonmethane Organic Emissions
  - (eee) Method 25A - Gaseous Organic Concentration (Flame Ionization)
  - (fff) Method 25B - Gaseous Organic Concentration (Infrared Analyzer)
  - (ggg) Method 26- Hydrogen Chloride, Halides, Halogens
  - (hhh) Method 26A - Hydrogen Halide & Halogen-Isokinetic
  - (iii) Method 28A - Air to Fuel Ratio, Burn Rate - Wood-fired Appliances
  - (jjj) Method 29 - Metals Emissions from Stationary Sources
  - (kkk) Method 101 - Mercury from Chlor-Alkali Plants (Air)
  - (lll) Method 101A - Mercury from Sewage Sludge Incinerators
  - (mmm) Method 102 - Mercury from Chlor-Alkali Plants (Hydrogen Streams)
  - (nnn) Method 103 - Beryllium Screening Method
  - (ooo) Method 104 - Beryllium Emissions Determination
  - (ppp) Method 106 - Determination of Vinyl Chloride
  - (qqq) Method 107A - Vinyl Chloride content of Solvents
  - (rrr) Method 108 - Particulate & Gaseous Arsenic emissions
  - (sss) Method 108B - Arsenic
  - (ttt) Method 108C - Arsenic
  - (uuu) Methods 203A, B, and C - Opacity Determination for Time-Averaged Regulations
  - (vvv) Method 303 - By-product Coke Oven Batteries
- (3) British standards
- (a) BS 3405:1983 Method for measurement of particulate emission including grit and dust (simplified method).

LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS IDENTIFIED IN TERMS OF SECTION 21  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004

- (b) BS EN 14181:2004 Stationary source emissions. Quality assurance of automated measuring systems.
- (c) BS EN 15259: Air quality. Measurement of stationary source emissions. Measurement strategy, measurement planning, reporting and design of measurement sites.
- (d) BS EN 15267-1: Air quality. Certification of automated measuring systems. General principles.
- (e) BS EN 15267-2: Air quality. Certification of automated measuring systems. Initial assessment of the AMS manufacturer's quality management system and post certification surveillance for the manufacturing process.
- (f) BS EN 15267-3: Air quality. Certification of automated measuring systems. Performance criteria and test procedures for automated measuring systems for monitoring emissions from stationary sources.

**Repeal of the list of activities which result in atmospheric emissions which have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, 2010**

(21) The list of activities which result in atmospheric emissions which have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage published under Government Notice No. 248, Gazette No. 33064 dated 31 March 2010, in terms of section 21(1)(a) read with section 21(3)(a) and (b) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), is hereby repealed.

**Short title and commencement**

(22) This notice is called the listed activities and associated minimum emission standards identified in terms of section 21 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

(English text signed by the President)

*[Assented to: 31 May 2004]*

*[Commencement date: 1 September 2004 – unless otherwise indicated]*

[Proc. R47 / GG 26887 / 20041008]

[Proc. 17 / GG 34072 / 20110311]

**as amended by:**

National Environment Laws Amendment Act 14 of 2009

[with effect from 18 September 2009 - Proc. 65 / GG 32580 / 20090918]

[with effect from 1 April 2011 - Proc. 17 / GG 34072 / 20110311]

National Environment Laws Amendment Act 14 of 2013

[with effect from 24 July 2013]

**Note:**

The Act has been amended by s. 35 of Act 14/2013 by the substitution for the words “designation” or “designated”, wherever it occurs, of the words “assignment” or “delegation”, except in sections 13(1)(b) and 100.

**ACT**

**To provide for the management and conservation of South Africa’s biodiversity within the framework of the National Environmental Management Act, 1998; the protection of species and ecosystems that warrant national protection; the sustainable use of indigenous biological resources; the fair and equitable sharing of benefits arising from bioprospecting involving indigenous biological resources; the establishment and functions of a South African National Biodiversity Institute; and for matters connected therewith.**

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:-

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## CHAPTER 1

### INTERPRETATION, OBJECTIVES AND APPLICATION OF ACT

#### 1. Definitions

(1) In this Act, unless the context indicates otherwise-

**“alien species”** means-

- (a) a species that is not an indigenous species; or
- (b) an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in nature, but not an indigenous species that has extended its natural distribution range by natural means of migration or dispersal without human intervention;

**“benefit”**, in relation to bioprospecting involving indigenous biological resources, means any benefit, whether commercial or not, arising from bioprospecting involving such resources, and includes both monetary and non-monetary returns;

**“biological diversity”** or **“biodiversity”** means the variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part and also includes diversity within species, between species, and of ecosystems;

**“biodiversity sector”** means any sector or sub-sector that carries out restricted activities involving indigenous biological resources, whether for commercial or for conservation purposes;

[Definition of “biodiversity sector” inserted by s. 1 of Act 14/2013]

**“bioprospecting”**, in relation to indigenous biological resources, means any research on, or development or application of, indigenous biological resources for commercial or industrial exploitation, and includes-

- (a) the systematic search, collection or gathering of such resources or making extractions from such resources for purposes of such research, development or application;
- (b) the utilisation for purposes of such research or development of any information regarding any traditional uses of indigenous biological resources by indigenous communities;

[Para. (b) amended by s. 1 of Act 14/2013]

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- (c) research on, or the application, development or modification of, any such traditional uses, for commercial or industrial exploitation; or

[Para. (c) amended by s. 1 of Act 14/2013]

- (d) the trading in and exporting of indigenous biological resources in order to develop and produce products, such as drugs, industrial enzymes, food flavours, fragrances, cosmetics, emulsifiers, oleoresins, colours, extracts and essential oils;

[Para. (d) inserted by s. 1 of Act 14/2013]

**“bioregion”** means a geographic region which has in terms of section 40(1) been determined as a bioregion for the purposes of this Act;

**“Board”** means the board referred to in section 13;

**“commercial exploitation”**, means the engaging in any bioprospecting activity with the intention of making a profit;

[Definition of “commercial exploitation” inserted by s. 1 of Act 14/2013]

**“commercialisation”**, in relation to indigenous biological resources, includes the following activities:

- (a) the filing of any complete intellectual property application, whether in South Africa or elsewhere;
- (b) obtaining or transferring any intellectual property rights or other rights;
- (c) commencing product development, including the conducting of market research and seeking pre- market approval for the sale of resulting products;
- (d) the multiplication of indigenous biological resources through cultivation, propagation, cloning or other means to develop and produce products, such as drugs, industrial enzymes, food flavours, fragrances, cosmetics, emulsifiers, oleoresins, colours, extracts and essential oils;
- (e) trading in and exporting of indigenous biological resources to develop and produce products, such as drugs, industry enzymes, food flavours, fragrances, cosmetics, emulsifiers, oleoresins, colours, extracts and essential oils; and
- (f) commercial exploitation;

[Definition of “commercialisation” inserted by s. 29 of Act 14/2009 and substituted by s. 1 of Act 14/2013]

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**“commercialisation phase of bioprospecting”** means any research on, or development or application of, indigenous biological resources where the nature and extent of any actual or potential commercial or industrial exploitation in relation to the project is sufficiently established to begin the process of commercialisation;

[Definition of “commercialisation phase of bioprospecting” inserted by s. 29 of Act 14/2009]

**“competent authority”**, in relation to the control of an alien or invasive species, means-

- (a) the Minister;
- (b) the MEC; or
- (c) an organ of state in the national, provincial or local sphere of government delegated as a competent authority for the control of an alien species or a listed invasive species in terms of section 42 of the National Environmental Management Act, 1998;

[Definition of “competent authority” substituted by s. 1 of Act 14/2013]

**“components”**, in relation to biodiversity, includes species, ecological communities, genes, genomes, ecosystems, habitats and ecological processes;

**“control”**, in relation to an alien or invasive species, means-

- (a) to combat or eradicate an alien or invasive species; or
- (b) where such eradication is not possible, to prevent, as far as may be practicable, the recurrence, re-establishment, re-growth, multiplication, propagation, regeneration or spreading of an alien or invasive species;

**“critically endangered ecosystem”** means any ecosystem listed as a critically endangered ecosystem in terms of section 52(2);

**“critically endangered species”** means any indigenous species listed as a critically endangered species in terms of section 56;

**“delegation”** has the meaning assigned to it in section 1 of the National Environmental Management Act, 1998;

[Definition of “delegation” substituted by s. 1 of Act 14/2013]

**“Department”** means the national Department responsible for environmental affairs;

[Definition of “Department” substituted by s. 1 of Act 14/2013]

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**“derivative”**, in relation to an animal, plant or other organism, means any part, tissue or extract of an animal, plant or other organism, whether fresh, preserved or processed, and includes any genetic material or chemical compound derived from such part, tissue or extract;

[Definition of “derivative” substituted by s. 1 of Act 14/2013]

**“Director-General”** means the Director-General of the Department;

**“discovery phase of bioprospecting”** means any research on, or development or application of, indigenous biological resources where the nature and extent of any actual or potential commercial or industrial exploitation in relation to the project is not sufficiently clear or known to begin the process of commercialisation;

[Definition of “discovery phase of bioprospecting” inserted by s. 29 of Act 14/2009]

**“ecological community”** means an integrated group of species inhabiting a given area;

**“ecosystem”** means a dynamic complex of animal, plant and micro-organism communities and their non-living environment interacting as a functional unit;

**“endangered ecosystem”** means any ecosystem listed as an endangered ecosystem in terms of section 52(2);

**“endangered species”** means any indigenous species listed as an endangered species in terms of section 56;

**“environmental management inspector”** means a person authorised in terms of the National Environmental Management Act to enforce the provisions of this Act;

**“export”**, in relation to the Republic, means to take out or transfer, or attempt to take out or transfer, from a place within the Republic to another country or to international waters;

**“Gazette”**, when used-

- (a) in relation to the Minister, means the *Government Gazette*; or
- (b) in relation to the MEC for Environmental Affairs of a province, means the *Provincial Gazette* of that province;

**“genetic material”** means any material of animal, plant, microbial or other biological origin containing functional units of heredity;

**“genetic resource”** includes-

- (a) any genetic material; or

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(b) the genetic potential, characteristics or information of any species;

[Para. (b) substituted by s. 1 of Act 14/2013]

**“habitat”** means a place where a species or ecological community naturally occurs;

**“import”**, in relation to the Republic-

(a) means to land on, bring into or introduce into the Republic, or attempt to land on, bring into or introduce into the Republic; and

(b) includes to bring into the Republic for re-export to a place outside the Republic;

**“indigenous biological resource”** –

(a) when used in relation to bioprospecting, means any indigenous biological resource as defined in section 80(2); or

(b) when used in relation to any other matter, means any resource consisting of-

(i) any living or dead animal, plant or other organism of an indigenous species;

(ii) any derivative of such animal, plant or other organism; or

(iii) any genetic material of such animal, plant or other organism;

**“indigenous species”** means a species that occurs, or has historically occurred, naturally in a free state in nature within the borders of the Republic, but excludes a species that has been introduced in the Republic as a result of human activity;

**“Institute”** means the South African National Biodiversity Institute established in terms of section 10;

**“introduction”**, in relation to a species, means the introduction by humans, whether deliberately or accidentally, of a species to a place outside the natural range or natural dispersal potential of that species;

**“introduction from the sea”**, in relation to a specimen of any species, means the transportation into the Republic of a specimen taken from a marine environment not under the jurisdiction of any state;

**“invasive species”** means any species whose establishment and spread outside of its natural distribution range-

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- (a) threaten ecosystems, habitats or other species or have demonstrable potential to threaten ecosystems, habitats or other species; and
- (b) may result in economic or environmental harm or harm to human health;

**“issuing authority”**, in relation to a permit or registration regulating a matter mentioned in section 87, means-

- (a) the Minister as contemplated in section 87A(1) or (3);
- (b) the MEC as contemplated in section 87A(2) or (3); or
- (c) an organ of state in the national, provincial or local sphere of government delegated in terms of section 42 of the National Environmental Management Act, 1998 or assigned in terms of section 41 of the National Environmental Management Act, 1998 as an issuing authority for a permit or registration of the kind in question;

[Definition of “issuing authority” substituted by s. 1 of Act 14/2013]

**“listed ecosystem”** means any ecosystem listed in terms of section 52(1);

**“listed invasive species”** means any invasive species listed in terms of section 70(1);

**“listed threatened or protected species”** means any species listed in terms of section 56(1);

**“local community”** means any community of people living or having rights or interests in a distinct geographical area;

**“management authority”**, in relation to a protected area, means an authority to whom the management of a protected area has been assigned;

**“MEC for Environmental Affairs”** means a member of the Executive Council of a province who is responsible for the conservation of biodiversity in the province;

**“migratory species”** means the entire population or any geographically separate part of the population of any species or lower tax on of wild animals, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries;

**“Minister”** means the Cabinet member responsible for national environmental management;

**“municipality”** means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

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“**national botanical garden**” means land declared or regarded as having been declared as a national botanical garden in terms of section 33, and includes any land declared in terms of section 33 as part of an existing botanical garden;

“**National Environmental Management Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“**national environmental management principles**” means the principles referred to in section 7;

“**non-detriment findings**” means the determination of the non-detrimental impact of an action on the survival of a species in the wild;

“**organ of state**” has the meaning assigned to it in section 239 of the Constitution;

“**permit**” means a permit issued in terms of Chapter 7;

“**prescribe**” means prescribe by regulation in terms of section 97;

“**protected area**” means a protected area defined in the Protected Areas Act;

“**Protected Areas Act**” means the National Environmental Management: Protected Areas Act, 2003;

“**protected ecosystem**” means any ecosystem listed as a protected ecosystem in terms of section 52(2);

“**protected species**” means any species listed as a protected species in terms of section 56;

“**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**re-export**”, in relation to a specimen of a listed threatened or protected species, means the export from the Republic of a specimen of a listed threatened or protected species previously imported into the Republic;

“**restricted activity**”-

(a) in relation to a specimen of a listed threatened or protected species, means-

- (i) hunting, catching, capturing or killing any living specimen of a listed threatened or protected species by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, luring, alluring, discharging a missile or injuring with intent to hunt, catch, capture or kill any such specimen;

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- (ii) gathering, collecting or plucking any specimen of a listed threatened or protected species;
  - (iii) picking parts of, or cutting, chopping off, uprooting, damaging or destroying, any specimen of a listed threatened or protected species;
  - (iv) importing into the Republic, including introducing from the sea, any specimen of a listed threatened or protected species;
  - (v) exporting from the Republic, including re-exporting from the Republic, any specimen of a listed threatened or protected species;
  - (vi) having in possession or exercising physical control over any specimen of a listed threatened or protected species;
  - (vii) growing, breeding or in any other way propagating any specimen of a listed threatened or protected species, or causing it to multiply;
  - (viii) conveying, moving or otherwise translocating any specimen of a listed threatened or protected species;
  - (ix) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of a listed threatened or protected species; or
  - (x) any other prescribed activity which involves a specimen of a listed threatened or protected species; and
- (b) in relation to a specimen of an alien species or listed invasive species, means-
- (i) importing into the Republic, including introducing from the sea, any specimen of an alien or listed invasive species;
  - (ii) having in possession or exercising physical control over any specimen of an alien or listed invasive species;
  - (iii) growing, breeding or in any other way propagating any specimen of an alien or listed invasive species, or causing it to multiply;
  - (iv) conveying, moving or otherwise translocating any specimen of an alien or listed invasive species;
  - (v) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of an alien or listed invasive species; or

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- (vi) any other prescribed activity which involves a specimen of an alien or listed invasive species;

**“self-administration”** means the introduction of measures to facilitate compliance with provisions of the Act and standards set by associations or organisations recognised through the system contemplated in terms of section 59(f) of the Act, but excludes measures that relate to the issuance of permits in terms of Chapter 7 or functions of environmental management inspectors;

[Definition of “self-administration” inserted by s. 1 of Act 14/2013]

**“species”** means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any sub-species, cultivar, variety, geographic race, strain, hybrid or geographically separate population;

**“specimen”** means-

- (a) any living or dead animal, plant or other organism;
- (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;
- (c) any derivative of any animal, plant or other organism; or
- (d) any goods which-
  - (i) contain a derivative of an animal, plant or other organism; or
  - (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;

**“stakeholder”** means-

- (a) a person, an organ of state or a community contemplated in section 82(1)(a); or
- (b) an indigenous community contemplated in section 82(1)(b);

**“subordinate legislation”**, in relation to this Act, means-

- (a) any regulation made in terms of section 97; or
- (b) any notice published in terms of section 9, 33, 34, 40(1), 42(2), 43(3), 46(2), 52(1), 53(1), 55, 56(1), 57(2), 58, 66(1), 67(1), 68, 70(1), 72, 86(1) or 100(1)

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**“sustainable”**, in relation to the use of a biological resource, means the use of such resource in a way and at a rate that-

- (a) would not lead to its long-term decline;
- (b) would not disrupt the ecological integrity of the ecosystem in which it occurs; and
- (c) would ensure its continued use to meet the needs and aspirations of present and future generations of people;

**“this Act”** includes any subordinate legislation issued in terms of a provision of this Act;

**“threatening process”** means a process which threatens, or may threaten-

- (a) the survival, abundance or evolutionary development of an indigenous species or ecological community; or
- (b) the ecological integrity of an ecosystem, and includes any process identified in terms of section 53 as a threatening process;

**“vulnerable ecosystem”** means any ecosystem listed as a vulnerable ecosystem in terms of section 52(2);

**“vulnerable species”** means any indigenous species listed as a vulnerable species in terms of section 56.

- (2) In this Act, words or expressions derived from words or expressions defined in subsection (1) have corresponding meanings unless the context indicates that another meaning is intended.

## 2. Objectives of Act

The objectives of this Act are-

- (a) within the framework of the National Environmental Management Act, to provide for-
  - (i) the management and conservation of biological diversity within the Republic and of the components of such biological diversity;
  - (iA) the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;

[Subpara. (iA) inserted by s. 2 of Act 14/2013]

- (ii) the use of indigenous biological resources in a sustainable manner; and

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- (iii) the fair and equitable sharing among stakeholders of benefits arising from bioprospecting involving indigenous biological resources;
- (b) to give effect to ratified international agreements relating to biodiversity which are binding on the Republic;
- (c) to provide for co-operative governance in biodiversity management and conservation; and
- (d) to provide for a South African National Biodiversity Institute to assist in achieving the objectives of this Act.

### **3. State's trusteeship of biological diversity**

In fulfilling the rights contained in section 24 of the Constitution, the state through its organs that implement legislation applicable to biodiversity, must-

- (a) manage, conserve and sustain South Africa's biodiversity and its components and genetic resources; and
- (b) implement this Act to achieve the progressive realisation of those rights.

### **4. Application of Act**

(1) This Act applies-

- (a) in the Republic, including-
  - (i) its territorial waters, exclusive economic zone and continental shelf described in the Maritime Zones Act, 1994 (Act No. 15 of 1994); and
  - (ii) the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948); and
- (b) to human activity affecting South Africa's biological diversity and its components.

(2) This Act binds all organs of state-

- (a) in the national and local spheres of government; and
- (b) in the provincial sphere of government, subject to section 146 of the Constitution.

### **5. Application of international agreements**

This Act gives effect to ratified international agreements affecting biodiversity to which South Africa is a party, and which bind the Republic.

## **6. Application of other biodiversity legislation**

- (1) This Act must be read with any applicable provisions of the National Environmental Management Act.
- (2) Chapter 4 of the National Environmental Management Act applies to the resolution of conflicts arising from the implementation of this Act.

## **7. National environmental management principles**

The application of this Act must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act.

## **8. Conflicts with other legislation**

- (1) In the event of any conflict between a section of this Act and-
  - (a) other national legislation in force immediately prior to the date of commencement of this Act, the section of this Act prevails if the conflict specifically concerns the management of biodiversity or indigenous biological resources;
  - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
  - (c) a municipal by-law, the section of this Act prevails.
- (2) In the event of any conflict between subordinate legislation issued in terms of this Act and-
  - (a) an Act of Parliament, the Act of Parliament prevails;
  - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
  - (c) a municipal by-law, the subordinate legislation issued in terms of this Act prevails.
- (3) For the proper application of subsection (2)(b) the Minister must, in terms of section 146(6) of the Constitution, submit all subordinate legislation issued in terms of this Act which affects provinces to the National Council of Provinces for approval.

## **9. Norms and standards**

- (1) The Minister may, by notice in the *Gazette*-
  - (a) issue norms and standards for the achievement of any of the objectives of this Act, including for the-

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- (i) management and conservation of South Africa's biological diversity and its components;
  - (ii) restriction of activities which impact on biodiversity and its components;
  - (b) set indicators to measure compliance with those norms and standards; and
  - (c) amend any notice issued in terms of paragraph (a) or (b).
- (2)
- (a) Before publishing a notice in terms of subsection (1), the Minister must follow a consultative process in accordance with sections 99 and 100.
  - (b) A consultative process referred to in paragraph (a) need not apply to a non-substantial change to the notice.
- (3) Norms and standards may apply-
- (a) nationwide;
  - (b) in a specific area only; or
  - (c) to a specific category of biodiversity only.
- (4) Different norms and standards may be issued for-
- (a) different areas; or
  - (b) different categories of biodiversity.

## CHAPTER 2

### SOUTH AFRICAN NATIONAL BIODIVERSITY INSTITUTE

#### Part 1:

#### Establishment, powers and duties of Institute

##### 10. Establishment

- (1) The South African National Biodiversity Institute is established by this Act.
- (2) The Institute is a juristic person.

## 11. Functions

### (1) The Institute-

- (a) must monitor and report regularly to the Minister on-
  - (i) the status of the Republic's biodiversity;
  - (ii) the conservation status of all listed threatened or protected species and listed ecosystems; and
  - (iii) the status of all listed invasive species;
- (b) must monitor and report regularly to the Minister on the environmental impacts of all categories of genetically modified organism, post commercial release, based on research that identifies and evaluates risk;

[Para. (b) substituted by s. 30 of Act 14/2009]

- (c) may act as an advisory and consultative body on matters relating to biodiversity to organs of state and other biodiversity stakeholders;
- (d) must coordinate and promote the taxonomy of South Africa's biodiversity;
- (e) must manage, control and maintain all national botanical gardens;
- (f) may establish, manage, control and maintain-
  - (i) herbaria; and
  - (ii) collections of dead animals that may exist;
- (g) must establish facilities for horticulture display, environmental education, visitor amenities and research;
- (h) must establish, maintain, protect and preserve collections of plants in national botanical gardens and in herbaria;
- (i) may establish, maintain, protect and preserve collections of animals and micro-organisms in appropriate enclosures;
- (j) must collect, generate, process, coordinate and disseminate information about biodiversity and the sustainable use of indigenous biological resources, and establish and maintain databases in this regard;

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- (k) may allow, regulate or prohibit access by the public to national botanical gardens, herbaria and other places under the control of the Institute, and supply plants, information, meals or refreshments or render other services to visitors;
- (l) may undertake and promote research on indigenous biodiversity and the sustainable use of indigenous biological resources;
- (m) may coordinate and implement programmes for-
  - (i) the rehabilitation of ecosystems; and
  - (ii) the prevention, control or eradication of listed invasive species;
- (n) may coordinate programmes to involve civil society in-
  - (i) the conservation and sustainable use of indigenous biological resources; and
  - (ii) the rehabilitation of ecosystems;
- (o) on the Minister's request, must assist him or her in the performance of duties and the exercise of powers assigned to the Minister in terms of this Act;
- (p) on the Minister's request, must advise him or her on any matter regulated in terms of this Act, including-
  - (i) the implementation of this Act and any international agreements affecting biodiversity which are binding on the Republic;
  - (ii) the identification of bioregions and the contents of any bioregional plans;
  - (iii) other aspects of biodiversity planning;
  - (iv) the management and conservation of biological diversity; and
  - (v) the sustainable use of indigenous biological resources;
- (q) on the Minister's request, must advise him or her on the declaration and management of, and development in, national protected areas; and
- (r) must perform any other duties-
  - (i) assigned to it in terms of this Act; or
  - (ii) as may be prescribed.

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- (2) When the Institute in terms of subsection (1) gives advice on a scientific matter, it may consult any appropriate organ of state or other institution which has expertise in that matter.

### 12. General powers

The Institute may for the purpose of performing its duties –

- (a) appoint its own staff, subject to section 29;
- (b) obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment;
- (c) acquire or dispose of any right in or to movable or immovable property, or hire or let any property;
- (d) open and operate its own bank accounts;
- (e) establish a company which has as its object the production and supply of goods or the rendering of services on behalf of the Institute, subject to the Public Finance Management Act;
- (f) invest any of its money, subject to section 32;
- (g) borrow money, subject to section 66 of the Public Finance Management Act;
- (h) charge fees –
  - (i) for access to national botanical gardens, herbaria and other places under its control;
  - (ii) for any work performed or services rendered by it, except for any such work performed or services rendered in terms of section 11(1)(m), (n) or (o); or
  - (iii) for access to the results of, or to other information in connection with, any research performed by it;
- (i) collect royalties resulting from any discoveries, inventions or computer programmes;
- (j) insure itself against –
  - (i) any loss, damage or risk; or
  - (ii) any liability it may incur in the application of this Act;
- (k) perform legal acts, including acts in association with, or on behalf of, any other person or organ of state; and

- (l) institute or defend any legal action.

**Part 2:**

**Governing board, composition and membership**

**13. Composition**

- (1) The Institute is governed by a Board consisting of-
  - (a) not fewer than seven and not more than nine members appointed in terms of section 15;
  - (b) the Director-General or an official of the Department designated by the Director-General; and
  - (c) the Chief Executive Officer of the Institute.
- (2) The Minister-
  - (a) must determine the number of members to be appointed in terms of subsection (1) (a);and
  - (b) may alter the number determined in terms of paragraph (a), but a reduction in the number may be effected only when a vacancy in the Board occurs.
- (3) The Board takes all decisions in the performance of the duties and exercise of powers of the Institute, except-
  - (a) those decisions taken in consequence of a delegation in terms of section 27; or
  - (b) where the Public Finance Management Act provides otherwise.

**14. Qualifications**

- (1) A member of the Board must-
  - (a) be a fit and proper person to hold office as a member; and
  - (b) have appropriate qualifications and experience in the field of biodiversity.
- (2) The following persons are disqualified from becoming or remaining a member of the Board:
  - (a) A person holding office as a member of Parliament, a provincial legislature or a municipal council; or

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(b) a person who has been removed from office in terms of section 21.

### **15. Appointment procedure**

- (1) Whenever it is necessary to appoint members of the Board referred to in section 13(1)(a), the Minister must-
  - (a) through advertisements in the media circulating nationally and in each of the provinces, invite nominations for appointment as such a member; and
  - (b) compile a list of the names of persons nominated, setting out the prescribed particulars of each individual nominee.
- (2) Any nomination made pursuant to an advertisement in terms of subsection (1)(a) must be supported by-
  - (a) the personal details of the nominee;
  - (b) nominee's qualifications or experience; and
  - (c) any other information that may be prescribed.
- (3) The Minister must, subject to subsection (4), appoint-
  - (a) the required number of persons from the list compiled in terms of subsection (1)(b); and
  - (b) if such list is inadequate, any suitable person.
- (4) When making appointments the Minister must-
  - (a) consult the MECs for Environmental Affairs; and
  - (b) have regard to the need for appointing persons to promote representivity.
- (5) Appointments must be made in such a way that the Board is composed of persons covering a broad range of appropriate expertise in the field of biodiversity.

### **16. Chairperson**

- (1) Whenever necessary the Minister must appoint a member of the Board as the Chairperson of the Board.
- (2) The Chairperson is appointed for a period which is determined by the Minister which may, in the case of a member referred to in section 13(1)(a), not extend beyond the period of his or her term as a member.

- (3) The Minister may appoint a member of the Board as acting chairperson of the Board if-
- (a) the Chairperson is absent for a substantial period; or
  - (b) the appointment of a Chairperson is pending.

#### **17. Term of office**

Members of the Board referred to in section 13(1)(a)-

- (a) are appointed for a period of three years or, if section 22(2) applies, for a term determined in terms of that section;
- (b) on completion of that term, are eligible for reappointment for one additional term of three years; and
- (c) may have their appointment in terms of paragraph (a) or (b) extended by the Minister for a specific period not exceeding one year.

#### **18. Conditions of appointment**

- (1) The Minister must determine the conditions of employment of members of the Board referred to in section 13(1)(a).

(2)

- (a) The Minister may, with the concurrence of the Minister of Finance, determine the terms and conditions of employment of members of the Board who are not in the employment of the Government.
- (b) Their remuneration and allowances are paid by the Institute.

(3)

- (a) Members who are in the employ of the Government are not entitled to remuneration and allowances, but must be compensated for out of pocket expenses by the Institute.
- (b) Such members are appointed on a part-time basis.

#### **19. Conduct of members**

(1) A member of the Board-

- (a) must perform the duties of office in good faith and without favour or prejudice;

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- (b) must disclose to the Board any personal or private business interest that that member, or any spouse, partner or close family member of that Board member, may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered, unless the Board decides that the interest of that Board member in the matter is trivial or irrelevant;
  - (c) may not use the position, privileges or knowledge of a member for private gain or to improperly benefit another person; and
  - (d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of the Institute.
- (2) A member of the Board who contravenes or fails to comply with subsection (1) is guilty of misconduct.

### **20. Termination of membership**

- (1) A member of the Board referred to in section 13(1)(a) ceases to be a member when that person-
- (a) is no longer eligible in terms of section 14 to be a member;
  - (b) resigns; or
  - (c) is removed from office in terms of section 21.
- (2) A member may resign only by giving at least three months' written notice to the Minister, but the Minister may accept a shorter period in a specific case.

### **21. Removal from office**

- (1) The Minister may remove a member of the Board referred to in section 13(1)(a) from office, but only on the ground of-
- (a) misconduct, incapacity or incompetence;
  - (b) absence from three consecutive meetings of the Board without the prior permission of the Board except on good cause shown;
  - (c) insolvency; or
  - (d) conviction of a criminal offence without the option of a fine.

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- (2) A member of the Board may be removed from office on the ground of misconduct or incompetence only after a finding to that effect has been made by a board of inquiry appointed by the Minister.
- (3) The Minister may suspend a member under investigation in terms of this section.

### **22. Filling of vacancies**

- (1) A vacancy in the Board is filled-
  - (a) in the case of a vacating Chairperson, by appointing another member in terms of section 16(1) as the Chairperson; and
  - (b) in the case of a vacating member referred to in section 13(1)(a), by following the procedure set out in section 15.
- (2) A person appointed to fill a vacancy holds office for the remaining portion of the term of the vacating Chairperson or member.

### **Part 3:**

#### **Operating procedures of Board**

### **23. Meetings**

- (1) The Chairperson of the Board decides when and where the Board meets, but a majority of the members may request the Chairperson in writing to convene a Board meeting at a time and place set out in the request.
- (2) The Chairperson presides at meetings of the Board, but if the Chairperson is absent from a meeting, the members present must elect another member to preside at the meeting.

### **24. Procedures**

- (1) The Board may determine its own procedures subject to the provisions of this Act.
- (2) The Board must keep records of its proceedings and of decisions taken.

### **25. Quorum and decisions**

- (1) A majority of the members of the Board serving at any relevant time constitutes a quorum for a meeting of the Board.
- (2) A matter before the Board is decided by the votes of a majority of the members present at the meeting.

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- (3) If on any matter before the Board there is an equality of votes, the member presiding at the meeting must exercise a casting vote in addition to that person's vote as a member.

### **26. Committees**

- (1) The Board may establish one or more committees to assist it in the performance of its duties or the exercise of its powers.
- (2) When appointing members to a committee, the Board is not restricted to members of the Board.
- (3) The Board-
- (a) must determine the duties of a committee;
  - (b) must appoint a chairperson and other members of the committee;
  - (c) may remove a member of a committee from office at any time, taking into account the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
  - (d) must determine a working procedure of a committee.
- (4) The Board may dissolve a committee at any time.
- (5)
- (a) Section 18 read with the necessary change as the context may require, applies to the terms and conditions of employment of committee members.
  - (b) A staff member of the Institute appointed to a committee serves on the committee subject to the terms and conditions of that person's employment.

### **27. Delegation of powers and duties**

- (1) When necessary for the proper performance of its duties, the Board may, subject to subsection (2), delegate any of its powers or duties to-
- (a) a member of the Board;
  - (b) a committee referred to in section 26; or
  - (c) a staff member of the Institute.
- (2) The following powers and duties may not be delegated by the Board:

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- (a) The appointment or reappointment of a person as the Chief Executive Officer in terms of section 28(1) or (2);
  - (b) the determination of the terms and conditions of service of the Chief Executive Officer in terms of section 28(3);
  - (c) the determination of an employment policy in terms of section 29(1); and
  - (d) the setting of financial limits in terms of section 29(2)(a) or (3).
- (3) A delegation in terms of subsection (1)-
- (a) is subject to any limitations, conditions and directions that the Board may impose;
  - (b) must be in writing;
  - (c) does not divest the Board of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty; and
  - (d) does not prevent the exercise of the delegated power or the carrying out of the delegated duty by the Board.
- (4) The Board may confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.

### **Part 4:**

#### **Administration of Institute**

##### **28. Appointment of Chief Executive Officer**

- (1) The Board, acting with the concurrence of the Minister, must appoint a person with appropriate qualifications and experience as the Chief Executive Officer of the Institute.
- (2) The Chief Executive Officer-
  - (a) is appointed for a term not exceeding five years; and
  - (b) may be reappointed by the Board with the concurrence of the Minister, but only for one additional term not exceeding five years.
- (3) The Chief Executive Officer is employed subject to such terms and conditions of employment as the Board may determine in accordance with a policy approved by the Minister with the concurrence of the Cabinet member responsible for finance.

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- (4) The Chief Executive Officer-
- (a) is responsible for the management of the Institute;
  - (b) must perform such duties and may exercise such powers as the Board may delegate to him or her; and
  - (c) must report to the Board on aspects of management, the performance of duties and the exercise of powers, at such times or intervals and in such manner, as the Board may determine.
- (5)
- (a) The Chairperson of the Board may appoint another employee of the Institute as acting Chief Executive Officer for a period not exceeding six months, whenever-
    - (i) the Chief Executive Officer is for any reason absent or unable to perform his or her duties; or
    - (ii) there is a vacancy in the office of the Chief Executive Officer.
  - (b) Whilst acting as Chief Executive Officer, such employee-
    - (i) has the powers and duties of the Chief Executive Officer; and
    - (ii) is employed subject to such terms and conditions of employment as the Chairperson may determine in accordance with the policy referred to in subsection (3).

### **29. Employment of staff**

- (1) The Board, acting with the concurrence of the Minister, must determine an employment policy for the Institute.
- (2) The Chief Executive Officer-
- (a) within the financial limits set by the Board, must determine a staff establishment necessary for the work of the Institute; and
  - (b) may appoint persons in posts on the staff establishment.
- (3) An employee of the Institute is employed subject to the terms and conditions of employment determined by the Chief Executive Officer in accordance with the employment policy of, and within the financial limits set by, the Board.

(4)

(a) A person in the service of another organ of state may be seconded to the Institute by agreement between the Chief Executive Officer and such organ of state.

(b) Persons seconded to the Institute perform their duties under the supervision of the Chief Executive Officer.

(5) A person in the service of the Institute may, with the consent of that person, be seconded to another organ of state by agreement between the Chief Executive Officer and such organ of state.

**Part 5:**

**Financial matters**

**30. Financial accountability**

The Institute is a public entity for the purposes of the Public Finance Management Act, and must comply with the provisions of that Act.

**31. Funding**

The funds of the Institute consist of-

(a) income derived by it from the performance of its duties and the exercise of its powers;

(b) money appropriated by Parliament;

(c) grants received from organs of state;

(d) voluntary contributions, donations and bequests;

(e) money borrowed in terms of section 12(g);

(f) income derived from investments referred to in sections 32; and

(g) money derived from any other source, subject to the Public Finance Management Act.

**32. Investments**

The Institute may invest any of its funds not immediately required-

(a) subject to any investment policy that may be prescribed in terms of section 7(4) of the Public Finance Management Act; and

- (b) in such a manner that the Minister may approve.

**Part 6:**

**National botanical gardens**

**33. Declaration**

- (1) The Minister, acting with the approval of the Cabinet member responsible for the administration of the land in question may, by notice in the *Gazette*, declare any state land described in the notice as a-
- (a) national botanical garden; or
- (b) part of an existing national botanical garden.
- (2) The Minister, acting in accordance with an agreement with the owner of the land described in that agreement may, by notice in the *Gazette* declare that land as a-
- (a) national botanical garden; or
- (b) part of an existing national botanical garden.
- (3) A notice in terms of subsection (1)(a) or (2)(a) must assign a name to the national botanical garden, and Schedule 1 must be amended accordingly.

[Subs. (3) substituted by s. 31 of Act 14/2009]

- (4) All notices in terms of sections (1), (2) and (3) must be included in Schedule 1 to this Act, which will contain the name and definition of the land in question, of all proclaimed national botanical gardens.

[Subs. (4) substituted by s. 31 of Act 14/2009]

**34. Amendment or withdrawal of declarations**

- (1) The Minister may, by notice in the *Gazette* amend Schedule 1 in order to-

[Words preceding para. (a) substituted by s. 32 of Act 14/2009 ]

- (a) amend or withdraw a notice referred to in section 33, subject to subsection (2); or
- (b) amend the name assigned to a national botanical garden.

- (2) The declaration of state land as a national botanical garden, or part of an existing national botanical garden, may not be withdrawn and a part of a national botanical garden on state land may not be excluded from it except by resolution of each House of Parliament.

**Part 7:**

**General**

**35. Minister's supervisory powers**

- (1) The Minister-
- (a) must monitor the exercise and performance by the Institute of its powers and duties;
  - (b) may set norms and standards for the exercise and performance by the Institute of its powers and duties;
  - (c) may issue directives to the Institute on policy, planning, strategy and procedural issues to ensure its effective and efficient functioning;
  - (d) must determine limits on fees charged by the Institute in the exercise and performance of its powers and duties; and
  - (e) may identify land for new botanical gardens and extensions to existing botanical gardens.
- (2) The Institute must exercise its powers and perform its duties subject to any norms and standards, directives and determinations issued by the Minister in terms of subsection (1).

**36. Absence of functional Board**

In the event of absence of a functional Board, the powers and duties of the Board revert to the Minister who, in such a case, must exercise those powers and perform those duties until the Board is functional again.

**36A. Winding up or dissolution of Institute**

- (1) The Institute may not be wound up or dissolved except by or in terms of an Act of Parliament.
- (2) Upon its winding-up or dissolution the South African Biodiversity Institute must transfer its remaining assets or the proceeds of those assets, after satisfaction of its liabilities, to the State or to an equivalent Schedule 3A Public Entity which has the same objectives as the South African Biodiversity Institute and which itself is exempt from income tax in terms of section 10 (1)(cA) of the Income Tax Act, 1962 (Act No. 58 of 1962).

[S. 36A inserted by s. 33 of Act 14/2009]

## CHAPTER 3

### BIODIVERSITY PLANNING AND MONITORING

#### 37. Purpose of Chapter

The purpose of this Chapter is to-

- (a) provide for integrated and co-ordinated biodiversity planning;
- (b) provide for monitoring the conservation status of various components of South Africa's biodiversity; and
- (c) promote biodiversity research.

#### Part 1:

#### Biodiversity planning

#### 38. National biodiversity framework

- (1) The Minister-
  - (a) must prepare and adopt a national biodiversity framework within three years of the date on which this Act takes effect;
  - (b) must monitor implementation of the framework;
  - (c) must review the framework at least every five years; and
  - (d) may, when necessary, amend the framework.
- (2) The Minister must, by notice in the *Gazette*, publish the national biodiversity framework and each amendment of the framework.

#### 39. Contents of national biodiversity framework

- (1) The national biodiversity framework must-
  - (a) provide for an integrated, co-ordinated and uniform approach to biodiversity management by organs of state in all spheres of government, nongovernmental organisations, the private sector, local communities, other stakeholders and the public;
  - (b) be consistent with-

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- (i) this Act;
  - (ii) the national environmental management principles; and
  - (iii) any relevant international agreements binding on the Republic;
- (c) identify priority areas for conservation action and the establishment of protected areas; and
- (d) reflect regional co-operation on issues concerning biodiversity management in Southern Africa.
- (2) The national biodiversity framework may determine norms and standards for provincial and municipal environmental conservation plans.

### **40. Bioregions and bioregional plans**

- (1) The Minister or the MEC for environmental affairs in a province may, by notice in the *Gazette*-
- (a) determine a geographic region as a bioregion for the purposes of this Act if that region contains whole or several nested ecosystems and is characterised by its landforms, vegetation cover, human culture and history; and
  - (b) publish a plan for the management of biodiversity and the components of biodiversity in such region.
- (2) The Minister may determine a region as a bioregion and publish a bioregional plan for that region either-
- (a) on own initiative but after consulting the MEC for Environmental Affairs in the relevant province; or
  - (b) at the request of a province or municipality.
- (3) The MEC for environmental affairs may determine a region as a bioregion and publish a bioregional plan for that region only with the concurrence of the Minister.
- (4) Any person or organ of state may, on the request of the Minister or MEC for Environmental Affairs, assist in the preparation of a bioregional plan.
- (5) The Minister-
- (a) may enter into an agreement with a neighbouring country to secure the effective implementation of the plan; and

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- (b) must submit to Parliament a copy of any agreement entered into in terms of paragraph (a).

### **41. Contents of bioregional plans**

A bioregional plan must-

- (a) contain measures for the effective management of biodiversity and the components of biodiversity in the region;
- (b) provide for monitoring of the plan; and
- (c) be consistent with-
  - (i) this Act;
  - (ii) the national environmental management principles;
  - (iii) the national biodiversity framework; and
  - (iv) any relevant international agreements binding on the Republic.

### **42. Review and amendment of bioregional plans**

- (1) The Minister or the MEC for Environmental Affairs in the relevant province, as may be appropriate, must review a bioregional plan published in terms of section 40(1)(b) at least every five years, and assess compliance with the plan and the extent to which its objectives are being met.
- (2) The Minister or MEC for Environmental Affairs may, when necessary, by notice in the *Gazette*, amend a bioregional plan or the boundaries of the bioregion.
- (3) The MEC for Environmental Affairs may amend a bioregional plan or the boundaries of the bioregion only with the concurrence of the Minister.

### **43. Biodiversity management plans**

- (1) Any person, organisation or organ of state desiring to contribute to biodiversity management may submit to the Minister for his or her approval a draft management plan for-
  - (a) an ecosystem-
    - (i) listed in terms of section 52; or

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- (ii) which is not listed in terms of section 52 but which does warrant special conservation attention;
  - (b) an indigenous species-
    - (i) listed in terms of section 56; or
    - (ii) which is not listed in terms of section 56 but which does warrant special conservation attention; or
  - (c) a migratory species to give effect to the Republic's obligations in terms of an international agreement binding on the Republic.
- (2) Before approving a draft biodiversity management plan, the Minister must identify a suitable person, organisation or organ of state which is willing to be responsible for the implementation of the plan.
- (3) The Minister must-
- (a) publish by notice in the *Gazette* a biodiversity management plan approved in terms of subsection (1);
  - (b) determine the manner of implementation of the plan; and
  - (c) assign responsibility for the implementation of the plan to the person, organisation or organ of state identified in terms of subsection (2).

#### **44. Biodiversity management agreements**

The Minister may enter into a biodiversity management agreement with the person, organisation or organ of state identified in terms of section 43(2), or any other suitable person, organisation or organ of state, regarding the implementation of a biodiversity management plan, or any aspect of it.

#### **45. Contents of biodiversity management plans**

A biodiversity management plan must-

- (a) be aimed at ensuring the long-term survival in nature of the species or ecosystem to which the plan relates;
- (b) provide for the responsible person, organisation or organ of state to monitor and report on progress with implementation of the plan;

[Para. (b) amended by s. 34 of Act 14/2009]

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(c) be consistent with-

- (i) this Act;
- (ii) the national environmental management principles;
- (iii) the national biodiversity framework;
- (iv) any applicable bioregional plan;
- (v) .....

[Subpara. (v) deleted by s. 34 of Act 14/2009]

- (vi) .....

[Subpara. (vi) deleted by s. 34 of Act 14/2009]

- (vii) .....

[Subpara. (vii) deleted by s. 34 of Act 14/2009]

- (viii) any relevant international agreements binding on the Republic; and

[Para. (c) amended by s. 34 of Act 14/2009]

(d) take into consideration-

- (i) any plans issued in terms of Chapter 3 of the National Environmental Management Act;
- (ii) any municipal integrated development plan; and
- (iii) any other plans prepared in terms of national or provincial legislation that is affected.

[Para. (d) added by s. 34 of Act 14/2009]

**46. Review and amendment of biodiversity management plans**

- (1) The Minister must review a biodiversity management plan published in terms of section 43(3) at least every five years, and assess compliance with the plan and the extent to which its objectives are being met.
- (2) The Minister, either on own initiative or on request by an interested person, organisation or organ of state, may by notice in the *Gazette* amend a biodiversity management plan published in terms of section 43(3).

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- (3) Before amending a biodiversity management plan, the Minister must consult-
  - (a) any person, organisation or organ of state implementing the plan; and
  - (b) any organ of state whose activities are affected by the implementation of the plan.

### **47. Consultation**

- (1) Before adopting or approving a national biodiversity framework, a bioregional plan or a biodiversity management plan, or any amendment to such a plan, the Minister must follow a consultative process in accordance with sections 99 and 100.
- (2) Before adopting a bioregional plan, or any amendment to such a plan, the MEC for Environmental Affairs in the relevant province must follow a consultative process in accordance with sections 99 and 100.

### **Part 2:**

#### **Co-ordination and alignment of plans, monitoring and research**

### **48. Co-ordination and alignment of biodiversity plans**

- (1) The national biodiversity framework, a bioregional plan and a biodiversity management plan prepared in terms of this Chapter may not be in conflict with-
  - (a) any environmental implementation or environmental management plans prepared in terms of Chapter 3 of the National Environmental Management Act;
  - (b) any integrated development plans adopted by municipalities in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
  - (c) any spatial development frameworks in terms of legislation regulating land-use management, land development and spatial planning administered by the Cabinet member responsible for land affairs; and
  - (d) any other plans prepared in terms of national or provincial legislation that are affected.
- (2) An organ of state that must prepare an environmental implementation or environmental management plan in terms of Chapter 3 of the National Environmental Management Act, and a municipality that must adopt an integrated development plan in terms of the Local Government: Municipal Systems Act, 2000, must-
  - (a) align its plan with the national biodiversity framework and any applicable bioregional plan;

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- (b) incorporate into that plan those provisions of the national biodiversity framework or a bioregional plan that specifically apply to it; and
  - (c) demonstrate in its plan how the national biodiversity framework and any applicable bioregional plan may be implemented by that organ of state or municipality.
- (3) The Institute may-
- (a) assist the Minister and others involved in the preparation of the national biodiversity framework, a bioregional plan or a biodiversity management plan to comply with subsection (1); and
  - (b) make recommendations to organs of states or municipalities referred to in subsection (2) to align their plans referred to in that subsection with the national biodiversity framework and any applicable bioregional plan.

### **49. Monitoring**

- (1) The Minister must for the purposes of this Chapter designate monitoring mechanisms and set indicators to determine-
- (a) the conservation status of various components of South Africa's biodiversity; and
  - (b) any negative and positive trends affecting the conservation status of the various components.
- (2) The Minister may require any person, organisation or organ of state involved in terms of subsection (1) in monitoring the matters referred to in that subsection to report regularly to the Minister on the results of such monitoring measured against the predetermined indicators.
- (3) The Minister must-
- (a) annually report to Parliament on the information submitted to the Minister in terms of subsection (2); and
  - (b) make such information publicly available.

(Commencement date of s. 49: 1 April 2005)

### **50. Research**

- (1) The Minister must promote research done by the Institute and other institutions on biodiversity conservation, including the sustainable use, protection and conservation of indigenous biological resources.

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- (2) Research on biodiversity conservation may include-
- (a) the collection and analysis of information about-
    - (i) the conservation status of the various components of biodiversity;
    - (ii) negative and positive trends affecting the conservation status of various components; and
    - (iii) threatening processes or activities likely to impact on biodiversity conservation;
  - (b) the assessment of strategies and techniques for biodiversity conservation;
  - (c) the determination of biodiversity conservation needs and priorities; and
  - (d) the sustainable use, protection and conservation of indigenous biological resources.

## CHAPTER 4

### THREATENED OR PROTECTED ECOSYSTEMS AND SPECIES

#### 51. Purpose of Chapter

The purpose of this Chapter is to-

- (a) provide for the protection of ecosystems that are threatened or in need of protection to ensure the maintenance of their ecological integrity;
- (b) provide for the protection of species that are threatened or in need of protection to ensure their survival in the wild;
- (c) give effect to the Republic's obligations under international agreements regulating international trade in specimens of endangered species;

[Para. (c) amended by s. 3 of Act 14/2013]

- (d) ensure that the utilisation of biodiversity is managed in an ecologically sustainable way, and

[Para. (d) amended by s. 3 of Act 14/2013]

- (e) provide for the regulation of threatened or protected indigenous species to ensure that the utilisation of these species is managed in an ecologically sustainable manner.

[Para. (e) added by s. 3 of Act 14/2013 ]

**Part 1:**

**Protection of threatened or protected ecosystems**

**52. Ecosystems that are threatened or in need of protection**

(1)

- (a) The Minister may, by notice in the *Gazette*, publish a national list of ecosystems that are threatened and in need of protection.
- (b) An MEC for environmental affairs in a province may, by notice in the *Gazette*, publish a provincial list of ecosystems in the province that are threatened and in need of protection.

(2) The following categories of ecosystems may be listed in terms of subsection (1):

- (a) critically endangered ecosystems, being ecosystems that have undergone severe degradation of ecological structure, function or composition as a result of human intervention and are subject to an extremely high risk of irreversible transformation;
- (b) endangered ecosystems, being ecosystems that have undergone degradation of ecological structure, function or composition as a result of human intervention, although they are not critically endangered ecosystems;
- (c) vulnerable ecosystems, being ecosystems that have a high risk of undergoing significant degradation of ecological structure, function or composition as a result of human intervention, although they are not critically endangered ecosystems or endangered ecosystems; and
- (d) protected ecosystems, being ecosystems that are of high conservation value or of high national or provincial importance, although they are not listed in terms of paragraphs (a), (b) or (c).

(3) A list referred to in subsection (1) must describe in sufficient detail the location of each ecosystem on the list.

(4) The Minister and the MEC for environmental affairs in a relevant province, respectively, must at least every five years review any national or provincial list published by the Minister or MEC in terms of subsection (1).

(5) An MEC may publish or amend a provincial list only with the concurrence of the Minister.

**53. Threatening processes in listed ecosystems**

(1) The Minister may, by notice in the *Gazette*, identify any process or activity in a listed ecosystem as a threatening process.

- (2) A threatening process identified in terms of subsection (1) must be regarded as a specified activity contemplated in section 24(2)(b) of the National Environmental Management Act and a listed ecosystem must be regarded as an area identified for the purpose of that section.

#### **54. Certain plans to take into account in protection of listed ecosystems**

An organ of state that must prepare an environmental implementation or environmental management plan in terms of Chapter 3 of the National Environmental Management Act, and a municipality that must adopt an integrated development plan in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), must take into account the need for the protection of listed ecosystems.

#### **55. Amendment of notices**

The Minister or the MEC for Environmental Affairs in any relevant province may, by notice in the *Gazette*, amend or repeal any notice published by him or her in terms of section 52(1) or 53(1).

#### **Part 2:**

#### **Protection of threatened or protected species**

#### **56. Listing of species that are threatened or in need of national protection**

- (1) The Minister may, by notice in the *Gazette*, publish a list of-
- (a) critically endangered species, being any indigenous species facing an extremely high risk of extinction in the wild in the immediate future;
  - (b) endangered species, being any indigenous species facing a high risk of extinction in the wild in the near future, although they are not a critically endangered species;
  - (c) vulnerable species, being any indigenous species facing an extremely high risk of extinction in the wild in the medium-term future, although they are not a critically endangered species or an endangered species; and
  - (d) protected species, being any species which are of high conservation value or national importance or require regulation in order to ensure that the species are managed in an ecologically sustainable manner.

[Para. (d) substituted by s. 4 of Act 14/2013]

(1A)The Minister may further categorise within the different categories of species listed in subsection (1)(a) to (d) when compiling the lists referred to in subsection (1).

[Subs. (1A) inserted by s. 4 of Act 14/2013]

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(1B) The notice contemplated in subsection (1) may apply generally throughout the Republic or a province, as the case may be, or only in a specified area or category of areas.

[Subs. (1B) inserted by s. 4 of Act 14/2013]

(2) The Minister must review the lists published in terms of subsection (1) at least every five years.

**57. Restricted activities involving listed threatened or protected species and species to which an international agreement regulating international trade applies**

[Heading of s. 57 substituted by s. 5 of Act 14/2013]

(1) A person may not carry out a restricted activity involving a specimen of a listed threatened or protected species without a permit issued in terms of Chapter 7.

(1A) A person may not import, export, re-export or introduce from the sea, a specimen of a species listed in terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora without a permit issued in terms of Chapter 7.

[Subs. (1A) inserted by s. 5 of Act 14/2013]

(2) The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, prohibit the carrying out of any activity-

[Words preceding para. (a) substituted s. 5 of Act 14/2013]

(a) which is of a nature that may negatively impact on the survival of a listed threatened or protected species; and

(b) which is specified in the notice, or prohibit the carrying out of such activity without a permit issued in terms of Chapter 7.

(3) Subsections (1) and (1A) do not apply in respect of a specimen of a listed threatened or protected species or a species to which an international agreement regulating international trade applies conveyed from outside the Republic in transit through the Republic to a destination outside the Republic, provided that such transit through the Republic takes place with the required original documentation from the country of origin accompanying the shipment.

[Subs. (3) substituted by s. 5 of Act 14/2013]

(4)

(a) The Minister may, by notice in the *Gazette* and subject to such conditions as the

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Minister may specify in the notice, exempt a person or category of persons from a restriction contemplated in subsection (1) or (1A).

[Para. (a) substituted by s. 5 of Act 14/2013]

(b) Before granting an exemption in terms of paragraph (a), the Minister must follow a consultative process in accordance with sections 99 and 100.

[Subs. (4) added by s. 35 of Act 14/2009]

(5) A notice in terms of subsection (2) or (4) may-

(a) apply generally-

(i) throughout the Republic or a province, as the case may be, or only in a specified area or specified category of areas;

(ii) to all persons or only to a specified category of persons;

(iii) to all species or only to a specified species or specified category of species; or

(b) differentiate between-

(i) areas or categories of areas;

(ii) persons or categories of persons; or

(iii) species or categories of species.

[Subs. (5) added by s. 5 of Act 14/2013]

(Commencement date of s. 57: 1 April 2005)

### **58. Amendment of notices**

The Minister may by notice in the *Gazette* amend or repeal any notice published in terms of section 56(1), or 57(2) or (4).

[S. 58 substituted by s. 36 of Act 14/2009 and s. 6 of Act 14/2013]

## **Part 3:**

### **Trade in listed threatened or protected species**

### **59. Functions of Minister**

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The Minister-

- (a) must monitor-
  - (i) compliance with section 57(1) insofar as trade in specimens of listed threatened or protected species is concerned; and
  - (ii) compliance in the Republic with an international agreement regulating international trade in specimens of endangered species which is binding on the Republic;
- (b) must consult the scientific authority on issues relating to trade in specimens of endangered species regulated by such an international agreement;
- (c) must prepare and submit reports and documents in accordance with the Republic's obligations in terms of such an international agreement;
- (d) may provide administrative and technical support services and advice to organs of state to ensure the effective implementation and enforcement in the Republic of such an international agreement;
- (e) may make information and documentation relating to such an international agreement publicly available;

[Para. (e) amended by s. 7 of Act 14/2013]

- (f) may prescribe a system and the requirements for the compulsory or voluntary registration of persons, institutions, ranching operations, game farms, nurseries, captive breeding or keeping operations and other facilities or operations, and the recognition of associations relating to these persons, operations or facilities; and

[Para. (f) substituted by s. 7 of Act 14/2013]

### **60. Establishment of scientific authority**

- (1) The Minister must establish a scientific authority for the purpose of assisting in regulating and restricting the trade in specimens of listed threatened or protected species and species to which an international agreement regulating international trade applies.

[Subs. (1) substituted by s. 8 of Act 14/2013]

- (2) The Institute must provide logistical, administrative and financial support for the proper functioning of the scientific authority.

**61. Functions of scientific authority**

- (1) The scientific authority must-
- (a) monitor in the Republic the legal and illegal trade in specimens of listed threatened or protected species;
  - (b) advise the Minister and any other interested organs of state on the matters that it monitors;
  - (c) make recommendations to an issuing authority on applications for permits referred to in section 57(1) or (2);
  - (d) make non-detriment findings on the impact of actions relating to the international trade in specimens of listed threatened or protected species and species to which an international agreement regulating international trade applies, and must submit those findings to the Minister;

[Para. (d) substituted by s. 9 of Act 14/2013]

- (e) advise the Minister on-
  - (i) the registration of ranching operations, nurseries, captive breeding operations and other facilities;
  - (ii) whether an operation or facility meets the criteria for producing species considered to be bred in captivity or artificially propagated;
  - (iii) the choice of a rescue centre or other facility for the disposal of forfeited specimens;
  - (iv) any amendments to a notice published in terms of section 56(1) or 57(2);
  - (v) the nomenclature of species; or
  - (vi) any other matter of a specialised nature;
- (f) assist the Minister or an environmental management inspector in the identification of specimens for the purpose of enforcing the provisions of this Act;
- (g) issue certificates in which the identification of a specimen is verified as being taxonomically accurate;
- (h) perform any other function that may be-

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- (i) prescribed; or
  - (ii) delegated to it by the Minister in terms of section 47D of the National Environmental Management Act; and
- (i) deal with any other matter necessary for, or reasonably incidental to, its powers and duties.
  - (2) In performing its duties, the scientific authority must-
    - (a) base its findings, recommendations and advice on a scientific and professional review of available information; and
    - (b) consult, when necessary, organs of state, the private sector, non-governmental organisations, local communities and other stakeholders before making any findings or recommendations or giving any advice.

### **62. Annual non-detriment findings**

- (1) The Minister must, by notice in the *Gazette*, publish any non-detriment findings made by the scientific authority on trade in specimens of listed threatened or protected species and species to which an international agreement regulating international trade applies, in accordance with the requirements of the international agreement regulating international trade that are binding on the Republic.
- (2) Any interim findings of the scientific authority must be published in the *Gazette* by the Minister for public information within 30 days after the finding has been made.
- (3) Before publishing, amending or repealing a notice in terms of subsection (1), the Minister must publish any non-detriment findings made by the scientific authority in the *Gazette*, inviting members of the public to submit to the scientific authority, within 30 days of publication in the *Gazette*, written scientific information relating to the non-detriment findings.

[S. 62 substituted by s. 10 of Act 14/2013]

### **62A. Amendment of notices**

The Minister may by notice in the *Gazette* amend or repeal a notice published in terms of section 62(1).

[S. 62A inserted by s. 11 of Act 14/2013]

## **Part 4:**

### **General provisions**

### **63. Consultation**

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- (1) Before publishing a notice in terms of section 52(1), 53(1), 56(1), 57(2) or 57(4), or amending or repealing such a notice in terms of section 55 or 58, the Minister must follow a consultative process in accordance with sections 99 and 100.

[Subs. (1) substituted by s. 12 of Act 14/2013]

- (2) Before publishing a notice in terms of section 52(1), or amending or repealing such a notice in terms of section 55, the MEC for environmental affairs in the relevant province must follow a consultative process in accordance with sections 99 and 100.

## CHAPTER 5

### SPECIES AND ORGANISMS POSING POTENTIAL THREATS TO BIODIVERSITY

#### 64. Purposes of Chapter

- (1) The purpose of this Chapter is-
  - (a) to prevent the unauthorized introduction and spread of alien species and invasive species to ecosystems and habitats where they do not naturally occur;
  - (b) to manage and control alien species and invasive species to prevent or minimize harm to the environment and to biodiversity in particular;
  - (c) to eradicate alien species and invasive species from ecosystems and habitats where they may harm such ecosystems or habitats; and
  - (d) to ensure that environmental assessments for purposes of permits in terms of the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997), are conducted in appropriate cases in accordance with Chapter 5 of the National Environmental Management Act.
- (2) For the purpose of this Chapter, "specimen" has the meaning assigned to it in paragraphs (a) and (b) of the definition of "specimen" in section 1(1).

#### Part 1:

#### Alien species

#### 65. Restricted activities involving alien species

- (1) A person may not carry out a restricted activity involving a specimen of an alien species without a permit issued in terms of Chapter 7.

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- (2) A permit referred to in subsection (1) may be issued only after a prescribed assessment of risks and potential impacts on biodiversity is carried out.

(Commencement date of s. 65: 1 April 2005)

**66. Exemptions**

- (1) The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may specify in the notice, exempt -

- (a) any alien species specified in the notice;
- (b) any alien species of a category specified in the notice; or
- (c) any person,

from the provisions of section 65.

[Subs. (1) substituted by s. 13 of Act 14/2013]

- (2) Any person may carry out a restricted activity involving a specimen of an exempted alien species without a permit mentioned in section 65(1).

- (3) The Minister must regularly review a notice published in terms of subsection (1).

- (4) The notice in terms of subsection (1) may-

- (a) apply generally-
  - (i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;
  - (ii) to all persons or only to a specified category of persons;
  - (iii) to all species or only to a specified species or specified category of species; or
- (b) differentiate between-
  - (i) areas or categories of areas;
  - (ii) persons or categories of persons; or
  - (iii) species or categories of species.

[Subs. (4) substituted by s. 13 of Act 14/2013]

(Commencement date of s. 66: 1 April 2005)

**67. Restricted activities involving certain alien species totally prohibited**

- (1) The Minister may, by notice in the *Gazette*, publish a list of those alien species in respect of which a permit mentioned in section 65(1) may not be issued.
- (2) A person may not carry out any restricted activity involving a specimen of an alien species published in terms of subsection (1).
- (3) The Minister must regularly review a list published in terms of subsection (1).

**68. Amendment of notices**

The Minister may, by notice in the *Gazette*, amend or repeal any notice published in terms of section 66(1) or 67(1).

**69. Duty of care relating to alien species**

- (1) A person authorised by permit, in terms of section 65(1), to carry out a restricted activity involving a specimen of an alien species must-
  - (a) comply with the conditions under which the permit has been issued; and
  - (b) take all required steps to prevent or minimise harm to biodiversity.
- (2) A competent authority may, in writing, direct any person who has failed to comply with subsection (1), or who has contravened section 65(1) or 67(2), to take such steps-
  - (a) as may be necessary to remedy any harm to biodiversity caused by the actions of that person; and
  - (b) as may be specified in the directive.
- (3) If that person fails to comply with a directive issued in terms of subsection (2), the competent authority may-
  - (a) implement the directive; and
  - (b) recover from that person all costs incurred by the competent authority in implementing the directive.
- (4) Should an alien species establish itself in nature as an invasive species because of the actions of a specific person, a competent authority may hold that person liable for any costs incurred in the control and eradication of that species.

**Part 2:**

**Invasive species**

**70. List of invasive species**

(1)

(a) The Minister must within 24 months of the date on which this section takes effect, by notice in the *Gazette*, publish a national list of invasive species in respect of which this Chapter must be applied nationally.

(b) The MEC for environmental affairs in a province may, by notice in the *Gazette*, publish a provincial list of invasive species in respect of which this Chapter must be applied in the province.

(2) The Minister or the MEC for environmental affairs in a relevant province must regularly review the national list or any provincial list published in terms of subsection (1), as may be appropriate.

(3) An MEC for Environmental Affairs may only publish or amend a provincial list in terms of subsection (1) or (2) with the concurrence of the Minister.

(4) A notice in terms of subsection (1) may-

(a) apply generally-

(i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;

(ii) to all persons or only to a specified category of persons;

(iii) to all species or only to a specified species or a specified category of species; or

(b) differentiate between-

(i) areas or categories of areas;

(ii) persons or categories of persons; or

(iii) species or categories of species.

[Subs. (4) added by s. 14 of Act 14/2013]

**71. Restricted activities involving listed invasive species**

- (1) A person may not carry out a restricted activity involving a specimen of a listed invasive species without a permit issued in terms of Chapter 7.
- (2) A permit referred to in subsection (1) may be issued only after a prescribed assessment of risks and potential impacts on biodiversity is carried out.
- (3) The Minister may, by notice in the Gazette and subject to such conditions as the Minister may specify in the notice, exempt a person from a restriction contemplated in subsection (1) or (2).

[Subs. (3) added by s. 15 of Act 14/2013]

- (4) A notice in terms of subsection (3) may-
  - (a) apply generally-
    - (i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;
    - (ii) to all persons or only to a specified category of persons;
    - (iii) to all species or only to a specified species or a specified category of species; or
  - (b) differentiate between-
    - (i) areas or categories of areas;
    - (ii) persons or categories of persons; or
    - (iii) species or categories of species.

[Subs. (4) added by s. 15 of Act 14/2013]

(Commencement date of s. 71: 1 April 2005)

**71A. Prohibitions**

- (1) The Minister may, by notice in the Gazette and subject to such conditions as the Minister may specify in the notice, specify a specimen of a listed invasive species for which a permit to carry out a restricted activity may not be issued in terms of Chapter 7.
- (2) The notice in terms of subsection (1) may-

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(a) apply generally-

- (i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;
- (ii) to all persons or only to a specified category of persons;
- (iii) to all species or only to a specified species or a specified category of species; or

(b) differentiate between-

- (i) areas or categories of areas;
- (ii) persons or categories of persons; or
- (iii) species or categories of species.

[S. 71A inserted by s. 16 of Act 14/2013]

### **72. Amendment of notices**

- (1) The Minister may, by notice in the *Gazette*, amend or repeal any notice published in terms of section 70(1)(a), 71(3) or 71A(1).
- (2) The MEC may, by notice in the *Gazette*, amend or repeal any notice published in terms of section 70(1)(b).

[S. 72 substituted by s. 17 of Act 14/2013]

### **73. Duty of care relating to listed invasive species**

- (1) A person authorised by permit in terms of section 71(1) to carry out a restricted activity involving a specimen of a listed invasive species must take all the required steps to prevent or minimise harm to biodiversity.
- (2) A person who is the owner of land on which a listed invasive species occurs must-
  - (a) notify any relevant competent authority, in writing, of the listed invasive species occurring on that land;
  - (b) take steps to control and eradicate the listed invasive species and to prevent it from spreading; and
  - (c) take all the required steps to prevent or minimise harm to biodiversity.

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- (3) A competent authority may, in writing, direct any person who has failed to comply with subsection (1) or (2), or who has contravened section 71(1), to take such steps-
  - (a) as may be necessary to remedy any harm to biodiversity caused by-
    - (i) the actions of that person; or
    - (ii) the occurrence of the listed invasive species on land of which that person is the owner; and
  - (b) as may be specified in the directive.
- (4) If that person fails to comply with a directive issued in terms of subsection (3), a competent authority may-
  - (a) implement the directive; and
  - (b) recover all costs reasonably incurred by a competent authority in implementing the directive-
    - (i) from that person; or
    - (ii) proportionally from that person and any other person who benefited from implementation of the directive.

### **74. Requests to competent authorities to issue directives**

- (1) Any person may request a competent authority, in writing, to issue a directive in terms of section 73(3).
- (2) A competent authority must reply to the request, in writing, within 30 days of receipt of the request.
- (3) Should a competent authority fail to respond to the request within the stated period or refuses the request, the person who made the request may apply to a court for an order directing that competent authority to issue the directive.

### **75. Control and eradication of listed invasive species**

- (1) Control and eradication of a listed invasive species must be carried out by means of methods that are appropriate for the species concerned and the environment in which it occurs.
- (2) Any action taken to control and eradicate a listed invasive species must be executed with caution and in a manner that may cause the least possible harm to biodiversity and damage to the environment.

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- (3) The methods employed to control and eradicate a listed invasive species must also be directed at the offspring, propagating material and re-growth of such invasive species in order to prevent such species from producing offspring, forming seed, regenerating or re-establishing itself in any manner.
- (4) The Minister must ensure the coordination and implementation of programmes for the prevention, control or eradication of invasive species.
- (5) The Minister may establish an entity consisting of public servants to coordinate and implement programmes for the prevention, control or eradication of invasive species.

### **76. Invasive species control plans of organs of state**

- (1) The management authority of a protected area preparing a management plan for the area in terms of the Protected Areas Act must incorporate into the management plan an invasive species control and eradication strategy.
- (2)
  - (a) All organs of state in all spheres of government must prepare an invasive species monitoring, control and eradication plan for land under their control, as part of their environmental plans in accordance with section 11 of the National Environmental Management Act.
  - (b) The invasive species monitoring, control and eradication plans of municipalities must be part of their integrated development plans.
- (3) The Minister may request the Institute to assist municipalities in performing their duties in terms of subsection (2).
- (4) An invasive species monitoring, control and eradication plan must include-
  - (a) a detailed list and description of any listed invasive species occurring on the relevant land;
  - (b) a description of the parts of that land that are infested with such listed invasive species;
  - (c) an assessment of the extent of such infestation;
  - (d) a status report on the efficacy of previous control and eradication measures;
  - (e) the current measures to monitor, control and eradicate such invasive species; and
  - (f) measurable indicators of progress and success, and indications of when the control plan is to be completed.

### **77. Invasive species status reports**

- (1) The management authority of a protected area must at regular intervals prepare and submit to the Minister or the MEC for Environmental Affairs in the province a report on the status of any listed invasive species that occurs in that area.
- (2) A status report must include-
  - (a) a detailed list and description of all listed invasive species that occur in the protected area;
  - (b) a detailed description of the parts of the area that are infested with listed invasive species;
  - (c) an assessment of the extent of such infestation; and
  - (d) a report on the efficacy of previous control and eradication measures.

### **Part 3:**

#### **Other threats**

### **78. Genetically modified organisms**

- (1) If the Minister has reason to believe that the release of a genetically modified organism into the environment under a permit applied for in terms of the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997), may pose a threat to any indigenous species or the environment, no permit for such release may be issued in terms of that Act unless an environmental impact assessment has been conducted in accordance with Chapter 5 of the National Environmental Management Act as if such release were a listed activity contemplated in that Chapter.

[Subs. (1) substituted by s. 37 of Act 14/2009]

- (2) The Minister must convey his or her belief referred to in subsection (1) to the authority issuing permits in terms of the Genetically Modified Organisms Act, 1997, before the application for the relevant permit is decided.
- (3) For the purposes of subsection (1) "release" means trial release or general release as defined in section 1 of the Genetically Modified Organisms Act, 1997.

### **Part 4:**

#### **General provisions**

### **79. Consultation**

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- (1) Before publishing a notice in terms of section 66(1), 67(1) or 70(1), 71(3) or 71A(1), or amending or repealing such a notice in terms of section 68 or 72, the Minister must follow a consultative process in accordance with sections 99 and 100.

[Subs. (1) substituted by s. 18 of Act 14/2013]

- (2) Before publishing a notice in terms of section 70(1), or amending or repealing such a notice in terms of section 72, the MEC for environmental affairs in the relevant province must follow a consultative process in accordance with sections 99 and 100.

## CHAPTER 6

### BIOPROSPECTING, ACCESS AND BENEFIT-SHARING

#### 80. Purpose and application of Chapter

- (1) The purpose of this Chapter is-
  - (a) to regulate bioprospecting involving indigenous genetic and biological resources;
  - (b) to regulate the export from the Republic of indigenous genetic and biological resources for the purpose of bioprospecting or any other kind of research;
  - (c) to provide for a fair and equitable sharing by stakeholders in benefits arising from bioprospecting involving indigenous genetic and biological resources; and
  - (d) to ensure that the nation's indigenous genetic and biological resources are developed and utilized in an ecologically sustainable manner while promoting social and economic development, in particular in the areas where the indigenous genetic or biological resources and associated traditional knowledge is accessed.

[Subs. (1) substituted by s. 19 of Act 14/2013]

- (2) In this Chapter-

“indigenous biological resources”-

- (a) includes-
  - (i) any indigenous biological resources as defined in paragraph (b) of the definition of “indigenous biological resource” in section 1, whether gathered from the wild or accessed from any other source, including any animals, plants or other organisms of an indigenous species cultivated, bred or kept in captivity or cultivated or altered in any way by means of biotechnology;

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- (ii) any cultivar, variety, strain, derivative, hybrid or fertile version of any indigenous species or of any animals, plants or other organisms referred to in subparagraph (i); and
  - (iii) any exotic animals, plants or other organisms, whether gathered from the wild or accessed from any other source which, through the use of biotechnology, have been altered with any genetic material or chemical compound found in any indigenous species or any animals, plants or other organisms referred to in subparagraph (i) or (ii); but
- (b) excludes-
- (i) genetic material of human origin;
  - (ii) any exotic animals, plants or other organisms, other than exotic animals, plants or other organisms referred to in paragraph (a)(iii); and
  - (iii) indigenous biological resources listed in terms of the International Treaty on Plant Genetic Resources for Food and Agriculture.

(Commencement date of s. 80: 1 January 2006)

### **81. Permits**

- (1) No person may, without a permit issued in terms of Chapter 7-
- (a) engage in the commercialisation phase of bioprospecting involving any indigenous biological resources; or

[Para. (a) substituted by s. 38 of Act 14/2009]

- (b) export from the Republic any indigenous biological resources for the purpose of bioprospecting or any other kind of research.
- (2) Before any application for a permit referred to in subsection (1) may be considered by a relevant issuing authority, the applicant must at the request of the issuing authority, disclose to the issuing authority all information concerning the proposed bioprospecting and the indigenous biological resources to be used for such bioprospecting that is relevant for a proper consideration of the application.

(Commencement date of s. 81: 1 January 2006)

### **81A. Notification requirements**

- (1) No person may, without first notifying the Minister, engage in the discovery phase of bioprospecting involving any indigenous biological resources.

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- (2) A notice referred to in subsection (1) must be in such form and must contain such other particulars as may be prescribed.
- (3) A person involved in the discovery phase of bioprospecting must sign a prescribed commitment to comply with the requirements at the commercialisation phase of bioprospecting.

[S. 81A inserted by s. 39 of Act 14/2009]

(Commencement date of s. 81A: 1 April 2011)

### **82. Certain interests to be protected before permits are issued**

- (1) Before a permit referred to in section 81(1)(a) or (b) is issued, the issuing authority considering the application for the permit must in accordance with this section protect any interests any of the following stakeholders may have in the proposed bioprospecting project:
  - (a) A person, including any organ of state or community, providing or giving access to the indigenous biological resources to which the application relates; and
  - (b) an indigenous community or a specific individual-

[Words preceding subpara. (i) substituted by s. 40 of Act 14/2009]

- (i) whose traditional uses of the indigenous biological resources to which the application relates have initiated or will contribute to or form part of the proposed bioprospecting; or
    - (ii) whose knowledge of or discoveries about the indigenous biological resources to which the application relates are to be used for the proposed bioprospecting.
- (2) If a stakeholder has an interest as set out in subsection (1)(a), an issuing authority may issue a permit only if-
  - (a) the applicant has disclosed all material information relating to the relevant bioprospecting to the stakeholder and on the basis of that disclosure has obtained the prior consent of the stakeholder for the provision of or access to such resources;
  - (b) the applicant and the stakeholder have entered into-
    - (i) a material transfer agreement that regulates the provision of or access to such resources; and
    - (ii) a benefit-sharing agreement that provides for sharing by the stakeholder in any future benefits that may be derived from the relevant bioprospecting; and

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- (c) the Minister has in terms of sections 83(2) and 84(2) approved such benefit-sharing and material transfer agreements.
- (3) If a stakeholder has an interest as set out in subsection (1)(b), an issuing authority may issue a permit only if-
- (a) the applicant has disclosed all material information relating to the relevant bioprospecting to the stakeholder and on the basis of that disclosure has obtained the prior consent of the stakeholder to use any of the stakeholder's knowledge of or discoveries about the indigenous biological resources for the proposed bioprospecting;
  - (b) the applicant and the stakeholder have entered into a benefit-sharing agreement that provides for sharing by the stakeholder in any future benefits that may be derived from the relevant bioprospecting; and
  - (c) the Minister has in terms of section 83(2) approved such benefit-sharing agreement.
- (4) An issuing authority-
- (a) may engage the applicant and stakeholder on the terms and conditions of a benefit-sharing or material transfer agreement;
  - (b) may facilitate negotiations between the applicant and stakeholder and ensure that those negotiations are conducted on an equal footing;
  - (c) on request by the Minister, must ensure that any benefit-sharing arrangement agreed upon between the applicant and stakeholder is fair and equitable;
  - (d) may make recommendations to the Minister; and
  - (e) must perform any other functions that may be prescribed.

(Commencement date of s. 82: 1 January 2006)

### **83. Benefit-sharing agreements**

- (1) A benefit-sharing agreement must-
- (a) be in a prescribed format;
  - (b) specify-
    - (i) the type of indigenous biological resources to which the relevant bioprospecting relates;

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- (ii) the area or source from which the indigenous biological resources are to be collected or obtained;
  - (iii) the quantity of indigenous biological resources that is to be collected or obtained;
  - (iv) any traditional uses of the indigenous biological resources by an indigenous community; and
  - (v) the present potential uses of the indigenous biological resources;
- (c) name the parties to the benefit-sharing agreement;
- (d) set out the manner in which and the extent to which the indigenous biological resources are to be utilised or exploited for purposes of such bioprospecting;
- (e) set out the manner in which and the extent to which the stakeholder will share in any benefits that may arise from such bioprospecting;
- (f) provide for a regular review of the agreement by the parties as the bioprospecting progresses; and
- (g) comply with any other matters that may be prescribed.
- (2) A benefit-sharing agreement or any amendment to such an agreement-
- (a) must be submitted to the Minister for approval; and
  - (b) does not take effect unless approved by the Minister.

(Commencement date of s. 83: 1 January 2006)

### **84. Material transfer agreements**

- (1) A material transfer agreement must-
- (a) be in a prescribed format;
  - (b) specify-
    - (i) particulars of the provider, and the exporter or recipient, of the indigenous biological resources;
    - (ii) the type of indigenous biological resources to be provided or to be given access to;
    - (iii) the area or source from which the indigenous biological resources are to be collected, obtained or provided;

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- (iv) the quantity of indigenous biological resources that is to be provided, collected, obtained or exported;
  - (v) the purpose for which such indigenous biological resources are to be exported;
  - (vi) the present potential uses of the indigenous biological resources; and
  - (vii) conditions under which the recipient may provide any such indigenous biological resources, or their progeny, to a third party.
- (2) A material transfer agreement or any amendment to such an agreement-
- (a) must be submitted to the Minister for approval; and
  - (b) does not take effect unless approved by the Minister.

(Commencement date of s. 84: 1 January 2006)

### **85. Establishment of Bioprospecting Trust Fund**

- (1) A Bioprospecting Trust Fund is established into which all moneys arising from benefit-sharing agreements and material transfer agreements, and due to stakeholders, must be paid, and from which all payments to, or for the benefit of, stakeholders must be made.
- (2) All money paid into the bioprospecting trust fund is trust money within the meaning of section 13(1)(f)(ii) of the Public Finance Management Act.
- (3) The Director-General-
- (a) must manage the Fund in the prescribed manner or may appoint a trustee in terms of the Trust Property Control Act, 1988 (Act No. 57 of 1988), to administer the fund on the Director-General's behalf in the prescribed manner and under such terms as the Director-General may consider necessary; and

[Para. (a) substituted by s. 41 of Act 14/2009]

- (b) is accountable for the money in the Fund in terms of the Public Finance Management Act.

(Commencement date of s. 85: 1 January 2006)

### **86. Exemptions**

- (1) The Minister may by notice in the *Gazette*-

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- (a) declare that this Chapter does not apply to indigenous resources specified in the notice or to an activity relating to such indigenous biological resources;

[Para. (a) amended by s. 20 of Act 14/2013]

- (b) declare that this Chapter does not apply to certain categories of research involving indigenous biological resources or commercial exploitation of indigenous biological resources;

[Para. (b) amended by s. 20 of Act 14/2013]

- (bA) declare that this Chapter does not apply to the activity of collection, use, propagation cultivation or trade of indigenous biological resources for domestic use or subsistence purposes; or

[Para. (bA) inserted by s. 20 of Act 14/2013]

- (bB) declare that the benefit sharing agreements and material transfer agreements contemplated in section 83 and 84 do not apply to certain categories of commercial or industrial exploitation of indigenous biological resources.

[Para. (bB) inserted by s. 20 of Act 14/2013]

- (c) .....

[Para. (c) deleted by s. 20 of Act 14/2013]

[Subs. (1) substituted by s. 42 of Act 14/2009]

(1A) The Minister may amend or withdraw any notice referred to in subsection (1).

[Subs. (1A) inserted by s. 20 of Act 14/2013]

(2) Before publishing a notice in terms of subsection (1), or amending or repealing such a notice in terms of subsection (1A), the Minister must follow a consultative process in accordance with sections 99 and 100.

[Subs. (2) substituted by s. 20 of Act 14/2013]

(Commencement date of s. 86: 1 January 2006)

## CHAPTER 7

### PERMITS

#### 87. Purpose of Chapter

## BIODIVERSITY ACT

The purpose of this Chapter is to provide for the regulation of the issuing of permits authorising-

- (a) restricted activities involving specimens of-
  - (i) listed threatened or protected species in terms of section 57(1);
  - (ii) alien species in terms of section 65(1); or
  - (iii) listed invasive species in terms of section 71(1);
- (b) activities regulated in terms of a notice published in terms of section 57(2);
- (c) bioprospecting involving indigenous biological resources in terms of section 81(1);

[Para. (c) amended by s. 21 of Act 14/2013]

- (d) the export of indigenous biological resources for bioprospecting or any other type of research in terms of section 81(1); or

[Para. (d) amended by s. 21 of Act 14/2013]

- (e) the import, export, re-export or introduction from the sea, of a specimen of a species listed in terms of the international agreement referred to section 57(1A).

[Para. (e) inserted by s. 21 of Act 14/2013]

(Commencement date of s. 87: 1 April 2005)

### **87A. Issuing authority**

- (1) The Minister is the issuing authority responsible for deciding an application for a permit for-
  - (a) the carrying out of a restricted activity involving a specimen of a listed threatened or protected species-
    - (i) in a national protected area;
    - (ii) that is a marine species; or
    - (iii) applied for by an official, on behalf of-
      - (aa) a provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;

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- (bb) a national protected area;
  - (cc) the South African National Biodiversity Institute; or
  - (dd) an organ of state in the national sphere of government;
- (b) the import, export, re-export or introduction from the sea, of a specimen of a species listed in terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora-
- (i) originating from a national protected area;
  - (ii) that is a marine species; or
  - (iii) applied for by an official, on behalf of-
    - (aa) a provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;
    - (bb) a national protected area;
    - (cc) the South African National Biodiversity Institute; or
    - (dd) an organ of state in the national sphere of government;
- (c) the carrying out of a restricted activity involving a specimen of an alien or a listed invasive species;
- (d) the commercialisation phase of bioprospecting involving any indigenous biological resources; or
- (e) the export of any indigenous biological resources from the Republic for the purpose of bioprospecting.
- (2) The MEC is the issuing authority responsible for deciding an application for any permit not listed in subsection (1).
- (3) Notwithstanding subsections (1) and (2), the Minister and the MEC may in writing agree that any application for a permit or a type of permit-
- (a) contemplated in subsection (1) may be decided by the MEC; or
  - (b) contemplated in subsection (2) may be decided by the Minister.

[S. 87A inserted by s. 22 of Act 14/2013]

**Part 1:**

**Permit system**

**88. Application for permits**

- (1) A person may apply for a permit by lodging an application on the prescribed form to the authority.
- (2) An issuing authority may-
  - (a) request the applicant to furnish any additional information before it considers the application;
  - (b) require the applicant to comply with such reasonable conditions as it may impose before it grants the application;
  - (c) issue a permit unconditionally or issue it subject to conditions;

[Para. (c) amended by s. 23 of Act 14/2013]

- (d) refuse a permit; or

[Para. (d) amended by s. 23 of Act 14/2013]

- (e) defer a decision to issue a permit if the applicant is under investigation for the contravention or failure to comply with any provision of this Act, until such time that the investigation is concluded and-
  - (i) no prosecution in respect of such contravention or failure is instituted against the applicant concerned;
  - (ii) the applicant concerned is acquitted or found not guilty, if a prosecution in respect of such contravention or failure has been instituted; or
  - (iii) the applicant concerned has been convicted by a court of law of an offence in respect of such contravention or failure and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.

[Para. (e) amended by s. 23 of Act 14/2013]

- (3) A decision of the issuing authority to issue or refuse a permit or to issue it subject to conditions, must be consistent with-
  - (a) the applicable provisions of this Act;

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- (b) the national environmental management principles;
  - (c) the national biodiversity framework;
  - (d) any other relevant plans adopted or approved in terms of Chapter 3;
  - (e) any applicable international agreements binding on the Republic;
  - (f) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
  - (g) any requirements that may be prescribed.
- (4) If compulsory conditions are prescribed for any kind of permit, an issuing authority may not issue a permit of that kind other than subject to those conditions.
- (5) If an application is rejected, the issuing authority must give reasons for the decision in writing to the applicant.

(Commencement date of s. 88: 1 April 2005)

### **89. Risk assessments and expert evidence**

Before issuing a permit, the issuing authority may in writing require the applicant to furnish it, at the applicant's expense, with such independent risk assessment or expert evidence as the issuing authority may determine.

(Commencement date of s. 89: 1 April 2005)

### **90. Permits**

- (1) A permit-
- (a) must specify-
    - (i) the purpose for which it is issued;
    - (ii) the period for which it will remain valid; and
    - (iii) any other matters that may be prescribed;
  - (b) may be issued on conditions specified in the permit; and
  - (c) must be in the form and contain such other particulars as may be prescribed.

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- (2) A permit issued in terms of section 91 does not absolve the holder or any other person from complying with the provisions of any other applicable law.

(Commencement date of s. 90: 1 April 2005)

### **91. Additional requirements relating to alien and invasive species**

An issuing authority may issue a permit for a restricted activity involving a specimen of an alien species or of a listed invasive species only if-

- (a) adequate procedures have been followed by the applicant to assess the risks and potential impacts associated with the restricted activity;
- (b) the relevant species has been found to have negligible or no invasive potential;
- (c) the benefits of allowing the activity are significantly greater than the costs associated with preventing or remedying any resultant damage to the environment or biodiversity; and
- (d) it is satisfied that adequate measures have been taken by the applicant to prevent the escape and spread of the species.

(Commencement date of s. 91: 1 April 2005)

### **92. Integrated permits**

- (1) If the carrying out of an activity mentioned in section 87 is also regulated in terms of other law, the authority empowered under that other law to authorise that activity and the issuing authority empowered under this Act to issue permits in respect of that activity may-

[Words preceding para. (a) substituted by s. 43 of Act 14/2009]

- (a) exercise their respective powers jointly; and
  - (b) issue a single integrated permit instead of a separate permit and authorisation.
- (2) An authority empowered under that other law may issue an integrated permit for the activity in question if that authority is designated in terms of this Act also as an issuing authority for permits in respect of that activity.

[The words "designation" or "designated" to be substituted for the words "assignment" or "delegation" by s. 35 of Act 14/2013. However, we are of the opinion that the word "assigned" was intended to substitute the word "designated" in this section.]

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- (3) An integrated permit may be issued only if-
- (a) the relevant provisions of this Act and that other law have been complied with; and
  - (b) the permit specifies the-
    - (i) provisions in terms of which it has been issued; and
    - (ii) authority or authorities that have issued it.

(Commencement date of s. 92: 1 April 2005)

### **92A. Refusal of permits**

- (1) An issuing authority may refuse a permit-
- (a) if the carrying out of the restricted activity is likely to have a negative impact on the survival of the listed threatened or protected species;
  - (b) if the applicant has been convicted of an offence in terms of this Act; or
  - (c) in accordance with a ground for refusal contemplated in any regulation.
- (2) The Minister may from time to time issue directives, which are binding on the issuing authority, to ensure the effective implementation of subsection (1).

[S. 92A inserted by s. 24 of Act 14/2013]

### **93. Cancellation of permits**

- (1) An issuing authority which issued a permit may cancel the permit if-
- (a) the permit was issued as a result of misleading or false representations by the applicant or a person acting on behalf of the applicant;

[Para. (a) amended by s. 25 of Act 14/2013]

- (b) the applicant or permit holder has contravened or failed to comply with-
  - (i) any condition of the permit;
  - (ii) any provision of this Act or other law governing the permitted activity; or
  - (iii) any foreign law governing the permitted activity.

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(c) the applicant or permit holder has been convicted of an offence in terms of this Act; or

[Para. (c) added by s. 25 of Act 14/2013]

(d) the carrying out of the restricted activity has a detrimental impact on the species.

[Para. (d) added by s. 25 of Act 14/2013]

[Section renumbered as subs. (1) by s. 25 of Act 14/2013]

(2) An issuing authority may recover any reasonable costs incurred by that authority and necessitated by the cancellation of the permit, from the permit holder.

[Subs. (2) added by s. 25 of Act 14/2013]

(Commencement date of s. 93: 1 April 2005)

### **93A. Renewal and amendment of permits**

- (1) A permit holder may, before the expiry date of a permit, apply to an issuing authority for the renewal or amendment of such permit.
- (2) An application for the renewal or amendment of a permit must be in the form, contain such information and be accompanied by such processing fees as may be prescribed.
- (3) In considering an application to renew or amend a permit, the issuing authority must have regard to the same matters which it was required to consider when deciding on the initial application for that permit.
- (4) A issuing authority may for good reason amend or substitute any condition attached to a permit and any new information at the time of the renewal application.

[S. 93A inserted by s. 44 of Act 14/2009]

(Commencement date of s. 93A: to be proclaimed)

### **93B. Suspension of permits**

- (1) An issuing authority which issued a permit may suspend the permit if-
  - (a) the carrying out of the restricted activity is likely to have a negative impact on the survival of the listed threatened or protected species; or
  - (b) the permit holder is under investigation for the contravention of or failure to comply with any provision of this Act or any condition of the permit.

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- (2) An issuing authority may recover any reasonable costs, incurred by that authority and necessitated by the suspension of the permit, from the permit holder.

[S. 93B inserted by s. 26 of Act 14/2013]

**Part 2:**

**Appeals**

**94. ....**

[S. 94 repealed by s. 27 of Act 14/2013]

**95. ....**

[S. 95 repealed by s. 27 of Act 14/2013]

**96. ....**

[S. 96 repealed by s. 27 of Act 14/2013]

**CHAPTER 8**

**ADMINISTRATION OF ACT**

**Part 1:**

**Regulations**

**97. Regulations by Minister**

- (1) The Minister may make regulations relating to-

(a) the monitoring of compliance with and enforcement of norms and standards referred to in section 9;

(b)

(i) .....

[Subpara. (i) deleted by s. 97 of Act 14/2013]

(ii) the facilitation of the implementation and enforcement of section 57(1), 57(1A) or any notice published in terms of section 57(2);

[Subpara. (ii) substituted by s. 30 of Act 14/2013]

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(iii) the carrying out of a restricted activity involving a specimen of a listed threatened or protected species;

(iiiA) the circumstances in which restricted activities involving threatened or protected species may not be carried out;

[Subpara. (iiiA) substituted by s. 30 of Act 14/2013]

(iv) the facilitation of the implementation and enforcement of an international agreement regulating international trade in specimens of species to which the agreement applies and which is binding on the Republic;

[Subpara. (iv) substituted by s. 45 of Act 14/2009]

(v) the minimising of the threat to the survival in the wild of a listed threatened or protected species;

(vi) the minimising of the threat to the ecological integrity of a listed ecosystem;

(vii) the composition and operating procedure of the scientific authority;

[Subpara. (vii) amended by s. 45 of Act 14/2009]

(viii) the ecologically sustainable utilization of biodiversity, including-

(aa) limiting the number of permits for a restricted activity;

(bb) qualifications or requirements necessary for the undertaking of a restricted activity;

(cc) criteria for the equitable allocation of permits for a restricted activity;

[Subpara. (viii) amended by s. 45 of Act 14/2009 and substituted by s. 30 of Act 14/2013]

(ix) the hunting industry;

[Subpara. (ix) added by s. 45 of Act 14/2009]

(x) the duty of care in respect of threatened or protected species;

[Subpara. (x) added by s. 30 of Act 14/2013]

(xi) the management of threatened or protected species that cause damage;

[Subpara. (xi) added by s. 30 of Act 14/2013]

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(xii) the collection of samples for genetic analyses;

[Subpara. (xii) added by s. 30 of Act 14/2013]

(c)

(i) .....

[Subpara (i) deleted by s. 30 of Act 14/2013]

(ii) .....

[Subpara (ii) deleted by s. 30 of Act 14/2013]

(iiA) the circumstances under which a restricted activity involving alien species or listed invasive species, may not be carried out;

[Subpara (iiA) deleted by s. 30 of Act 14/2013]

(iii) the facilitation of the implementation and enforcement of section 65, 67 or 71;

(iv) the prescription of compulsory conditions for any permit issued in terms of section 65(1) or 71(1);

(v) the assessment of risks and potential impacts on biodiversity of restricted activities involving specimens of alien species or of listed invasive species;

[Subpara. (v) substituted by s. 30 of Act 14/2013]

(vi) the control and eradication of invasive species; and

[Subpara. (vi) substituted by s. 30 of Act 14/2013]

(vii) the coordination and implementation of programmes for the prevention, control or eradication of invasive species;

[Subpara. (vii) added by s. 30 of Act 14/2013]

(d) biosafety and the environment;

(dA) a system and requirements for the compulsory or voluntary registration of persons, institutions, ranching operations, game farms, nurseries, captive breeding or keeping operations and other facilities or operations;

[Para. (dA) inserted by s. 30 of Act 14/2013]

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(e)

(i) .....

[Subpara. (1) deleted by s. 30 of Act 14/2013]

(ii) the form and content of, and requirements and criteria for, notification requirements referred to in section 81 and benefit-sharing agreements and material transfer agreements;

[Subpara. (ii) substituted by s. 45 of Act 14/2009]

(iii) moneys payable in connection with benefit-sharing agreements and material transfer agreements; and

(iv) the administration of the Bioprospecting Trust Fund;

(f)

(i) the conditions subject to which issuing authorities may issue, renew or amend permits or registrations in terms of this Act;

[Subpara. (i) substituted by s. 45 of Act 14/2009 and s. 30 of Act 14/2013]

(ii) the procedure to be followed and the fees to be paid in connection with the lodging and consideration of applications and issuance of permits or registrations;

[Subpara. (ii) substituted by s. 30 of Act 14/2013]

(iiA) the procedure to be followed and the fees to be paid in connection with the marking of specimens;

[Subpara. (iiA) inserted by s. 30 of Act 14/2013]

(iii) the powers of issuing authorities when considering and deciding such applications;

(iv) the conditions with which applicants must comply before or after the lodging of their applications;

(v) appropriate consultation processes;

(vi) the authorities whose consent is required before permits may be issued;

(vii) the factors that must be taken into account when deciding applications;

BIODIVERSITY ACT

(viiA) timeframes for the consideration and issuance of a permit or registration by an issuing authority;

[Subpara. (viiA) inserted by s. 30 of Act 14/2013]

(viiB) the conducting and evaluation of a risk assessment;

[Subpara. (viiB) inserted by s. 30 of Act 14/2013]

(viii) the circumstances in which applications must be refused or may be approved;

(viiiA) the different types of permits that may be issued in terms of this Act;

[Subpara. (viiiA) inserted by s. 30 of Act 14/2013]

(ix) the categories, form and contents of permits and the geographical area where permits apply;

[Subpara. (ix) substituted by s. 30 of Act 14/2013]

(x) the conditions on which permits must be issued, or guidelines for determining conditions on which permits may be issued;

(xi) methods, procedures and conditions of enforcing compliance with the conditions of a permit;

(xiA) the circumstances or conditions under which permits or registrations may be amended, refused or cancelled;

[Subpara. (xiA) inserted by s. 30 of Act 14/2013]

(xii) the giving of security in respect of any obligation that may arise from carrying out a restricted activity authorised by a permit, and the form of such security;

(xiii) the period of validity of a permit or registration;

[Subpara. (xiii) substituted by s. 30 of Act 14/2013]

(xiv) the transferability of a permit or registration;

[Subpara. (xiv) substituted by s. 30 of Act 14/2013]

(xv) the duties and reporting requirements of issuing authorities, permit holders and registration holders;

[Subpara. (xv) substituted by s. 30 of Act 14/2013]

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(xvi).....

[Subpara. (xv) deleted by s. 30 of Act 14/2013]

(fA) self-administration within the biodiversity sector and the recognition of associations relating to persons, operations or facilities contemplated in section 59 of the Act;

[Para. (fA) inserted by s. 30 of Act 14/2013]

(g) any other matter that may be prescribed in terms of this Act;

[Para. (g) amended by s. 30 of Act 14/2013]

(h) any other matter that may be necessary to facilitate the implementation of this Act; and

[Para. (h) substituted by s. 30 of Act 14/2013]

(i) any matter that is necessary or expedient to achieve the objectives of the Act.

[Para. (i) added by s. 30 of Act 14/2013]

(2) Any regulation with direct fiscal implications may be made only with the concurrence of the Minister of Finance.

(3) Before publishing any regulations in terms of subsection (1), or any amendment to the regulations, the Minister must follow a consultative process in accordance with sections 99 and 00.

(3A) Any regulation made in terms of this Act must be submitted to Parliament 30 days prior to the publication of the regulations in the *Gazette*.

[Subs. (3A) inserted by s. 30 of Act 14/2013]

(4) Subsection (3) need not be applied to a non-substantial change to the regulations.

## 98. General

(1) Regulations made in terms of section 97 may-

(a) restrict or prohibit any act either absolutely or conditionally;

(b) apply-

(i) generally throughout the Republic or a province, as the case may be, or only in a specified area or category of areas;

(ii) generally to all persons or only to a specified category of persons;

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(iii) generally with respect to all species or only to a specified species or category of species; or

(iv) generally with respect to all permits or only to a specified category of permits; or

[Subpara. (iv) substituted by s. 31 of Act 14/2013]

(c) differentiate between different-

(i) areas or categories of areas;

(ii) persons or categories of persons;

(iii) species or categories of species; or

(iv) categories of permits.

[Subpara. (iv) substituted by s. 31 of Act 14/2013]

(2) Regulations made in terms of section 97 may provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable on conviction to-

(a) imprisonment for a period not exceeding five years;

[Para. (a) substituted by s. 46 of Act 14/2009]

(b) a fine not exceeding five million rand, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment; or

[Para. (b) substituted by s. 46 of Act 14/2009]

(c) both a fine and such imprisonment.

(3) Regulations made in terms of section 97 may differentiate between the penalties for the contravention of the different provisions thereof, but the maximum penalty may not exceed the penalty provided for in subsection (2).

[Subs. (3) added by s. 31 of Act 14/2013]

### **Part 2:**

#### **Consultation process**

#### **99. Consultation**

(1) Before exercising a power which, in terms of a provision of this Act, must be exercised in accordance with this section and section 100, the Minister must follow an appropriate consultative process in the circumstances.

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- (2) The Minister must, in terms of subsection (1)-
  - (a) consult all Cabinet members whose areas of responsibility may be affected by the exercise of the power;
  - (b) in accordance with the principles of co-operative governance set out in Chapter 3 of the Constitution, consult the MEC for Environmental Affairs of each province that may be affected by the exercise of the power; and
  - (c) allow public participation in the process in accordance with section 100.

### **100. Public participation**

- (1) The Minister must give notice of the proposed exercise of the power referred to in section 99-
  - (a) in the *Gazette*; and
  - (b) in at least one newspaper distributed nationally, or if the exercise of the power may affect only a specific area, in at least one newspaper distributed in that area.
- (2) The notice must-
  - (a) invite members of the public to submit to the Minister, within 30 days of publication of the notice in the *Gazette*, written representations on, or objections to, the proposed exercise of the power; and
  - (b) contain sufficient information to enable members of the public to submit meaningful representations or objections.
- (3) The Minister may in appropriate circumstances allow any interested person or community to present oral representations or objections to the Minister or a person designated by the Minister.
- (4) The Minister must give due consideration to all representations or objections received or presented before exercising the power.

## **CHAPTER 9**

### **OFFENCES AND PENALTIES**

#### **101. Offences**

- (1) A person is guilty of an offence if that person contravenes or fails to comply with a provision of-

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(a) section 57(1), 57(1A), 65(1), 67(2), 71(1), 81(1) or 81A(1);

[Para. (a) substituted by s. 32 of Act 14/2013]

(b) a notice published in terms of section 57(2); or

(c) a directive issued in terms of section 69(2) or 73(3).

(2) A person who is the holder of a permit is guilty of an offence if that person-

(a) contravenes or fails to comply with a provision of section 69(1) or 73(1); or

[Para. (a) amended by s. 32 of Act 14/2013]

(b) performs the activity for which the permit was issued otherwise than in accordance with any conditions subject to which the permit was issued;

[Para. (b) amended by s. 32 of Act 14/2013]

(c) .....

[Para. (c) repealed by s. 32 of Act 14/2013]

(3) A person is guilty of an offence if that person-

(a) fraudulently alters any permit;

(b) fabricates or forges any document for the purpose of passing it as a permit;

(c) passes, uses, alters or has in his or her possession any altered or false document purporting to be a permit;

[Para. (c) amended by s. 32 of Act 14/2013]

(d) knowingly makes any false statement or report for the purpose of obtaining a permit; or

[Para. (d) amended by s. 32 of Act 14/2013]

(e) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of subsection (1) or (2).

Para. (e) amended by s. 32 of Act 14/2013]

## **102. Penalties**

- (1) A person convicted of an offence in terms of section 101 is liable to a fine not exceeding R10 million, or an imprisonment for a period not exceeding ten years, or to both such a fine and such imprisonment.

[Subs. (1) substituted by s. 47 of Act 14/2009]

- (2) If a person is convicted of an offence involving a specimen of a listed threatened or protected species, or an alien species or commencing the commercialisation phase of bioprospecting without a permit issued in terms of Chapter 7, a fine may be determined, either in terms of subsection (1) or equal to three times the commercial value of the specimen or activity in respect of which the offence was committed, whichever is the greater.

[Subs. (2) substituted by s. 47 of Act 14/2009 and s. 33 of Act 14/2013]

- (2A) If a person is convicted of an offence involving a specimen of a listed invasive species, a fine may be determined, either in terms of subsection (1) or equal to the estimated cost associated with the control of the specimen in respect of which the offence was committed or both.

[Subs. (2A) inserted by s. 33 of Act 14/2013]

- (3) Notwithstanding anything to the contrary in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

[Subs. (3) added by s. 47 of Act 14/2009]

## **CHAPTER 10**

### **MISCELLANEOUS**

#### **103. Repeal of Act 122 of 1984**

The Forest Act, 1984 (Act No. 122 of 1984), is repealed by this Act.

#### **104. Savings**

- (1) Anything done in terms of the Forest Act, 1984 (Act No. 122 of 1984), which may or must be done in terms of this Act must be regarded as having been done in terms of this Act.
- (2) A person who immediately before the repeal of the Forest Act, 1984, by section 100 of this Act was-

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- (a) a member of the board of the National Botanical Institute, becomes a member of the Board of the South African National Biodiversity Institute and remains such a member until the Minister appoints the members of the Board in terms of section 15;
  - (b) the chief executive officer of the National Botanical Institute becomes the acting chief executive officer of the South African National Biodiversity Institute and remains the acting chief executive officer until the Board appoints a person as the chief executive officer of the Institute in terms of section 29; and
  - (c) all employees of the National Botanical Institute, including its chief executive officer, must be regarded as having been appointed in terms of section 30 as employees of the South African National Biodiversity Institute subject to the same conditions of services which applied to them immediately before the repeal of the Forest Act, 1984.
- (3) Subsection (2)(c) does not affect pension, leave and other benefits which accrued to employees referred to in that subsection before the repeal of the Forest Act, 1984, and such benefits must be respected as if there was no break in their service and no change of employer.
- (4) As from the date of repeal of the Forest Act, 1984-
- (a) all assets and liabilities and all rights and obligations of the National Botanical Institute are vested in the South African National Biodiversity Institute; and
  - (b) any balance in the National Botanical Institute Fund referred to in section 64 of that Act must be paid to the South African National Biodiversity Institute.

### **105. Existing bioprospecting projects**

- (1) Any party involved at the commencement of Chapter 6 in a bioprospecting project which concerns any interests to be protected in terms of section 82, may despite that section continue with the project pending the negotiation and entry into force of an appropriate benefit-sharing agreement in terms of that Chapter.
- (2) Subsection (1) lapses one year after Chapter 6 takes effect.

(Commencement date of s. 105: 1 January 2006)

### **105A. Emergency incidents**

- (1) The Minister may, by notice in the *Gazette*, declare an emergency intervention for the purpose of the control or eradication of an alien species or a listed invasive species if that alien species or listed invasive species constitutes a significant threat to the environment.

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- (2) A notice contemplated in subsection (1) must-
- (a) list the species to which the emergency intervention relates;
  - (b) indicate the reasons for the intervention; and
  - (c) provide the details relating to the intervention.

[S. 105A inserted by s. 34 of Act 14/2013]

### **105B. Amnesty**

- (1) In this section, 'amnesty' means indemnity against prosecution for the-
- (a) carrying out of a restricted activity involving specimens of listed threatened or protected species in terms of section 57(1), alien species in terms of section 65(1) or listed invasive species in terms of section 71(1); or
  - (b) engagement in the commercialisation phase of bioprospecting, without a permit issued in terms of Chapter 7.
- (2) The Minister may, by notice in the *Gazette* and subject to such conditions as the Minister may determine in the notice, declare a period of amnesty to facilitate compliance with the provisions of the Act.
- (3) A notice contemplated in subsection (2) must specify-
- (a) the person or category of persons to whom the amnesty applies;
  - (b) the species to which the amnesty applies;
  - (c) the restricted activity to which the amnesty applies;
  - (d) the period during which a person must apply for a permit; and
  - (e) the period for which the amnesty applies.

[S. 105B inserted by s. 34 of Act 14/2013]

### **106. Short title and commencement**

This Act is called the National Environmental Management: Biodiversity Act, 2004, and takes effect on a date determined by the President by proclamation in the *Gazette*.



**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GNR 151 OF 23 FEBRUARY 2007:**

**PUBLICATION OF LISTS OF CRITICALLY ENDANGERED,  
ENDANGERED, VULNERABLE AND PROTECTED SPECIES**

Amended by:

**GN R1187**

**GG 30568**

**2007/12/14**

**SCHEDULE**

<b>CATEGORY: Critically Endangered Species</b> - Indigenous species facing an extremely high risk of extinction in the wild in the immediate future	
<b>Scientific Name</b>	<b>Common Name</b>
<b>PISCES</b>	
<i>Labeo seeberi</i>	Clanwilliam Sandfish
<b>REPTILIA</b>	
<i>Caretta caretta</i>	Loggerhead Sea Turtle
<i>Dermochelys coriacea</i>	Leatherback Sea Turtle
<i>Eretmochelys imbricate</i>	Hawksbill Sea Turtle
<b>AVES</b>	
<i>Grus carunculatus</i>	Wattled Crane
<i>Hirundo atrocaerulea</i>	Blue Swallow
<i>Neophron percnopterus</i>	Egyptian Vulture
<i>Poicephalus robustus</i>	Cape Parrot
<b>MAMMALIA</b>	
<i>Bunolagus monticularis</i>	Riverine Rabbit
<i>Chrysothalpa villosus</i>	Rough-haired Golden Mole
<b>FLORA</b>	
<i>Adenium swazicum</i>	Swaziland Impala Lily
<i>Aloe pillansii</i>	False Quiver Tree
<i>Diaphanthe millarii</i>	Tree Orchid

PUBLICATION OF LISTS OF CRITICALLY ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED SPECIES

<i>Dioscorea ebutsiniorum</i>	Wild Yam
<i>Encephalartos aemulans</i>	Ngotshe Cycad
<i>Encephalartos brevifoliolatus</i>	Escarpment Cycad
<i>Encephalartos cerinus</i>	Waxen Cycad
<i>Encephalartos dolomiticus</i>	Wolkberg Cycad
<i>Encephalartos heenanii</i>	Woolly Cycad
<i>Encephalartos hirsutus</i>	Venda Cycad
<i>Encephalartos inopinus</i>	Lydenburg Cycad
<i>Encephalartos latifrons</i>	Albany Cycad
<i>Encephalartos middelburgensis</i>	Middelburg Cycad
<i>Encephalartos nubimontanus</i>	Blue Cycad
<i>Encephalartos woodii</i>	Wood's Cycad
<b>CATEGORY: Endangered Species</b> - Indigenous species facing a high risk of extinction in the wild in the near future, although they are not a critically endangered species	
<b>Scientific Name</b>	<b>Common Name</b>
<b>INVERTEBRATA</b>	
<i>Colophon spp</i> - All species	Stag Beetles
<b>PISCES</b>	
<i>Barbus andrewi</i>	Whitefish
<i>Barbus serra</i>	Sawfin
<i>Pristis microdon</i>	Large-tooth Sawfish
<b>REPTILIA</b>	
<i>Chelonia mydas</i>	Green Turtle
<i>Cordylus giganteus</i>	Giant Girdled Lizard
<i>Lepidochelys olivacea</i>	Olive Ridley Turtle
<i>Psammobates geometricus</i>	Geometric Tortoise
<b>AVES</b>	
<i>Anthropoides paradiseus</i>	Blue Crane
<i>Balearica regulorum</i>	Grey Crowned Crane
<i>Ephippiorhynchus senegalensis</i>	Saddle-billed Stork
<i>Gypaetus barbatus</i>	Bearded Vulture
<i>Gyps africanus</i>	White-backed Vulture
<i>Gyps coprotheres</i>	Cape Vulture
<i>Necrosyrtes monachus</i>	Hooded Vulture

PUBLICATION OF LISTS OF CRITICALLY ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED SPECIES

<i>Pelecanus rufescens</i>	Pink-backed Pelican
<i>Scotopelia peli</i>	Pel's Fishing Owl
<i>Torgos tracheliotus</i>	Lappet-faced Vulture
<b>MAMMALIA</b>	
<i>Amblysomus robustus</i>	Robust Golden Mole
<i>Damaliscus lunatus</i>	Tsessebe
<i>Diceros bicornis</i>	Black Rhinoceros
<i>Equus zebra</i>	Mountain Zebra
<i>Lycaon pictus</i>	African Wild Dog
<i>Neamblysomus gunningi</i>	Gunning's Golden Mole
<i>Ourebia ourebi</i>	Oribi
<i>Paraxerus palliatus</i>	Red Squirrel
<i>Petrodromus tetradactylus</i>	Four-toed Elephant-shrew
<b>FLORA</b>	
<i>Angraecum africanae</i>	Tree Orchid
<i>Encephalartos arenarius</i>	Dune Cycad
<i>Encephalartos cupidus</i>	Blyde River Cycad
<i>Encephalartos horridus</i>	Eastern Cape Blue Cycad
<i>Encephalartos laevifolius</i>	Kaapsehoop Cycad
<i>Encephalartos lebomboensis</i>	Lebombo Cycad
<i>Encephalartos msinganus</i>	Msinga Cycad
<i>Jubaeopsis caffra</i>	Pondoland Coconut
<i>Siphonochilus aethiopicus</i>	Wild Ginger
<i>Warburgia salutaris</i>	Pepper-bark Tree
<i>Newtonia hilderbrandi</i>	Lebombo Wattle
<b>CATEGORY: Vulnerable Species</b> - Indigenous species facing a high risk of extinction in the wild in the medium-term future, although they are not a critically endangered species or an endangered species	
<b>Scientific Name</b>	<b>Common Name</b>
<b>INVERTEBRATA</b>	
<i>Peripatopsis alba</i>	White Cave Velvet Worm
<b>PISCES</b>	
<i>Epinephelus andersoni</i>	Catface Rockcod
<i>Labeobarbus capensis</i>	Clanwilliam Yellowfish
<i>Labeobarbus kimberleyensis</i>	Vaal-Orange Largemouth Yellowfish

PUBLICATION OF LISTS OF CRITICALLY ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED SPECIES

<i>Myxus capensis</i>	Freshwater Mullet
<i>Oreochromis placidus</i>	Black Tilapia
<i>Serranochromis meridianus</i>	Lowveld Largemouth
<b>AVES</b>	
<i>Trigonoceps occipitalis</i>	White-headed Vulture
<i>Aquila rapax</i>	Tawny Eagle
<i>Ardeotis kori</i>	Kori Bustard
<i>Ciconia nigra</i>	Black Stork
<i>Circaetus fasciolatus</i>	Southern Banded Snake Eagle
<i>Eupodotis caerulescens</i>	Blue Korhaan
<i>Falco fasciinucha</i>	Taita Falcon
<i>Falco naumanni</i>	Lesser Kestrel
<i>Falco peregrinus</i>	Peregrine Falcon
<i>Geronticus calvus</i>	Bald Ibis
<i>Neotis ludwigii</i>	Ludwig's Bustard
<i>Polemaetus bellicosus</i>	Martial Eagle
<i>Terathopins ecaudatus</i>	Bateleur
<i>Tyto capensis</i>	Grass Owl
<b>MAMMALIA</b>	
<i>Acinonyx jubatus</i>	Cheetah
<i>Cercopithecus mitis</i>	Samango Monkey
<i>Chrysothalax trevelyani</i>	Giant Golden Mole
<i>Cricetomys gambianus</i>	Giant Rat
<i>Damaliscus pygargus pygargus</i>	Bontebok
<i>Dendrohyrax arboreus</i>	Tree Hyrax
<i>Hippotragus equinus</i>	Roan Antelope
<i>Manis temminckii</i>	Pangolin
<i>Neamblysomus julianae</i>	Juliana's Golden Mole
<i>Neotragus moschatus</i>	Suni
<i>Otomops martiensseni</i>	Large-eared Free-tailed Bat
<i>Panthera leo</i>	Lion
<i>Panthera pardus</i>	Leopard
<i>Philantomba monticola</i>	Blue Duiker
<b>FLORA</b>	
<i>Aloe albida</i>	Grass Aloe
<i>E. cycadifolius</i>	Winterberg Cycad
<i>Encephalartos eugene-maraisii</i>	Waterberg Cycad
<i>Encephalartos ngoyanus</i>	Ngoye Dwarf Cycad

PUBLICATION OF LISTS OF CRITICALLY ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED SPECIES

<i>Merwillia plumbea</i>	Blue Squill
<i>Zantedeschia jucunda</i>	Yellow Arum Lily
<b>CATEGORY: Protected Species</b> — Indigenous species of high conservation value or national importance that require national protection	
<b>Scientific Name</b>	<b>Common Name</b>
<b>INVERTEBRATA</b>	
<i>Aloeides clarki</i>	Coega Copper Butterfly
<i>Ceratogyrus spp</i> - All species	Horned Baboon Spiders
<i>Echinodiscus bisperforatus</i>	Pansy Shell
<i>Dromica spp</i> - All species	Tiger Beetles
<i>Graphipterus assimilis</i>	Velvet Ground Beetle
<i>Hadogenes spp</i> - All species	Flat Rock Scorpions
.....	.....
<i>Harpactira spp</i> - All species	Common Baboon Spiders
<i>Ichnestoma spp</i> - All species	Fruit Chafer Beetles
<i>Manticora spp</i> - All species	Monster Tiger Beetles
<i>Megacephala asperata</i>	Tiger Beetle
<i>Megacephala regalis</i>	Tiger Beetle
<i>Nigidius auriculatus</i>	Stag Beetle
<i>Oonotus adpersus</i>	Stag Beetle
<i>Oonotus interioris</i>	Stag Beetle
<i>Oonotus rex</i>	Stag Beetle
<i>Oonotus sericeus</i>	Stag Beetle
<i>Opisthacanthus spp</i> - All species	Creeping Scorpions
<i>Opisthophthalmus spp</i> - All species	Burrowing Scorpions
<i>Platychile pallida</i>	Tiger Beetle
<i>Prosopocoilus petitclerci</i>	Stag Beetle
<i>Prothyma guttipennis</i>	Tiger Beetle
<i>Pterinochilus spp</i> - All species	Golden Baboon Spiders
<b>AMPHIBIA</b>	
<i>Pyxicephalus adpersus</i>	Giant Bullfrog
<i>Pyxicephalus edulis</i>	African Bullfrog
<b>PISCES</b>	
<i>Anchichoerops natalensis</i>	Natal Wrasse
<i>Brycinus lateralis</i>	Striped Robber

PUBLICATION OF LISTS OF CRITICALLY ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED SPECIES

<i>Carcharodon carcharius</i>	Great White Shark
<i>Epinephelus lanceolatus</i>	Brindle Bass
<i>Epinephelus tukula</i>	Potato Bass
<i>Hydrocynus vittatus</i>	Tigerfish
<i>Latimeria chalumnae</i>	Coelacanth
.....	.....
<i>Nothobranchius orthonotus</i>	Spotted Killifish
<i>Nothobranchius rachovii</i>	Rainbow Killifish
.....	.....
<i>Pristis zijsron</i>	Longcomb Sawfish
<i>Varicorhinus nelspruitensis</i>	Incomati Chiselmouth
<b>REPTILIA</b>	
<i>Bitis gabonica</i>	Gaboon Adder
<i>Bitis schneideri</i>	Namaqua Dwarf Adder
<i>Bradypodion taeniabronchum</i>	Smith's Dwarf Chameleon
<i>Cordylus cataphractus</i>	Armidillo Girdled Lizard
<i>Crocodylus niloticus</i>	Nile crocodile
<i>Python natalensis</i>	African Rock Python
<b>AVES</b>	
<i>Bucorvus leadeateri</i>	Southern Ground-Hornbill
<i>Circus ranivorus</i>	African Marsh Harrier
<i>Neotis denhami</i>	Denham's Bustard
<i>Spheniscus demersus</i>	Jackass Penguin
<b>MAMMALIA</b>	
<i>Aonyx capensis</i>	Cape Clawless Otter
<i>Atelerix frontalis</i>	South African Hedgehog
<i>Ceratotherium simum</i>	White Rhinoceros
<i>Connochaetes gnou</i>	Black Wildebeest
<i>Crocuta crocuta</i>	Spotted Hyaena
<i>Felis nigripes</i>	Black-footed Cat
<i>Parahyaena brunnea</i>	Brown Hyaena
<i>Leptailurus serval</i>	Serval
<i>Loxodonta africana</i>	African elephant
<i>Lutra maculicollis</i>	Spotted-necked Otter
<i>Mellivora capensis</i>	Honey Badger
<i>Raphicerus sharpei</i>	Sharpe's Grysbok

PUBLICATION OF LISTS OF CRITICALLY ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED SPECIES

<i>Redunca arundinum</i>	Reedbuck
<i>Vulpes chama</i>	Cape Fox
<b>FLORA</b>	
<i>Adenia wilmsii</i>	No common name
<i>Aloe simii</i>	No common name
<i>Clivia mirabilis</i>	“Oorlogskloof” Bush Lily
<i>Disa macrostachya</i>	No common name
<i>Disa nubigena</i>	No common name
<i>Disa physodes</i>	No common name
<i>Disa procera</i>	No common name
<i>Disa sabulosa</i>	No common name
<i>E. umbeluziensis</i>	No common name
<i>E. villosus</i>	Poor man's cycad
<i>Encephalartos altensteinii</i>	Bread Palm
<i>Encephalartos caffer</i>	Breadfruit Tree
<i>Encephalartos dyerianus</i>	Lowveld Cycad
<i>Encephalartos friderici-guillielmi</i>	No common name
<i>Encephalartos ghellinckii</i>	No common name
<i>Encephalartos humilis</i>	No common name
<i>Encephalartos lanatus</i>	No common name
<i>Encephalartos lehmannii</i>	No common name
<i>Encephalartos longifolius</i>	No common name
<i>Encephalartos natalensis</i>	Natal Giant Cycad
<i>Encephalartos paucidentatus</i>	No common name
<i>Encephalartos princeps</i>	No common name
<i>Encephalartos senticosus</i>	No common name
<i>Encephalartos transvenosus</i>	Modjadje Cycad
<i>Encephalartos trispinosus</i>	No common name
<i>Euphorbia clivicola</i>	No common name
<i>Euphorbia meloformis</i>	No common name
<i>Euphorbia obesa</i>	No common name
<i>Harpagophytum procumbens</i>	Devil's Claw
<i>Harpagophytum zeyherii</i>	Devil's Claw
<i>Hoodia gordonii</i>	Ghaap
<i>Hoodia currorii</i>	Ghaap
<i>Protea odorata</i>	Swartland Sugarbush
<i>Stangeria eriopus</i>	No common name

[Schedule amended by GN R1187/2007]



MORATORIUM ON THE TRADE OF INDIVIDUAL RHINOCEROS HORNS AND ANY DERIVATES  
OR PRODUCTS OF THE HORNS

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GN 148 OF 13 FEBRUARY 2009**

**MORATORIUM ON THE TRADE OF INDIVIDUAL RHINOCEROS HORNS  
AND ANY DERIVATES OR PRODUCTS OF THE HORNS**

I, Marthinus Christoffel Johannes van Schalkwyk, Minister of Environmental Affairs and Tourism, hereby announce a national moratorium on the trade of individual rhinoceros horns and any derivatives or products of the horns within South Africa under Section 57(2) of the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004). The moratorium will take effect immediately and will stay in place until further notice.

**(Signed)**

**MARTHINUS VAN SCHALKWYK  
MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM**



**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GN 371 OF 14 MAY 2012**

**PROHIBITION OF TRADE IN CERTAIN  
*ENCEPHALARTOS* (CYCAD) SPECIES**

**SCHEDULE**

1. Definitions
2. Prohibitions
3. Commencement date

**1. Definitions**

**“conservation purposes”** means the purpose of carrying out the restricted activities is primarily aimed at ensuring the survival of the species in the wild in accordance with an approved conservation strategy, research program or a Biodiversity Management Plan, and may include the collection of specimens to establish re-introduction programs.

**“enforcement purposes”** means the purpose of carrying out the restricted activities is aimed at the process of enforcing the legal requirements of the Act and may include the confiscation, possession and movement of specimens by enforcement officials.

**2. Prohibitions**

- (1) The following restricted activities involving wild specimens of listed threatened or protected *Encephalartos* species, unless if required for conservation or enforcement purposes:
  - (a) Collect, pluck, uproot, destroy;
  - (b) Export from the Republic of South Africa, sell, trade, buy;
  - (c) Receive, give, donate, accept, acquire, dispose;
  - (d) Import into the Republic of South Africa, convey, move, translocate; or
  - (e) Possess, exercise physical control (except where permits have been issued, prior to the publication of this notice, for plants that form part of legally obtained parental stock).

PROHIBITION OF TRADE IN CERTAIN *ENCEPHALARTOS* (CYCAD) SPECIES

(2) The following restricted activities involving artificially propagated specimens of listed threatened or protected *Encephalartos* species:

- (i) The export from the Republic of South Africa of specimens with a stem diameter of more than 15cm, except for the following dwarf species which cannot be exported if the stem diameter is more than 7cm: *E. caffer*, *E. humilis*, *E. cupidus*, *E. cerinus* and *E. ngoyanus*.

**3. Commencement date**

This notice come into operation on the date of publication in the *Gazette*.

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GNR 509 OF 19 JULY 2013:**

**PUBLICATION OF EXEMPTED ALIEN SPECIES**

**SCHEDULE**

**EXEMPTED ALIEN SPECIES**

1. The following categories of alien species are exempted from the provisions of section 65 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004):
  - (a) Dead specimens of any alien species;
  - (b) Alien species that have been legally introduced into the Republic of South Africa prior to the commencement of the Alien and Invasive Species Regulations, 2013 and that are not listed as an invasive species in terms of section 70(1)(a) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), including species imported for agricultural purposes;
  - (c) Alien species that are also indigenous species and are regulated in terms of the Threatened and Protected Species Regulations, 2007, promulgated under the National Environmental Management Biodiversity Act 2004 (Act No. 10 of 2004);
  - (d) Alien plant species that are also indigenous species;
  - (e) Alien species regulated in terms of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983), as weeds and invader plants.



**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GNR 598 OF 1 AUGUST 2014**

**ALIEN AND INVASIVE SPECIES REGULATIONS, 2014**

**SCHEDULE**

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INTERPRETATION**

1. Definitions

**CHAPTER 2  
CATEGORIES OF LISTED INVASIVE SPECIES**

2. Category 1a Listed Invasive Species
3. Category 1b Listed Invasive Species
4. Category 2 Listed Invasive Species
5. Category 3 Listed Invasive Species

**CHAPTER 3  
RESTRICTED ACTIVITIES**

6. Restricted activities

**CHAPTER 4  
NATIONAL FRAMEWORK DOCUMENTS**

7. Exempted alien species
8. Invasive Species Monitoring, Control and Eradication Plans
9. National register of alien and listed invasive species
10. Invasive species research and biological control
11. National status reports

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15. Risk assessment facilitator
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19. Form and content of application for permit
20. Consideration of application
21. Decision
22. Permit conditions
23. Special provisions for research, biological control, display and inter-basin transfer
24. Form and content of permits
25. Period of validity of permits
26. Amendment of permits
27. Return of cancelled permits
28. Renewal of permits
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30. Emergency suspension of permits

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**COMPLIANCE AND ENFORCEMENT**

31. Prohibited alien and listed invasive species directives
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ANNEXURE A: FEES

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## **CHAPTER 1**

### **INTERPRETATION**

#### **1. Definitions**

In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the contents otherwise indicates-

**“authorised official”** means an environmental management inspector and any official employed by the Department;

**“biological control”** means the use of specimens of one species for the purpose of preying on, parasitising on, damaging, killing, suppressing or controlling a specimen of another species;

**“botanical institution”** means an establishment where plants are grown for scientific study and for display to the public;

**“catch and release”** means the catching and release of a live fresh-water animal in the same area in which it was caught;

**“Category 1a Listed Invasive Species”** means invasive species contemplated in Regulation 2;

**“Category 1b Listed Invasive Species”** means invasive species contemplated in Regulation 3;

**“Category 2 Listed Invasive Species”** means invasive species contemplated in Regulation 4;

**“Category 3 Listed Invasive Species”** means invasive species contemplated in Regulation 5;

**“inter-basin transfer scheme”** means a man-made conveyance scheme which moves water from one river catchment where it is available, to another catchment where water is less available;

**“Invasive Species Monitoring, Control and Eradication Plan”** means a plan contemplated in section 76 of the Act and in Regulation 8;

**“off-shore island”** means the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948), or any other off-shore island in South Africa’s exclusive economic zone;

“**pathway**” means the route by which a specimen of an alien or listed invasive species is transported, introduced into, dispersed or spread within the Republic, whether by natural, unnatural, deliberate or inadvertent means or by an act of omission;

“**prohibited alien species**” means an alien species listed by notice by the Minister, in respect of which a permit may not be issued as contemplated in section 67(1) of the Act;

“**riparian area**” means within 32 metres of the edge of a river, lake, dam, wetland or estuary, or within the 1:100 year floodline, whichever is the greater;

“**risk assessment**” means a scientific evaluation of the threat or potential threat to ecosystems, habitats, other species, the economy, the environment or human health or well-being posed by a restricted activity involving a specimen of an alien or listed invasive species in terms of Chapter 6 of these regulations;

“**scientific institution**” means-

- (a) an organ of state that is involved in research;
- (b) a registered research unit of a tertiary institution; or
- (c) a museum or herbarium;

“**vector**” means any object by, with or on which a specimen of an alien or listed invasive species is inadvertently or deliberately transported, dispersed or spread; and

“**zoological institution**” means a facility in which animals are confined within enclosures, displayed to the public, and in which they may also be bred.

## CHAPTER 2

### CATEGORIES OF LISTED INVASIVE SPECIES

#### 2. Category 1a Listed Invasive Species

- (1) Category 1a Listed Invasive Species are those species listed as such by notice in terms of section 70(1)(a) of the Act as species which must be combatted or eradicated.
- (2) A person in control of a Category 1a Listed Invasive Species must-
  - (a) comply with the provisions of section 73(2) of the Act;
  - (b) immediately take steps to combat or eradicate listed invasive species in compliance with sections 75(1), (2) and (3) of the Act; and

(c) allow an authorised official from the Department to enter onto land to monitor, assist with or implement the combatting or eradication of the listed invasive species.

- (3) If an Invasive Species Management Programme has been developed in terms of section 75(4) of the Act, a person must combat or eradicate the listed invasive species in accordance with such programme.

### **3. Category 1b Listed Invasive Species**

- (1) Category 1b Listed Invasive Species are those species listed as such by notice in terms of section 70(1)(a) of the Act as species which must be controlled.
- (2) A person in control of a Category 1b Listed Invasive Species must control the listed invasive species in compliance with sections 75(1), (2) and (3) of the Act.
- (3) If an Invasive Species Management Programme has been developed in terms of section 75(4) of the Act, a person must control the listed invasive species in accordance with such programme.
- (4) A person contemplated in sub-regulation (2) must allow an authorised official from the Department to enter onto the land to monitor, assist with or implement the control of the listed invasive species, or compliance with the Invasive Species Management Programme contemplated in section 75(4) of the Act.

### **4. Category 2 Listed Invasive Species**

- (1) Category 2 Listed Invasive Species are those species listed by notice in terms of section 70(1)(a) of the Act as species which require a permit to carry out a restricted activity within an area specified in the Notice or an area specified in the permit, as the case may be.
- (2) Unless otherwise indicated in the Notice, no person may carry out a restricted activity in respect of a Category 2 Listed Invasive Species without a permit.
- (3) A landowner on whose land a Category 2 Listed Invasive Species occurs or person in possession of a permit, must ensure that the specimens of the species do not spread outside of the land or the area specified in the Notice or permit.
- (4) If an Invasive Species Management Programme has been developed in terms of section 75(4) of the Act, a person must control the listed invasive species in accordance with such programme.
- (5) Unless otherwise specified in the Notice, any species listed as a Category 2 Listed Invasive Species that occurs outside the specified area contemplated in sub-regulation (1), must, for purposes of these regulations, be considered to be a Category 1b Listed Invasive Species and must be managed according to Regulation 3.

- (6) Notwithstanding the specific exemptions relating to existing plantations in respect of Listed Invasive Plant Species published in *Government Gazette* No. 37886, Notice 599 of 1 August 2014 (as amended), any person or organ of state must ensure that the specimens of such Listed Invasive Plant Species do not spread outside of the land over which they have control.

#### **5. Category 3 Listed Invasive Species**

- (1) Category 3 Listed Invasive Species are species that are listed by notice in terms of section 70(1)(a) of the Act, as species which are subject to exemptions in terms of section 71(3) and prohibitions in terms of section 71A of Act, as specified in the Notice.
- (2) Any plant species identified as a Category 3 Listed Invasive Species that occurs in riparian areas, must, for the purposes of these regulations, be considered to be a Category 1b Listed Invasive Species and must be managed according to regulation 3.
- (3) If an Invasive Species Management Programme has been developed in terms of section 75(4) of the Act, a person must control the listed invasive species in accordance with such programme.

### **CHAPTER 3**

#### **RESTRICTED ACTIVITIES**

#### **6. Restricted activities**

In addition to those activities defined in terms of section 1 of the Act as restricted activities, the following activities are hereby prescribed as restricted activities:

- (a) spreading or allowing the spread of, any specimen of a listed invasive species;
- (b) releasing any specimen of a listed invasive species;
- (c) the transfer or release of a specimen of a listed invasive fresh-water species from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier;
- (d) discharging of or disposing into any waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a specimen of an alien species or a listed invasive freshwater species;
- (e) catch and release of a specimen of a listed invasive fresh-water fish or listed invasive fresh-water invertebrate species;

- (f) the introduction of a specimen of an alien or listed invasive species to off-shore islands; or
- (g) the release of a specimen of a listed invasive fresh-water fish species, or of a listed invasive fresh water invertebrate species into a discrete catchment system in which it already occurs.

#### **7. Exempted alien species**

An exempted alien specimen or alien specimen for which a permit is required, entering the Republic from outside the country, must be accompanied by veterinary health certificates or phytosanitary certificates as official declaration by the exporting authority that the risk of such specimen becoming a potential vector of invasive diseases or pathogens has been managed.

### **CHAPTER 4**

#### **NATIONAL FRAMEWORK DOCUMENTS**

#### **8. Invasive Species Monitoring, Control and Eradication Plans**

- (1) The Minister must-
  - (a) within one year of the date on which these regulations come into effect, develop guidelines for the development of Invasive Species Monitoring, Control and Eradication Plans for listed invasive species as contemplated in section 76 of the Act;
  - (b) publish the guidelines contemplated in paragraph (a) on the Department's website; and
  - (c) review, at least every five years, the guidelines contemplated in paragraph (a).
- (2) Management authorities of protected areas and organs of state in all spheres of government must-
  - (a) prepare their Invasive Species Monitoring, Control and Eradication Plans contemplated in section 76 of the Act based on priorities identified through the guidelines referred to in sub-regulation (1); and
  - (b) submit those plans to the Minister and to the Institute within one year of the publication of the guidelines contemplated in sub-regulation (1).
- (3) The Invasive Species Monitoring, Control and Eradication Plans referred to in sub-regulation (2) must be reviewed every 5 years by those organs of state and management authorities responsible for such plans.

**9. National register of alien and listed invasive species**

- (1) The Minister must establish and maintain a national register of-
  - (a) all listed invasive species in relation to which a permit has been issued and the conditions subject to which the permit has been issued;
  - (b) all Invasive Species Monitoring, Control and Eradication Plans submitted to the Minister in terms of Regulation 8(2); and
  - (c) all Invasive Species Management Programmes developed in terms of section 75(4) of the Act.
- (2) The Minister must make the national register available for publication on the Department's website.

**10. Invasive species research and biological control**

- (1) A proposal on any research and biological control relating to any aspect of the invasiveness or potential invasiveness of an alien species or a listed invasive species or the prevention, eradication or control of such invasive or potentially invasive species must be lodged with the Institute or a body designated by the Institute, by-
  - (a) any organ of state or organisation conducting or funding such research;
  - (b) any person in the Republic conducting such research where the research is wholly or partially funded by an organ of state; or
  - (c) any person to whom a permit is issued in terms of section 65(1) or 71(1) of the Act to carry out restricted activities for the purpose of research involving an alien or listed invasive species.
- (2) A proposal in terms of sub-regulation (1) must-
  - (a) be lodged prior to commencing the research;
  - (b) be lodged in writing; and (c) contain the following information;
    - (i) the name of the researcher, his or her institution and contact details;
    - (ii) the species, pathway or vector being researched;
    - (iii) the hypothesis being tested;
    - (iv) the source of funding for the research; and
    - (v) the anticipated period of the research.

- (3) Any information provided in terms of sub-regulation (2)(c)(iii) is confidential.
- (4) A copy of any findings of research referred to in sub-regulation (1) must, upon completion, be lodged with the Institute and the Minister.

#### **11. National status reports**

- (1) The Institute or a body designated by the Institute must, for the purpose of reporting as contemplated in section 11(1)(a)(iii) of the Act, submit a report on the status of listed invasive species to the Minister within three years of the date on which these regulations come into effect, and at least every three years thereafter.
- (2) A report contemplated in sub-regulation (1) must contain a summary and assessment of-
  - (a) the status of listed invasive species and other species that have been subjected to a risk assessment; and
  - (b) the effectiveness of these regulations and control measures based inter alia on information from-
    - (i) notifications received from owners of land regarding listed invasive species occurring on their land;
    - (ii) permits issued for listed invasive species;
    - (iii) Invasive Species Monitoring, Control and Eradication Plans received from organs of state and management authorities of protected areas; and
    - (iv) emergency interventions and enforcement actions involving listed invasive species issued by the Minister.
- (3) In preparing a report contemplated in sub-regulation (1), the Institute must carry out the research and monitoring necessary to identify the matters contemplated in sub-regulation (2).

## **CHAPTER 5**

### **REGISTERS AND NOTIFICATION**

#### **12. Register of permits**

- (1) The issuing authority must-
  - (a) establish and maintain a register of-

ALIEN AND INVASIVE SPECIES REGULATIONS, 2014

- (i) all permits, including integrated permits, issued by that issuing authority;
  - (ii) all permits that were refused;
  - (iii) all permits issued by that issuing authority that were subsequently cancelled; and
  - (iv) all risk assessments that have been carried out in terms of sections 65(2) and 71(2) of the Act;
- (b) record in the register contemplated in paragraph (a)-
- (i) in the case of applications that were granted, the unique number assigned to each permit;
  - (ii) the scientific and common name of the species for which the permit was issued, refused or cancelled;
  - (iii) whether the species was subjected to a risk assessment;
  - (iv) the restricted activity for which the permit was issued;
  - (v) any conditions under which the permit was issued;
  - (vi) the date on which the permit was issued;
  - (vii) the period of validity of the permit; and
  - (viii) the location where the restricted activity is to be carried out; and
- (c) provide the Institute with a copy of the register.

**13. Register of notifications and directives**

- (1) A competent authority must-
- (a) establish and maintain a register of-
    - (i) all notifications received in terms of section 73(2)(a) of the Act;
    - (ii) the directives issued in terms of sections 69(2) or 73(3) of the Act; and
    - (iii) all Invasive Species Monitoring, Control and Eradication Plans contemplated in regulation 8(2); and
  - (b) provide the Department and the Institute with a copy of the register.

## CHAPTER 6

### RISK ASSESSMENT

#### 14. Risk assessment framework

- (1) A risk assessment must consider-
- (a) information regarding the relevant species, including-
    - (i) the taxonomy of the species, including its class, order, family, scientific name if known, genus, scientific synonyms and common names of the species;
    - (ii) the originating environment of the species, including climate, extent of geographic range and trends;
    - (iii) persistence attributes of the species, including reproductive potential, mode of reproduction, dispersal mechanisms and undesirable traits;
    - (iv) invasive tendencies of the species elsewhere and of close taxonomic relatives in South Africa and elsewhere;
    - (v) the history of domestic propagation or cultivation of the species, introductions and the extent of naturalisation in South Africa and elsewhere;
    - (vi) nutritional or dietary requirements of the species and, where applicable, whether it has a specialist or generalist diet;
    - (vii) the ability of the species to create significant change in an ecosystem; and
    - (viii) the potential to hybridise with other species and to produce fertile hybrids; and
  - (b) information regarding the restricted activity in respect of which the permit is sought, including-
    - (i) the nature of the restricted activity;
    - (ii) the reason for the restricted activity;
    - (iii) the location where the restricted activity is to be carried out;
    - (iv) the number and, where applicable, the gender of the specimens of the species involved; and
    - (v) the intended destination of the specimens, if they are to be translocated; and

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- (c) information regarding the receiving environment, including-
  - (i) climate match;
  - (ii) habitat;
  - (iii) disturbance regimes;
  - (iv) the presence of natural enemies, predators and competitors; and
  - (v) the presence of potentially reproductive compatible species.
- (2) A risk assessment carried out in terms of sub-regulation (1) must identify-
  - (a) the probability that the species will naturalise in the area in which the restricted activity is to be carried out or in any other area elsewhere in the Republic;
  - (b) the possible impact of the species on the biodiversity and sustainable use of natural resources of-
    - (i) the area in which the restricted activity is to be carried out; and
    - (ii) in any other area elsewhere in the Republic;
  - (c) the risks of the specimen serving as a vector through which specimens of other alien species may be introduced;
  - (d) the risks of the method by which a specimen is to be introduced or the restricted activity carried out serving as a pathway through which specimens of other alien species may be introduced; and
  - (e) any measures proposed in order to manage the risks.
- (3) Based on the information in sub-regulations (1) and (2), a risk assessment must consider-
  - (a) the likelihood of the risks being realised;
  - (b) the severity of the risks and consequences of the realisation of the risks for other species, habitats and ecosystems;
  - (c) the potential costs associated with the control of the species to minimise harm to biodiversity; and
  - (d) options for minimising the potential risks.

- (4) Notwithstanding the provisions of sub-regulation (2), an assessment of the risks and potential impacts on biodiversity for the importation into the Republic or the introduction into a province, of a specimen of an alien species or listed invasive species which was introduced into the Republic more than five years prior to the date on which these regulations come into effect, need only consider the matters contemplated in sub-regulations (2)(d), (e) and (3).
- (5) Notwithstanding the provisions of sub-regulations (1), (2) and (3), the issuing authority can determine the information to be considered in the risk assessment.
- (6) Notwithstanding the provisions of sub-regulations (1), (2) and (3), the issuing authority may request the applicant to provide additional information.

**15. Risk assessment facilitator**

- (1) A risk assessment contemplated in sections 65(2) and 71(2) of the Act must be undertaken by an environmental assessment practitioner.
- (2) Notwithstanding sub-regulation (1), the Institute or the issuing authority may undertake the risk assessment.
- (3) An environmental assessment practitioner contemplated in sub-regulation (1) must-
  - (a) be independent;
  - (b) have knowledge of the Act, these regulations and any guidelines that have relevance to the proposed application;
  - (c) have expertise in biodiversity matters;
  - (d) have expertise in conducting risk assessments;
  - (e) consult at least one relevant expert; and
  - (f) be in compliance with any requirements of the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003).
- (4) The applicant must take all reasonable steps to verify whether the environmental assessment practitioner complies with sub-regulation (3).

**16. Risk assessment procedure**

- (1) A risk assessment must be undertaken in accordance with the provisions of Regulation 14.

- (2) The applicant must provide the person undertaking the risk assessment with access to all information at the disposal of the applicant regarding the application, whether or not such information is favourable to the applicant.
- (3) The risk assessment report must be submitted, with the application, to the issuing authority.

#### **17. Risk assessment report**

- (1) A risk assessment report must contain the following details:
  - (a) The personal details and qualifications of the risk assessment practitioner carrying out the risk assessment;
  - (b) the personal details and qualifications of the expert consulted as required in regulation 15(3)(e);
  - (c) the risk of invasion as a result of the issuing of the permit;
  - (d) key economic, social and ecological considerations that will guide a decision on whether or not to issue a permit;
  - (e) any risk management measures that must be applied;
  - (f) a recommendation on whether or not a permit should be issued; and
  - (g) any conditions or control measures that should apply if a permit is to be issued.
- (2) A risk assessment report prepared in terms of sub-regulation (1) may be submitted by the issuing authority to the Institute for scientific review.
- (3) The applicant will be responsible for the cost associated with the review.

### **CHAPTER 7**

#### **ISSUING, AMENDMENT AND CANCELLATION OF PERMITS**

##### **18. Nature of a permit**

- (1) A permit to authorise the carrying out of restricted activities, may be issued for-
  - (a) multiple restricted activities;
  - (b) multiple specimens of a species;

- (c) multiple species; or
  - (d) multiple instances of the same restricted activity.
- (2) Notwithstanding the provision of sub-regulation (1)(d), a permit for the import into the Republic, including introduction from the sea, of an alien or listed invasive species is valid for one consignment unless otherwise specified in the permit.

**19. Form and content of application for permit**

- (1) An application for a permit contemplated in sections 65(1) or 71(1) of the Act must be made on a form obtained from the issuing authority.
- (2) An application referred to in sub-regulation (1) must-
- (a) be submitted by the person to whom the permit must be issued or by such person's duly authorised representative;
  - (b) be accompanied by the applicable application fee specified in Annexure A;
  - (c) be accompanied by the details of the risk assessment facilitator;
  - (d) be accompanied by the risk assessment report contemplated in Regulation 17;
  - (e) include any other additional information as may be required by the issuing authority; and
  - (f) be lodged-
    - (i) with the issuing authority together with such additional copies as may be required by the issuing authority;
    - (ii) in a manner as required by the issuing authority; and
    - (iii) with the original or certified documentation in support of the application, if required by the issuing authority.
- (3) Notwithstanding the provisions of sub-regulation (2)(b)-
- (a) payment of the applicable application fee as set out in Annexure A does not apply to organs of state; and
  - (b) payment of the applicable application fee as set out in Annexure A may be waived for scientific institutions.

**20. Consideration of application**

- (1) The issuing authority must, on receipt of an application for a permit-
  - (a) request, within 30 working days of receipt of the application and the risk assessment report, such further information as the issuing authority may require;
  - (b) notify any province that may be adversely affected by the proposed activity, of the application;
  - (c) have regard to the contents of the risk assessment report accompanying the application;
  - (d) consider the application and any objections that have been lodged with regard thereto by an MEC for Environmental Affairs;
  - (e) conduct such inspections as may be appropriate; and
  - (f) reach a decision in accordance with regulation 21.

**21. Decision**

- (1) A decision on an application for a permit must be made within 60 working days of receiving the risk assessment report or, where further information has been requested in terms of regulations 19(2)(e) or 20(a), within 30 working days of receiving such information.
- (2) The issuing authority must-
  - (a) notify the applicant and any objectors contemplated in regulation 20(1)(d) to the application of the decision in writing; and
  - (b) if the application has been approved, issue a permit in the name of the person authorised to carry out the restricted activity.
- (3) The notification contemplated in sub-regulation (2)(a) must stipulate-
  - (a) the alien species or listed invasive species to which the application relates;
  - (b) whether the decision relates to a single specimen or to multiple specimens of the same alien species or listed invasive species; and
  - (c) the restricted activities involving the alien species or listed invasive species to which the application relates.
- (4) A permit may not be issued with retrospective effect.

**22. Permit conditions**

- (1) In addition to any permit conditions imposed in terms of section 88(2)(c) of the Act, the following conditions apply to all permits:
  - (a) The permit may not be transferred to any other person; and
  - (b) the holder of the permit must take all the necessary steps to prevent the escape and spread of the species, including the growth or spread of seeds or any other specimens of the species, outside the area for which the permit is issued, and must take all necessary steps to control any specimen that escapes or spreads.
- (2) The issuing authority may issue a permit to carry out a restricted activity involving a specimen of an alien or listed invasive species subject to conditions, including but not limited to, control methods determined by the issuing authority, including the use of sterile varieties or the concurrent introduction of biological control agents.

**23. Special provisions for research, biological control, display purposes, and inter-basin transfer**

- (1) Despite anything to the contrary in these regulations, a permit may be issued subject to permit conditions, to a scientific institution to carry out a restricted activity involving a specimen of an alien or listed invasive species, and must be issued under the conditions that the specimen must-
  - (a) be kept for identification or research purposes only;
  - (b) form part of a preliminary study into biological control methods; or
  - (c) form part of an effective biological control programme.
- (2) When issuing a permit for the specimens contemplated in sub-regulation (1), the issuing authority must determine-
  - (a) restrictions and conditions, including quarantine conditions and conditions for the prevention of escape, for the importation or the carrying out of other restricted activities involving the specimen;
  - (b) mechanisms for ensuring compliance with conditions determined in terms of sub-regulation 2(a);
  - (c) procedures to be followed in the event of a specimen contemplated in sub-regulation 1(a) escaping or failure to comply with the conditions determined in terms of sub-regulation 2(a); and
  - (d) restrictions and conditions for the release of the specimen into the wild.

- (3) Despite anything to the contrary in these regulations, a permit may be issued, subject to permit conditions, to a zoological or botanical institution to carry out a restricted activity involving a specimen of an alien or listed invasive species, including for display purposes.
- (4) A permit may not be issued in terms of sub-regulation (3) unless the relevant institution is able to demonstrate that an alien or listed invasive species cannot escape from the facility.
- (5) Despite anything to the contrary in these regulations, a permit may be issued, subject to permit conditions, for the transfer of a specimen of an alien or listed invasive species from one freshwater system in which it occurs to another fresh-water system in which it does not occur through a state inter-basin transfer scheme.

#### **24. Form and content of permits**

- (1) A permit contemplated in regulation 21 (2)(b) must-
  - (a) contain a unique permit number;
  - (b) specify-
    - (i) the name and identity number of the permit-holder;
    - (ii) the species to which the restricted activities relate;
    - (iii) the restricted activities for which the permit is issued;
    - (iv) the period for which the permit remains valid;
    - (v) the conditions subject to which the permit is issued; and
  - (c) contain the signature of the issuing authority which must be endorsed by means of an official stamp.

#### **25. Period of validity of permits**

- (1) A permit issued in terms of these regulations shall be valid for a period not exceeding five years from the date of its issue or renewal thereof, as the case may be.
- (2) Notwithstanding the provisions of sub-regulation (1), a permit may be valid for a period exceeding five years, if it is issued-
  - (a) for a restricted activity that will be carried out by a scientific institution; or
  - (b) in terms of an integrated permit and the other law to which the permit relates provides for a longer period.

- (3) Notwithstanding the provisions of sub-regulation (1), the issuing authority may specify a period of validity which exceeds five years, based on the recommendations in the risk assessment report.

## **26. Amendment of permits**

- (1) A permit may be amended for good reason as contemplated in section 93A of the Act, including by-
  - (a) adding or removing a condition;
  - (b) amending a condition;
  - (c) amending any detail on the permit; or
  - (d) correcting a technical or editorial error on the permit.
- (2) An issuing authority which issued a permit may amend the permit condition stipulated therein if information is obtained by the issuing authority indicating that the species or the restricted activity for which the permit was issued is likely to have a detrimental impact on biodiversity.
- (3) The issuing authority must, before amending a permit, notify the permit-holder in writing of its intention to do so and provide the permit-holder with an opportunity to make representations as to why the permit should not be amended.
- (4) The issuing authority must, if it decides to amend the conditions of the permit, after consideration of any representations made in terms of sub-regulation (3), notify the permit-holder in writing-
  - (a) of the decision to amend the conditions of the permit; and
  - (b) of the date upon which the amendment becomes effective.

## **27. Return of cancelled permits**

A permit that has been cancelled in terms of section 93 of the Act must be returned to the issuing authority within 30 days of the date of cancellation.

## **28. Renewal of permits**

- (1) A permit-holder may apply for the renewal of a permit to the issuing authority who issued the permit.
- (2) An application contemplated in sub-regulation (1) must be-

- (a) made at least 60 days before the expiry of the period for which the permit was issued;
  - (b) made on a form obtained from the issuing authority; and
  - (c) accompanied by the applicable renewal fee specified in Annexure A.
- (3) The provisions of regulation 22 apply mutatis mutandis to an application for the renewal of a permit.

**29. Sale or transfer of alien and listed invasive species**

- (1) If a permit-holder sells a specimen of an alien or listed invasive species, or sells the property on which a specimen of an alien or listed invasive species is under the permit-holder's control, the new owner of such specimen or such property must apply for a permit in terms of Chapter 7 of the Act.
- (2) The new permit-holder contemplated in sub-regulation (1) will be subject to the same conditions as the permit-holder who has sold the specimen of an alien or listed invasive species, or the property on which a specimen of an alien or listed invasive species occurs, unless specific circumstances require all such permit conditions to be revised, in which case full reasons must be giving in writing by the issuing authority.
- (3) The seller of any immovable property must, prior to the conclusion of the relevant sale agreement, notify the purchaser of that property in writing of the presence of listed invasive species on that property.

**CHAPTER 8**

**EMERGENCY SUSPENSION**

**30. Emergency suspension of permits**

- (1) An issuing authority may suspend the operation of a permit if-
- (a) it is necessary in order to control or eradicate a particular alien or listed invasive species;
  - (b) the carrying out of the restricted activity permitted in terms thereof will have a significant harmful impact on the environment or ecosystems; or
  - (c) the species pose an immediate threat to the environment or ecosystems.
- (2) Notice of the suspension of a permit must be in writing and must be served on-

- (a) the permit-holder; or
  - (b) any other person acting on behalf of the permit-holder.
- (3) A suspension will be effective immediately upon notification, unless otherwise stated in the notice.
- (4) An issuing authority must, within 21 days of suspending a permit, initiate proceedings in terms of regulation 26 to amend the permit in order to address the cause of the emergency.
- (5) A suspension will remain in force until the finalisation of proceedings in terms of regulation 26.

## **CHAPTER 9 COMPLIANCE AND ENFORCEMENT**

### **31. Prohibited alien and listed invasive species directives**

- (1) A directive in terms of section 69(2) or section 73(3) of the Act may be served by-
- (a) delivering it by hand to the person or group of persons or to their authorised representative;
  - (b) in the case of a juristic person, delivering it to the registered office of the juristic person; or
  - (c) forwarding it by registered post to the person or group of persons.
- (2) A competent authority must-
- (a) maintain a record of all directives issued;
  - (b) retain a copy of the directive issued for record purposes; and
  - (c) provide the relevant issuing authority with a copy of the directive issued.

### **32. Requests for directives**

- (1) A request to issue a directive in terms of section 74(1) of the Act must be on a form that corresponds substantially with Annexure B.
- (2) A competent authority may waive any of the information required in Annexure B.

**33. Withdrawal of directives**

A directive issued under section 69(2) or section 73(3) of the Act may be withdrawn in writing by the competent authority if the circumstances giving rise to the issue of the directive no longer exist.

**34. Limitations of liability**

The provisions of section 49 of the National Environmental Management Act apply mutatis mutandis to these regulations.

**35. Offences and penalties**

- (1) Any offence committed in terms of section 101 of the Act shall, upon conviction, carry the penalties referred to in section 102 of the Act.
- (2) Any person who contravenes or fails to comply with a provision of these regulations is guilty of an offence and is liable, on conviction, to-
  - (a) a fine not exceeding five million rand, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million; or
  - (b) imprisonment for a period not exceeding 10 years; or
  - (c) to both such fine and imprisonment.

**CHAPTER 10**

**REPEAL AND SHORT TITLE**

**36. Repeal**

The Alien and Invasive Species Regulations 2013, published in Government Notice No R.506, *Gazette* No. 33683 of 19 July 2013 are hereby repealed.

**37. Short title and commencement**

These Regulations are called the Alien and Invasive Species Regulations, 2014 and take effect within 60 days of publication in the *Gazette*.

**ANNEXURE A**

**FEES**

**Fees in connection with the application for alien and listed invasive alien species permits in terms of the National Environmental Management: Biodiversity Act, 2004**

**Explanatory Note:**

In terms of section 97(1)(f)(ii) of the Act, and in terms of the National Environmental Management Act, 1998, the Minister may prescribe the fees to be paid in connection with the lodging and consideration of applications for permits and appeals

<b>Alien &amp; Listed Invasive Species</b>	<b>Activity</b>	<b>Fee</b>
	Import into the Republic	R200.00
	All restricted activities	R100.00
	Renewal of permit	R50.00
	Appeals	R50.00

**ANNEXURE B**

**REQUEST TO ISSUE A DIRECTIVE IN TERMS OF SECTION 74(1) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT FOR A LISTED INVASIVE SPECIES**

**Explanatory Note:**

In terms of section 74(1) of the Act, any person may request the Minister, in writing, to issue a directive in terms of section 73(3) of the Act.

**For official use:**

Reference number:

Date:

**1. DIRECTIVE REQUESTED BY:**

Full name	
Identity number	
Physical address	Code
Postal address	Code
Telephone number	(+27) ( )
Fax number	(+27) ( )
Cellular number	(+27) ( )
E-mail address	

**2. DIRECTIVE TO BE ISSUED TO**

Name: \_\_\_\_\_

**2.1 SITE AND SPECIES DETAILS**

2.1.1 Name (if applicable), province/magisterial district, erf number or physical address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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2.1.2 Listed invasive species involved (Attach list if space is insufficient):

Scientific name: \_\_\_\_\_

Common name: \_\_\_\_\_

**2.2 REASONS FOR REQUEST** (Choose whichever is applicable)

2.2.1 Contravention of permit requirements in terms of section 71(1) of the Act and/or associated permit conditions?

Yes	No
-----	----

If yes, substantiate: \_\_\_\_\_

2.2.2 Contravention of notification requirements in terms of section 73(2)(a) of the Act?

Yes	No
-----	----

If yes, substantiate: \_\_\_\_\_

2.2.3 Contravention of measure to prevent spreading / control / eradicate in terms of section 73(2)(b) of the Act?

Yes	No
-----	----

If yes, substantiate: \_\_\_\_\_

2.2.4 Previous directives not implemented?

Yes	No
-----	----

If yes, substantiate: \_\_\_\_\_

**I, the undersigned, [FULL NAME] \_\_\_\_\_  
confirm that the above information is correct and complete to the best of my  
knowledge.**

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_



**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GNR 599 OF 1 AUGUST 2014**

**ALIEN AND INVASIVE SPECIES LISTS, 2014**

Published under Government Notice R599 in *Government Gazette* 37886 of 1 August 2014.

**NOTICES AND LISTS IN TERMS OF SECTIONS 66(1), 67(1), 70(1)(a), 71(3) and 71A**

**Notice 1:** Notice in respect of Categories 1a, 1b, 2 and 3, Listed Invasive Species, in terms of which certain Restricted Activities are prohibited in terms of section 71A(1); exempted in terms of section 71(3); require a Permit in terms of section 71(1)

**Notice 2: Exempted Alien Species** in terms of sections 66(1).

**Notice 3: National Lists of Invasive Species** in terms section 70(1). 559 species/groups of species

List 1	National List of Invasive Terrestrial and Fresh-water Plant Species	379
List 2	National List of Invasive Marine Plant Species	4
List 3	National List of Invasive Mammal Species	41
List 4	National List of Invasive Bird Species	24
List 5	National List of Invasive Reptile Species	35
List 6	National List of Invasive Amphibian Species	7
List 7	National List of Invasive Fresh-water Fish Species	15
	National List of Invasive Marine Fish Species	0
List 8	National List of Invasive Terrestrial Invertebrate Species	23
List 9	National List of Invasive Fresh-water Invertebrate Species	8
List 10	National List of Invasive Marine Invertebrate Species	16
List 11	National List of Invasive Microbial Species	7

**Notice 4: Prohibited Alien Species** in terms of section 67(1). 560 species/groups of species

List 1	Prohibited Terrestrial and Fresh-water Plant Species	238
List 2	Prohibited Marine Plant Species	2
List 3	Prohibited Mammal Species	18
List 4	Prohibited Bird Species	20
List 5	Prohibited Reptile Species	10
List 6	Prohibited Amphibian Species	9
List 7	Prohibited Fresh-water Fish Species	110
List 8	Prohibited Marine Fish Species	1

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List 9	Prohibited Terrestrial Invertebrate Species	130
List 10	Prohibited Fresh-water Invertebrate Species	8
List 11	Prohibited Marine Invertebrate Species	7
List 12	Prohibited Microbial Species	7

**These notices must be read together with the Alien and Invasive Species Regulations, 2014. Any word or phrase defined in the Alien and Invasive Species Regulations shall have the same meaning in these notices.**

**These notices shall take effect 60 days from date of publication in the *Gazette*.**

**NOTICE 1:**

**NOTICE IN RESPECT OF CATEGORIES 1a, 1b, 2 AND 3 LISTED INVASIVE SPECIES, IN TERMS OF WHICH CERTAIN RESTRICTED ACTIVITIES ARE PROHIBITED IN TERMS OF SECTION 71A(1); EXEMPTED IN TERMS OF SECTION 71(3); REQUIRE A PERMIT IN TERMS OF SECTION 71(1)**

Categories 1a, 1b, 2 and 3 Listed Invasive Species, in terms of which certain Restricted Activities are—

- (a) prohibited in terms of section 71A(1);
- (b) exempted in terms of section 71(3); or
- (c) require a Permit in terms of Chapter 7.

and must be read with the lists in Notice 3.

“**catchment**”, in relation to a watercourse or watercourses or part of a watercourse, means the area from which any rainfall will drain into the watercourse or watercourses or part of a watercourse, through surface flow to a common point or common points;

“**cultivation**”, in relation to land, means any act by means of which the topsoil is disturbed mechanically;

“**discrete catchment systems**” means all inland water bodies, whether fresh or saline, including rivers, natural lakes, dams, wetlands and estuaries, that are within a catchment that is separated from other catchments;

“**untransformed land**” means land that has not been altered from its natural state, or land that is used for natural grazing, and including land in its natural state that has been degraded by factors such as soil erosion, over-grazing, over-burning, flooding, invasive species and bush encroachment; and

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“**watercourse**” shall have the meaning assigned to it in the National Water Act, 1998 (Act No. 36 of 1998).

**General exemption of listed invasive species:**

All dead specimens of any listed invasive species are exempted from requiring a Permit for any restricted activity.

Note that the species-specific exemptions and prohibitions in Notice 3 take precedence over Notice 1, in the event of any conflict.

	<b>Restricted activities as defined in the Act</b>	<b>Category 1A</b>	<b>Category 1B</b>	<b>Category 2</b>	<b>Category 3</b>
a	Importing into the Republic, including introducing from the sea, any specimen of a listed invasive species.	Prohibited	Prohibited	Permit Required	Prohibited
b	Having in possession or exercising physical control over any specimen of a listed invasive species	Exempted	Exempted	Permit Required	Exempted
c	Growing, breeding or in any other way propagating any specimen of a listed invasive species, or causing it to multiply.	Prohibited	Prohibited	Permit Required	Prohibited
d	Conveying, moving or otherwise translocating any specimen of a listed invasive species.	Prohibited	Prohibited	Permit Required	Prohibited
e	Selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of a listed invasive species.	Prohibited	Prohibited	Permit Required	Prohibited
f	Spreading or allowing the spread of any specimen of a listed invasive species.	Prohibited	Prohibited	Permit Required	Prohibited

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g	Releasing any specimen of a listed invasive species.	Prohibited	Prohibited	Permit Required	Prohibited
h	The transfer or release of a specimen of a listed invasive fresh-water species from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier.	Prohibited	Prohibited	Permit Required	Prohibited
i	Discharging of or disposing into any waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a specimen of an alien or a listed invasive species.	Prohibited	Prohibited	Permit Required	Prohibited
j	Catch and release of a specimen of a listed invasive fresh-water fish or listed invasive fresh-water invertebrate species.	Prohibited	See Notice 3	See Notice 3	See Notice 3
k	The introduction of a specimen of an alien or a listed invasive species to off-shore islands.	Prohibited	Prohibited	Prohibited	Prohibited
l	The release of a specimen of a listed invasive fresh-water fish species, or of a listed invasive fresh-water invertebrate species, into a discrete catchment system in which it already occurs.	See Notice 3	See Notice 3	See Notice 3	See Notice 3

**NOTICE 2:**

**NOTICE IN TERMS OF SECTION 66(1) - EXEMPTED ALIEN SPECIES**

“**extra-limital**” means an indigenous species translocated or intended to be translocated to a place outside its natural distribution range, but not an indigenous species that has extended its natural distribution range by natural means of migration or dispersal without human intervention.

1. The following categories of alien species that are within the Republic when this Notice comes into effect, are exempted from the provisions of section 65(1) of the Act:
  - a. Dead specimens of any alien species, including:
    - (i) dead specimens imported, kept, or removed from one area to another as taxonomic reference specimen; and
    - (ii) dead specimens used as derivates in products, including food, cosmetics and detergents.
  - b. Any alien species that has been legally introduced into the Republic, or was introduced into the Republic prior to any legal requirement for such introduction, for agricultural purposes, and any new cultivar, variety, or hybrid of any species legally imported for agricultural purposes (excluding those which are already listed as invasive).
  - c. Any alien species, other than an alien species introduced for agricultural purposes as contemplated in paragraph (b) above, that has been legally introduced into the Republic, or was introduced into the Republic prior to any legal requirement for such introduction, prior to the commencement of this Notice.
  - d. Any invasive species listed in terms of section 70(1)(a) of the Act.
  - e. All extra-limital taxa in the Republic, other than fresh-water fish.
2. The following categories of alien species that are not within the Republic when this Notice comes into effect and comes into the Republic from outside of the Republic are exempted from the provisions of section 65(1) of the Act:
  - a. Any alien species that-
    - (i) has been subjected to a risk assessment and authorised for importation in terms of the Act; and
    - (ii) is listed in a register of alien species legally imported into the Republic for the first time after the date of publication of the Alien and Invasive Species

Regulations, 2014 and this Notice, which register is established and maintained by the Institute.

- b. Dead specimens of any alien species including:
  - (i) dead specimens imported, kept, or removed from one area to another as taxonomic reference specimens; and
  - (ii) dead specimens used as derivatives in products, including food, cosmetics and detergents.
- c. Any invasive species listed in terms of section 70(1)(a) of the Act.

**NOTICE 3:**

**NATIONAL LIST OF INVASIVE SPECIES IN TERMS SECTION 70(1)(A)**

In this Notice and where elsewhere referred to in this Government Notice:

“**exempted for an existing plantation**” means a plantation which existed when this Notice comes into effect, is exempted from requiring a permit for any restricted activity in terms of the Act or the Alien and Invasive Species Regulations, 2014, if such plantation is authorised in terms of section 22(1)(a) or (b) of the National Water Act, 1998 (Act No. 36 of 1998); and

“**urban area**” means the area within the proclaimed urban edge, as delineated in the Municipal Spatial Development Framework in terms of the Spatial Land Use Management Act, 2013 (Act No. 16 of 2013).

**List 1: National list of Invasive Terrestrial and Fresh-water Plant Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Acacia adunca</i> A.Cunn. ex G.Don	Cascade wattle, Wallangarra wattle	1a	
2	<i>Acacia baileyana</i> F.Muell.	Bailey's wattle	3	
3	<i>Acacia cyclops</i> A.Cunn. ex G.Don	Red eye	1b	

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4	<i>Acacia dealbata</i> Link	Silver wattle	2	
5	<i>Acacia decurrens</i> Willd. and hybrids, varieties and selections	Green wattle	2	Exempted for an existing plantation.
6	<i>Acacia elate</i> A.Cunn. ex Benth. ( <i>Acacia terminalis</i> (Salisb.) misapplied in South Africa)	Pepper tree wattle	1b	
7	<i>Acacia fimbriata</i> A.Cunn. ex G.Don	Fringed wattle, Brisbane wattle	1a	
8	<i>Acacia implexa</i> Benth.	Screw pod wattle	1a	
9	<i>Acacia longifolia</i> (Andrews) Willd.	Long-leaved wattle	1b	
10	<i>Acacia mearnsii</i> De Wild. and hybrids, varieties and selections	Black wattle	2	Exempted for an existing plantation.
11	<i>Acacia melanoxydon</i> R.Br. and hybrids, varieties and selections	Australian blackwood	2	Exempted for an existing plantation.
12	<i>Acacia paradoxa</i> DC. (= <i>A. armata</i> R.Br.)	Kangaroo thorn, Kangaroo wattle	1a	
13	<i>Acacia podalyriifolia</i> A.Cunn. ex G.Don	Pearl acacia	1b	
14	<i>Acacia pycnantha</i> Benth.	Golden wattle	1b	
15	<i>Acacia saligna</i> (Labill.) H.L.Wendl.	Port Jackson, Port Jackson willow	1b	
16	<i>Acacia stricta</i> (Andrews) Willd.	Hop wattle	1a	

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17	<i>Acer buergerianum</i> Miq.	Chinese maple	<p>a. 3 in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga, North-West, Northern Cape and Western Cape.</p> <p>b. Not listed in urban areas in the Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga, North-West, Northern Cape and Western Cape.</p> <p>c. Not listed elsewhere.</p>	
18	<i>Acer negundo</i> L.	Ash-leaved maple, Box elder	<p>a. 3</p> <p>b. Sterile cultivars or hybrids are not listed.</p>	
19	<i>Agave americana</i> L. subsp. <i>americana</i> var. <i>expansa</i> (Jacobi) Gentry	Spreading century-plant	<p>a. 3 in Western Cape.</p> <p>b. Not listed elsewhere.</p>	
20	<i>Agave sisalana</i> Perrine	Sisal hemp, Sisal	2	
21	<i>Ageratina adenophora</i> (Spreng.) R.M.King & H.Rob. (= <i>Eupatorium adenophorum</i> Spreng.)	Crofton weed	1b	
22	<i>Ageratina riparia</i> (Regel) R.M.King & H.Rob. (= <i>Eupatorium riparium</i> Regel)	Mistflower	1b	
23	<i>Ageratum conyzoides</i> L.	Invading ageratum	1b	

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24	<i>Ageratum houstonianum</i> Mill.	Mexican ageratum	a. 1 b  b. Sterile cultivars or hybrids are not listed.	
25	<i>Agrimonia procera</i> Wallr. (= <i>A. odorata</i> Mill.)	Scented agrimony	1b	
26	<i>Agrostis castellana</i> Boiss. & Reut.	Bent grass	a. 1a Prince Edward Island.  b. 1b Marion Island.  c. Not listed on mainland or other off-shore islands.	
27	<i>Agrostis gigantea</i> Roth	Black bent grass, Redtop	a. 1a Prince Edward and Marion Islands.  b. Not listed on mainland or other off-shore islands.	
28	<i>Agrostis stolonifera</i> L.	Creeping bent grass	a. 1a Prince Edward Island.  b. 1b Marion Island.  c. Not listed on mainland or other off-shore islands.	
29	<i>Ailanthus altissima</i> (Mill.) Swingle	Tree-of-heaven	1b	
30	<i>Albizia lebeck</i> (L.) Benth.	Lebeck tree	1b	
31	<i>Albizia procera</i> (Roxb.) Benth.	False lebeck	1b	
32	<i>Alhagi maurorum</i> Medik. (= <i>A. camelorum</i> Fisch.)	Camel thorn bush	1b	
33	<i>Alisma plantago-aquatica</i> L.	Mud plantain, Water alisma	1b	

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34	<i>Alopecurus geniculatus</i> L. (= <i>A. australis</i> Nees)	Marsh foxtail, Water foxtail	a. 1a Prince Edward and Marion Islands.  b. Not listed on mainland or other off-shore islands.	
35	<i>Alpinia zerumbet</i> (Pers.) B.L.Burtt & R.M.Sm. (= <i>A. speciosa</i> (J.C.Wendl.) Schum.)	Shell ginger, Pink porcelain lily	3	
36	<i>Ammophila arenaria</i> (L.) Link	Marram grass	3	
37	<i>Anredera cordifolia</i> (Ten.) Steenis ( <i>A. baselloides</i> misapplied in South Africa)	Madeira vine, Bridal wreath	1b	
38	<i>Antigonon leptopus</i> Hook. & Arn.	Coral creeper	1b	
39	<i>Araujia sericifera</i> Brot.	Moth catcher	1b	
40	<i>Ardisia crenata</i> Sims ( <i>Ardisia crispa</i> misapplied in South Africa)	Coralberry tree, Coral Bush	1b	
41	<i>Ardisia elliptica</i> Thunb. (= <i>A. humilis</i> Vahl)	Shoebuttan ardisia	1b	
42	<i>Argemone mexicana</i> L.	Yellow-flowered Mexican poppy	1b	
43	<i>Argemone ochroleuca</i> Sweet	White-flowered Mexican poppy	1b	
44	<i>Aristolochia elegans</i> Mast.	Dutchman's pipe	1b	
45	<i>Arundo donax</i> L.	Giant reed, Spanish reed	1b	
46	<i>Atriplex inflata</i> F.Muell. (= <i>A. lindleyi</i> Moq. subsp. <i>inflata</i> (F.Muell.) Paul G.Wilson)	Sponge-fruit saltbush	1b	
47	<i>Atriplex nummularia</i> Lindl. subsp. <i>Nummularia</i>	Old man saltbush	2	

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48	<i>Austrocyllindropuntia cylindrica</i> (Juss. ex Lam.) Backeberg.	Cane cactus	1a	
49	<i>Austrocyllindropuntia subulata</i> (Muehlenpf.) Backeb. subsp. <i>exaltata</i> (A.Berger) D.R.Hunt (= <i>Opuntia exaltata</i> A.Berger)	Long spine cactus	1b	
50	<i>Azolla cristata</i> Kaulf. (= <i>A. microphylla</i> Kaulf.)	Tropical red water fern	1b	
51	<i>Azolla filiculoides</i> Lam.	Azolla, Red water fern	1b	
52	<i>Azolla pinata</i> R.Br. subsp. <i>asiatica</i> R.M.K.Saunders & K.Fowler (= <i>A. imbricata</i> (Roxb. ex Griff.) Nakai	Mosquito fern	1b	
53	<i>Bartlettina sordida</i> (Less.) R.M. King & H.Rob. (= <i>Eupatorium atrorubens</i> (Lem.) G.Nicholson, <i>E. sordidum</i> Less.)	Bartlettina	1b	
54	<i>Bauhinia purpurea</i> L.	Butterfly orchid tree	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. 3 in Free State, Gauteng, North-West, Northern Cape and Western Cape.	

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55	<i>Bauhinia variegata</i> L.	Orchid tree	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. 3 in Free State, Gauteng, North-West, Northern Cape and Western Cape.	
56	<i>Berberis thunbergii</i> DC.	Japanese barberry	a. 3  b. Sterile cultivars or hybrids are not listed.	
57	<i>Billardiera heterophylla</i> (Lindl.) L.W.Cayzer & Crisp (= <i>Sollya heterophylla</i> Lindl.)	Bluebell creeper	1a	
58	<i>Bryophyllum delagoense</i> (Eckl. & Zeyh.) Schinz (= <i>B. tubiflorum</i> Harv., <i>Kalanchoe tubiflora</i> (Harv.) Raym.-Hamet, <i>K. delagoensis</i> Eckl. & Zeyh.)	Chandelier plant	1b	
59	<i>Bryophyllum pinnatum</i> (Lam.) Oken	Cathedral bells	1b	
60	<i>Bryophyllum proliferum</i> Bowie ex Hook. (= <i>Kalanchoe prolifera</i> (Bowie) Raym.-Hamet)	Green mother of millions	1b	
61	<i>Buddleja davidii</i> Franch.	Chinese sagewood, Summer lilac	a. 3 b. Sterile cultivars or hybrids are not listed.	
62	<i>Buddleja madagascariensis</i> Lam.	Madagascar sagewood	3	
63	<i>Cabomba caroliniana</i> A.Gray	Cabomba, Carolina fanwort	1a	

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64	<i>Caesalpinia decapetala</i> (Roth) Alston (= <i>C. sepiaria</i> Roxb.)	Mauritius thorn	1b	
65	<i>Caesalpinia gilliesii</i> (Hook.) D.Dietr.	Bird-of-paradise flower	1b	
66	<i>Callisia repens</i> (Jacq.) L.	Creeping inch plant	1b	
67	<i>Callistemon citrinus</i> (Curtis) Skeels (= <i>Melaleuca citrina</i> (Curtis) Dum.Cours.)	Lemon bottlebrush	3	
68	<i>Callistemon rigidus</i> R.Br.	Stiff-leaved bottlebrush	a. 1b in Eastern Cape and Western Cape.  b. 3 in Free State, Gauteng, KwaZulu- Natal, Limpopo, Mpumalanga, North- West and Northern Cape.	
69	<i>Callistemon viminalis</i> (Sol. ex Gaertn.) G.Don	Weeping bottlebrush	a. 1b in Eastern Cape, KwaZulu- Natal, Limpopo and Mpumalanga.  b. 3 in Free State, Gauteng, North- West, Northern Cape and Western Cape.  c. Sterile cultivars or hybrids are not listed.	
70	<i>Calotropis procera</i> (Aiton) W.T.Aiton	Calotropis, Giant- milkweed	1b	
71	<i>Campuloclinium</i> <i>macrocephalum</i> (Less.) DC. (= <i>Eupatorium</i> <i>macrocephalum</i> Less.)	Pompom weed	1b	

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72	<i>Canna indica</i> L.	Indian shot	a. 1 b b. Sterile cultivars or hybrids are not listed.	
73	<i>Cardiospermum grandiflorum</i> Sw.	Balloon vine	1b	
74	<i>Cardiospermum halicacabum</i> L.	Lesser balloon vine	3	
75	<i>Carduus nutans</i> L. (= <i>C. macrocephalus</i> Desf.)	Nodding thistle	1b	
76	<i>Casuarina cunninghamiana</i> Miq.	Beefwood	a. 2 b. 1b within 100 metres of riparian areas or untransformed land.	
77	<i>Casuarina equisetifolia</i> L.	Horsetail tree	2	
78	<i>Catharanthus roseus</i> (L.) G.Don	Madagascar periwinkle	a. 1b b. Sterile cultivars or hybrids are not listed.	
79	<i>Celtis australis</i> L.	Nettle tree, European hackberry	3	
80	<i>Celtis occidentalis</i> L.	Common hackberry	3	
81	<i>Centranthus ruber</i> (L.) DC.	Red valerian, Devil's beard	a. 1b in Western Cape b. Not listed elsewhere	
82	<i>Cerastium fontanum</i> Baumg.	Common mouse-ear chickweed	a. 1b Prince Edward and Marion Islands b. Not listed on mainland or other off-shore islands.	
83	<i>Cereus hexagonus</i> (L.) Mill.,	Queen of the night	1b	

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84	<i>Cereus hildmannianus</i> K. Schum. (= <i>C. peruvianus</i> auct. pl., <i>C. uruguayanus</i> R.Kiesling)	Queen of the night	1b	
85	<i>Cereus jamacaru</i> DC.	Queen of the night	1b	
86	<i>Cestrum aurantiacum</i> Lindl.	Orange cestrum	1b	
87	<i>Cestrum elegans</i> (Brongn.) Schltld. (= <i>C. purpureum</i> (Lindl.) standl.)	Crimson cestrum	1b	
88	<i>Cestrum laevigatum</i> Schltld.	Inkberry	1b	
89	<i>Cestrum parqui</i> L'Hér.	Chilean cestrum	1b	
90	<i>Cestrum</i> species not specifically listed	<i>Cestrum</i> species	a. 3  b. Sterile cultivars or hybrids are not listed.	
91	<i>Chondrilla juncea</i> L.	Skeleton weed	1a	
92	<i>Chromolaena odorata</i> (L.) R.M.King & H.Rob. (= <i>Eupatorium</i> <i>odoratum</i> L.)	Triffid weed, Chromolaena	1b	

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93	<i>Cinnamomum camphora</i> (L.) J.Presl	Camphor tree	<p>a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.</p> <p>b. 3 in Western Cape.</p> <p>c. National Heritage Trees or National Monument Trees in terms of the National Heritage Resources Act, 1999, (Act No. 25 of 1999) in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga and the Western Cape, are not listed.</p> <p>d. Not listed elsewhere.</p>	
94	<i>Cirsium vulgare</i> (Savi) Ten. (= <i>C. lanceolatum</i> (L.) Scop.)	Spear thistle, Scotch thistle	1b	
95	<i>Convolvulus arvensis</i> L.	Field bindweed, Wild morningglory	1b	
96	<i>Coreopsis lanceolata</i> L.	Tickseed	<p>a. 1a</p> <p>b. Sterile cultivars or hybrids are not listed.</p>	
97	<i>Cortaderia jubata</i> (Lemoine ex Carrière) Stapf	Pampas grass	1b	
98	<i>Cortaderia selloana</i> (Schult.) Asch. & Graebn.	Pampas grass	<p>a. 1b</p> <p>b. Sterile cultivars or hybrids are not listed.</p>	

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99	<i>Cotoneaster franchetii</i> Bois	Cotoneaster	1b	
100	<i>Cotoneaster glaucophyllus</i> Franch.	Late cotoneaster	1b	
101	<i>Cotoneaster pannosus</i> Franch.	Silver leaf cotoneaster	1b	
102	<i>Cotoneaster salicifolius</i> Franch.	Willow-leaved showberry	1b	
103	<i>Cotoneaster simonsii</i> Baker	Himalayan cotoneaster, Simon's cotoneaster	1b	
104	<i>Crotalaria agatiflora</i> Schweinf.	Canarybird bush, Bird flower	1b	
105	<i>Cryptostegia grandiflora</i> R.Br.	Rubber vine	1b	
106	<i>Cryptostegia madagascariensis</i> Bojer ex Decne.	Madagascar rubber vine	1b	
107	<i>Cuscuta campestris</i> Yunck.	Common dodder	1b	
108	<i>Cuscuta suaveolens</i> Ser.	Lucerne dodder	1b	
109	<i>Cylindropuntia fulgida</i> (Engelm.) F.M.Knuth var. <i>fulgida</i> (= <i>Opuntia fulgida</i> Engelm.) ( <i>O. rosea</i> DC. misapplied in South Africa).	Chain-fruit cholla (previously known as rosea cactus)	1b	
110	<i>Cylindropuntia fulgida</i> (Engelm.) F.M.Knuth var. <i>mamillata</i> (Schott ex Engelm.) Backeb.	Boxing-glove cactus, Mamillate cactus	1b	
111	<i>Cylindropuntia imbricata</i> (Haw.) F.M.Knuth (= <i>Opuntia imbricata</i> (Haw.) DC.	Imbricate cactus, Imbricate prickly pear	1b	
112	<i>Cylindropuntia leptocaulis</i> (DC.) F.M.Knuth	Pencil cactus	1b	

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113	<i>Cylindropuntia pallida</i> (Rose.) F.M.Knuth	Pink-flowered sheathed cholla	1a	
114	<i>Cylindropuntia spinosior</i> (Englem.) F.M.Knuth	Cane cholla, Spiny cholla	1a	
115	<i>Cytisus scoparius</i> (L.) Link (= <i>Genista scoparia</i> (L.) Lam.)	Scotch broom	1a	
116	<i>Datura ferox</i> L.	Large thorn apple	1b	
117	<i>Datura innoxia</i> Mill.	Downy thorn apple	1b	
118	<i>Datura stramonium</i> L.	Common thorn apple	1b	
119	<i>Diplocyclos palmatus</i> (L.) C.Jeffrey	Lollipop-climber	1a	
120	<i>Dolichandra unguis-cati</i> (L.) L. G. Lohmann (= <i>Macfadyena unguis- cati</i> (L.) A.H.Gentry	Cat's claw creeper	1b	
121	<i>Duchesnea indica</i> (Andrews) Focke	Wild strawberry	1b	

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122	<i>Duranta erecta</i> L. (= <i>D. repens</i> L., <i>D. plumieri</i> Jacq.)	Forget-me-not-tree, Pigeon berry	a. 3 in Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga and North-West.  b. 2 for breeding in nurseries in Gauteng, Kwazulu-Natal, Limpopo, Mpumalanga and North-West, but may not be transferred within these Provincial boundaries.  c. Not listed elsewhere.  d. Sterile cultivars or hybrids are not listed.  e. "Sheena's Gold" cultivar is not listed.	
123	<i>Echinodorus cordifolius</i> (L.) Griseb.	Creeping burhead	1b	
124	<i>Echinodorus tenellus</i> (Mart. ex Schult.f.) Buchenau	Amazon sword plant	1b	
125	<i>Echinopsis schickendantzii</i> F.A.C.Weber (= <i>E. spachiana</i> (Lem.) Friedrich & G.D.Rowley)	Torch cactus	1b	
126	<i>Echium plantagineum</i> L. (= <i>E. lycopsis</i> L.)	Patterson's curse	1b	
127	<i>Echium vulgare</i> L.	Blue echium	1b	
128	<i>Egeria densa</i> Planch. (= <i>Elodea densa</i> (Planch.) Casp.)	Dense water weed	1b	

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129	<i>Eichhomia crassipes</i> (Mart.) Solms	Water hyacinth	1b	
130	<i>Elodea canadensis</i> Michx.	Canadian water weed	1b	
131	<i>Elytrigia repens</i> (L.) Desv. ex Nevski (= <i>Agropyron repens</i> (L.) P. Beauv., <i>Elymus repens</i> (L.) Gould)	Couch grass	a. 1a Prince Edward and Marion Islands.  b. Not listed on mainland or other off-shore islands.	
132	<i>Equisetum hyemale</i> L.	Rough horsetail, Common scouring-rush	1a	
133	<i>Eriobotrya japonica</i> (Thunb.) Lindl.	Loquat	a. 1b in Western Cape and Forest biome.  b. Not listed in urban areas in Western Cape.  c. Not listed elsewhere.  d. The fruit of the loquat is not listed if used for human consumption.	
134	<i>Eucalyptus camaldulensis</i> Dehnh. and hybrids, varieties and selections	River red gum	a. Category 1b within-	Exempted for an existing plantation.
135	<i>Eucalyptus cladocalyx</i> F.Muell. and hybrids, varieties and selections	Sugar gum	(i) riparian areas;	
136	<i>Eucalyptus conferruminata</i> D.J.Carr & S.G.M.Carr and hybrids, varieties and selections ( <i>E. lehmannii</i> misapplied in South Africa)	Spider gum	(ii) a Protected Area declared in terms of the Protected Areas Act; or,	

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137	<i>Eucalyptus diversicolor</i> F.Muell. and hybrids, varieties and selections	Karri	(iii) within a Listed Ecosystem or an ecosystem identified for conservation in terms of a Bioregional Plan or Biodiversity Management Plans published under the Act.	
138	<i>Eucalyptus grandis</i> W.Hill ex Maiden ( <i>E. saligna</i> Sm. in part) and hybrids, varieties and selections	Saligna gum, Rose gum		
139	<i>Eucalyptus tereticomis</i> Sm. and hybrids, varieties and selections	Forest red gum	<p>b. Not listed within Nama-Karoo, Succulent Karoo and Desert biomes, excluding within any area mentioned in (a) above.</p> <p>c. Category 1b in Fynbos, Grassland, Savanna, Albany Thicket, Forest and Indian Ocean Coastal Belt biomes, but-</p> <p>(i) Category 2 for plantations, woodlots, bee-forage areas, wind-rows and the lining of avenues.</p> <p>(ii) Not listed within cultivated land that is at least 50 metres away from untransformed land, but excluding within any area in (a) above.</p>	

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			(iii) Not listed within 50 metres of the main house on a farm, but excluding in (a) above.  (iv) Not listed in urban areas for trees with a diameter of more than 400 mm at 1000 mm height at the time of publishing of this Notice, but excluding in (a) above.	
140	<i>Eugenia uniflora</i> L.	Pitanga, Surinam cherry	1b	
141	<i>Euphorbia esula</i> L. (= <i>E. xpseudovirgata</i> (Schur) Soó, <i>E. tommasiniana</i> Bertol., <i>E. virgata</i> Waldst. & Kit.)	Leafy spurge	1a	
142	<i>Euphorbia leucocephala</i> Lotsy	White poinsettia	1b	
143	<i>Fallopia sachalinensis</i> (F.Schmidt) Ronse Decr. (= <i>Polygonum sachalinense</i> F.Schmidt, <i>Reynoutria sachalinensis</i> (F.Schmidt) Nakai)	Giant knotweed	1a	
144	<i>Festuca rubra</i> L.	Creeping red fescue	a. 1a Prince Edward and Marion Islands.  b. Not listed on mainland or other off-shore islands.	
145	<i>Flaveria bidentis</i> (L.) Kuntze	Smelter's-bush	1b	

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146	<i>Fraxinus americana</i> L.	American ash	a. 3 in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga and Western Cape.  b. Not listed elsewhere.	
147	<i>Fraxinus angustifolia</i> Vahl	Algerian ash	a. 3 in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga and Western Cape  b. Not listed elsewhere.	
148	<i>Furcraea foetida</i> (L.) Haw.	Mauritian hemp	1a	
149	<i>Genista monspessulana</i> (L.) L.A.S.Johnson (= <i>Cytisus monspessulanus</i> L., <i>C. candicans</i> (L.) DC.)	Montpellier broom	1a	
150	<i>Gleditsia triacanthos</i> L.	Honey locust	a. 1b  b. Sterile cultivars or hybrids are not listed.	
151	<i>Glyceria maxima</i> (Hartm.) Holmb. (= <i>Poa aquatica</i> L., <i>Glyceria aquatica</i> (L.) Wahlb.)	Reed meadow grass, Reed sweet grass	a. 1b in Protected Areas and wetlands.  b. Not listed elsewhere.	
152	<i>Grevillea banksii</i> R.Br.	Australian crimson oak, Red flowering silky oak	1b	
153	<i>Grevillea robusta</i> A.Cunn. ex R.Br.	Australian silky oak	3	
154	<i>Grevillea rosmarinifolia</i> A.Cunn.	Rosemary grevillea	3	

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155	<i>Hakea drupacea</i> (C.F.Gaertn.) Roem. & Schult. (= <i>H. suaveolens</i> R.Br.)	Sweet hakea	1b	
156	<i>Hakea gibbosa</i> (Sm.) Cav.	Rock hakea	1b	
157	<i>Hakea salicifolia</i> (Vent.) B.L.Burt	Willow hakea	a. 1b in Western Cape.  b. Not listed elsewhere.	
158	<i>Hakea sericea</i> Schrad. & J.C.Wendl.	Silky hakea	1b	
159	<i>Harrisia balansae</i> (K.Schum.) N.P.Taylor & Zappi	Strangler prickly apple	1a	
160	<i>Harrisia martinii</i> (Labour.) Britton (= <i>Eriocereus martinii</i> (Labour.) Riccob.)	Moon cactus	1b	
161	<i>Harrisia pomanensis</i> (F.A.C.Weber) Britton & Rose	Midnight lady, Devil's rope cactus	1a	
162	<i>Harrisia tortuosa</i> (J.Forbes ex Otto & A.Dietr.) Britton & Rose	Spiny snake cactus	1b	
163	<i>Hedera canariensis</i> Willd. (= <i>Hedera helix</i> L. subsp. <i>canariensis</i> (Willd.) Cout.)	Canary ivy, Madeira ivy, Algerian ivy	a. 3  b. Sterile cultivars or hybrids are not listed.	
164	<i>Hedera helix</i> L. (= <i>Hedera helix</i> L. subsp. <i>helix</i> )	English ivy	a. 3  b. Sterile cultivars or hybrids are not listed.	
165	<i>Hedychium coccineum</i> Buch.-Ham. ex Sm.	Red ginger lily	1b	
166	<i>Hedychium coronarium</i> J.König	White ginger lily	1b	
167	<i>Hedychium flavescens</i> Carey ex Roscoe	Yellow ginger lily	1b	

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168	<i>Hedychium gardnerianum</i> Sheppard ex Ker Gawl.	Kahili ggiinnggeerr lily	1b	
169	<i>Homalanthus populifolius</i> Graham	Bleeding-heart tree	1b	
170	<i>Houttuynia cordata</i> Thunb.	Chameleon plant	3	
171	<i>Hydrilla verticillata</i> (L.f.) Royle	Hydrilla	1a	
172	<i>Hydrocleys nymphoides</i> (Humb. & Bonpl. ex Willd.) Buchenau	Water poppy	1a	
173	<i>Hylocereus undatus</i> (Haw.) Britton & Rose	Night-blooming cereus, Dragon fruit, Pitahaya	a. 2  b. The fruit of night-blooming cactus is not listed if used for human consumption.	
174	<i>Hypericum androsaemum</i> L.	Tutsan	1b	
175	<i>Hypericum perforatum</i> L.	St. John's wort, Tipton weed	2	
176	<i>Ipomoea alba</i> L.	Moonflower	1b	
177	<i>Ipomoea camea</i> Jacq. subsp. <i>fistulosa</i> (Mart. ex Choisy) D.F.Austin (= <i>I. fistulosa</i> Mart. ex Choisy)	Morning-glory bush	1b	
178	<i>Ipomoea indica</i> (Burm.) Merr. (= <i>I. congesta</i> R.Br.)	Morning glory	a. 1b  b. Sterile cultivars or hybrids are not listed.	
179	<i>Ipomoea purpurea</i> (L.) Roth	Morning glory	a. 1b  b. Sterile cultivars or hybrids are not listed.	
180	<i>Iris pseudacorus</i> L.	Yellow flag	1a	

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181	<i>Jacaranda mimosifolia</i> D.Don	Jacaranda	<p>a. 1b in Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga and North-West.</p> <p>b. Not listed for urban areas in Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga and North-West.</p> <p>c. Not listed within 50 metres of the main house on a farm in Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga and North-West, for trees with a diameter of more than 400 mm at 1000 mm height at the time of publishing of this Notice, provided such trees are located outside riparian areas.</p> <p>d. Not listed elsewhere.</p>	
182	<i>Jatropha curcas</i> L.	Physic nut	2	
183	<i>Jatropha gossypifolia</i> L.	Cotton-leaf physic nut	1b	
184	<i>Juniperus virginiana</i> L.	Red cedar	<p>a. 3 in Eastern Cape and Free State.</p> <p>b. Not listed elsewhere.</p>	

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185	<i>Kunzea ericoides</i> (A.Rich.) Joy Thomps. (= <i>Leptospermum ericoides</i> A. Rich.)	Burgan, White teatree	1a	
186	<i>Lantana</i> – all seed-producing species or seed-producing hybrids that are non-indigenous to South Africa	Lantana, Tickberry, Cherry pie	1b	
187	<i>Lepidium draba</i> L. (= <i>Cardaria draba</i> (L.) Desv.)	Hoary cardaria	1b	
188	<i>Leptospermum laevigatum</i> (Gaertn.) F.Muell.	Australian myrtle	1b	
189	<i>Leucaena leucocephala</i> (Lam.) de Wit (= <i>L. glauca</i> Benth.)	Leucaena	2	
190	<i>Ligustrum japonicum</i> Thunb.	Japanese wax-leaved privet	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga, North-West and Western Cape.  b. 3 in Free State, Gauteng and Northern Cape.	
191	<i>Ligustrum lucidum</i> W.T.Aiton	Chinese wax-leaved privet	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga, North-West and Western Cape.  b. 3 in Free State, Gauteng and Northern Cape.  c. Sterile cultivars or hybrids are not listed.	

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192	<i>Ligustrum ovalifolium</i> Hassk.	Californian privet	<p>a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga, North-West and Western Cape.</p> <p>b. 3 in Free State, Gauteng and Northern Cape.</p> <p>c. Sterile cultivars or hybrids are not listed.</p>	
193	<i>Ligustrum sinense</i> Lour.	Chinese privet	<p>a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga, North-West and Western Cape.</p> <p>b. 3 in Free State, Gauteng and Northern Cape.</p>	
194	<i>Ligustrum vulgare</i> L.	Common privet	<p>a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga, North-West and Western Cape.</p> <p>b. 3 in Free State, Gauteng and Northern Cape.</p>	
195	<i>Lilium formosanum</i> Wallace (= <i>L. longiflorum</i> Thunb. var. <i>formosanum</i> Baker)	Formosa lily	1b	

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196	<i>Limonium sinuatum</i> (L.) Mill.	Statice, Sea lavender	a. 1b in Northern Cape and Western Cape.  b. Not listed elsewhere.  c. Sterile cultivars or hybrids are not listed.	
197	<i>Linaria dalmatica</i> (L.) Mill. (= <i>Antirrhinum dalmaticum</i> L., <i>Linaria genistifolia</i> subsp. <i>dalmatica</i> (L.) Maire & Petitm.	Dalmatian toadflax, Broadleaf toadflax	1b	
198	<i>Linaria vulgaris</i> Mill.	Common toadflax, Butter- and eggs	1b	
199	<i>Litsea glutinosa</i> (Lour.) C.B.Rob. (= <i>Litsea sebifera</i> Pers.)	Indian laurel	1b	
200	<i>Lonicera japonica</i> Thunb. 'Halliana'	Japanese or Hall's honeysuckle	3	
201	<i>Ludwigia peruviana</i> (L.) H. Hara	Water-primrose, Peruvian primrosebush	1a	
202	<i>Luzula multiflora</i> (Ehrh.) Lej.	Woodrush	a. 1a Prince Edward and Marion Islands.  b. Not listed on mainland or other off-shore islands.	
203	<i>Lythrum hyssopifolia</i> L.	Hyssop loosestrife	1b	
204	<i>Lythrum salicaria</i> L.	Purple loosestrife	1a	
205	<i>Malva dendromorpha</i> M.F.Ray (= <i>Lavatera arborea</i> L.)	Tree mallow	1b	
206	<i>Malva verticillata</i> L.	Mallow	1b	
207	<i>Malvastrum coromandelianum</i> (L.) Garcke	Prickly malvastrum	1b	

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208	<i>Marsilea mutica</i> Mett.	Nardoo, Australian water-clover	1a	
209	<i>Melaleuca hypericifolia</i> Sm.	Red-flowering tea tree	1a	
210	<i>Melaleuca quinquenervia</i> (Cay.) S.T. Blake	Bottle brush tree, Broadleaf paperbark tree	a. 1b  b. National Heritage Trees or National Monument Trees in terms of the National Heritage Resources Act, 1999, (Act No. 25 of 1999), are not listed.	
211	<i>Melia azedarach</i> L.	Seringa	a. 1b  b. 3 in urban areas.	
212	<i>Metrosideros excelsa</i> Sol. ex Gaertn. (= <i>M. tomentosa</i> A.Rich.)	New Zealand Christmas tree	a. 1a in the Overstrand District.  b. Not listed elsewhere.  c. Sterile cultivars or hybrids are not listed.	
213	<i>Mimosa pigra</i> L.	Giant sensitive plant	1b	
214	<i>Mirabilis jalapa</i> L.	Four-o'clock, Marvel-of -Peru	1b	
215	<i>Montanoa hibiscifolia</i> Benth.	Tree daisy	1b	
216	<i>Morus alba</i> L.	White mulberry, Common mulberry	a. 3 b. Sterile cultivars or hybrids are not listed. c. The fruit of the white mulberry is not listed if used for human consumption.	

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217	<i>Murraya paniculata</i> (L.) Jack. (= <i>M. exotica</i> L.)	Orange Jessamine	a. 1b in KwaZulu-Natal, Limpopo and Mpumalanga.  b. 2 for breeding in nurseries in KwaZulu-Natal, Limpopo and Mpumalanga, but may not be transferred within these Provincial boundaries.  c. Not listed elsewhere.  d. Sterile cultivars or hybrids are not listed.	
218	<i>Myoporum insulare</i> R.Br.	Manatoka, Boobyalla	3	
219	<i>Myoporum laetum</i> G.Forst.	New Zealand manatoka	3	
220	<i>Myoporum montanum</i> R.Br. (= <i>Myoporum tenuifolium</i> G.Forst.)	Manatoka	3	
221	<i>Myriophyllum aquaticum</i> (Vell.) Verdc.	Parrot's feather	1b	
222	<i>Myriophyllum spicatum</i> L.	Spiked water-milfoil	1b	
223	<i>Myrtillocactus geometrizans</i> (Mart.) Console	Bilberry cactus	1a	
224	<i>Nassella tenuissima</i> (Trin.) Barkworth (= <i>Stipa tenuissima</i> Trin.)	White tussock	1b	

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225	<i>Nassella trichotoma</i> (Nees) Hack. ex Arechav. (= <i>Stipa trichotoma</i> Nees)	Nassella tussock	1b	
226	<i>Nasturtium officinale</i> R.Br. (= <i>Rorippa nasturtium- aquaticum</i> (L.) Hayek)	Watercress	2	
227	<i>Nephrolepis cordifolia</i> (L.) C.Presl (= <i>Polypodium cordifolium</i> L.)	Erect sword fern, Ladder sword fern	a. 1b in Eastern Cape, KwaZulu- Natal, Mpumalanga, Limpopo and Western Cape.  b. 3 in Free State, Gauteng, KwaZulu- Natal, North-West and Northern Cape.  c. Sterile cultivars or hybrids are not listed.	
228	<i>Nephrolepis exaltata</i> (L.) Schott (= <i>Polypodium exaltatum</i> L.)	Sword fern, Boston sword fern	a. 1b in Eastern Cape, KwaZulu- Natal, Mpumalanga, Limpopo and Western Cape.  b. 3 in Free State, Gauteng, KwaZulu- Natal, North-West and Northern Cape.  c. Sterile cultivars or hybrids are not listed.	
229	<i>Nerium oleander</i> L.	Oleander	a. 1b b. Sterile cultivars or hybrids are not listed.	

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230	<i>Nicandra physalodes</i> (L.) Gaertn.	Apple-of-Peru	1b	
231	<i>Nicotiana glauca</i> Graham	Wild tobacco	1b	
232	<i>Nuphar lutea</i> (L.) Sm. (= <i>N. minor</i> Dumort., <i>N. sericea</i> Láng, <i>N. spathulifera</i> Rchb., <i>N. tenella</i> Rchb., <i>Nymphaea lutea</i> L., <i>N. umbilicalis</i> Salisb., <i>Nymphozanthus luteus</i> (L.) Fernald, <i>N. sericeus</i> (Láng) Fernald, <i>N. vulgaris</i> Rich.)	Yellow water-lily	1a	
233	<i>Nymphaea mexicana</i> Zucc.	Yellow water lilies	1b	
234	<i>Nymphoides peltata</i> (S.G.Gmel.) Kuntze (= <i>Limnanthemum peltatum</i> S.G.Gmel.)	Gringed waterlily, Yellow floating-heart	1a	
235	<i>Oenothera sinuosa</i> W.L. Wagner & Hoch (= <i>Gaura sinuata</i> Nutt. ex Ser.)	Wavy-leaf gaura	3	
236	<i>Opuntia aurantiaca</i> Lindl.	Jointed cactus	1b	
237	<i>Opuntia elata</i> Link & Otto ex Salm-Dyck	Orange tuna	1b	
238	<i>Opuntia engelmannii</i> Salm-Dyck ex Engelm. (= <i>O. lindheimeri</i> Engelm., <i>O. tardospina</i> Griffiths)	Small round-leaved prickly pear	1b	

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239	<i>Opuntia ficus-indica</i> (L.) Mill. (= <i>O. megacantha</i> Salm-Dyck)	Mission prickly pear, Sweet prickly pear	a. 1b  b. Spineless cactus pear cultivars and selections are not listed.  c. The fruit of the sweet prickly pear is not listed if used for human consumption.	
240	<i>Opuntia humifusa</i> (Raf.) Raf. ( <i>O. compressa</i> misapplied in South Africa)	Large-flowered prickly pear, Creeping prickly pear	1b	
241	<i>Opuntia leucotricha</i> DC.	Aaron's-beard prickly-pear	1b	
242	<i>Opuntia microdasys</i> (Lehm.) Pfeiff.	Yellow bunny-ears, Teddybear cactus	1b	
243	<i>Opuntia monacantha</i> Haw. ( <i>O. vulgaris</i> misapplied in South Africa)	Cochineal prickly pear, Drooping prickly pear	1b	
244	<i>Opuntia pubescens</i> J.C.Wendl. ex Pfeiff. (= <i>O. pestifer</i> Britton & Rose)	Velvet bur cactus	1a	
245	<i>Opuntia robusta</i> H.L.Wendl. ex Pfeiff.	Blue-leaf cactus	a. 1a  b. Spineless cultivars and selections are not listed.	
246	<i>Opuntia salmiana</i> J. Parm. ex Pfeiff.	Bur cactus	1a	
247	<i>Opuntia spinulifera</i> Salm-Dyck	Saucepan cactus, Large roundleaved prickly pear	1b	

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248	<i>Opuntia stricta</i> (Haw.) Haw. var. <i>stricta</i> and var. <i>dillenii</i> (Ker Gawl.) L.D.Benson (= <i>O.</i> <i>dillenii</i> (Ker Gawl.) Haw.)	Pest pear of Australia	1b	
249	<i>Opuntia tomentosa</i> Salm-Dyck	Velvet opuntia, Velvet tree-pear	1b	
250	<i>Orobanche minor</i> Sm.	Lesser broomrape, Clover broomrape	1b	
251	<i>Orobanche ramosa</i> L.	Blue broomrape, Branched broomrape	1b	
252	<i>Paraserianthes</i> <i>lophantha</i> (Willd.) I.C.Nielsen (= <i>Albizia lophantha</i> (Willd.) Benth.)	Australian albizia, Stink bean	1b	
253	<i>Parkinsonia aculeata</i> L.	Jerusalem thorn	1b	
254	<i>Parthenium</i> <i>hysterophorus</i> L.	Famine weed	1b	
255	<i>Paspalum quadrifarium</i> Lam.	Tussock paspalum	1a	
256	<i>Passiflora caerulea</i> L.	Blue passion flower	1b	

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257	<i>Passiflora edulis</i> Sims	Purple granadilla, Passion fruit	a. 2 in Eastern Cape, Gauteng, KwaZulu-Natal, Mpumalanga, Limpopo and North-West.  b. Not listed in urban areas in Eastern Cape, Gauteng, KwaZulu-Natal, Mpumalanga, Limpopo and North-West.  c. Not listed elsewhere.  d. The fruit of the purple granadilla is not listed if used for human consumption.	
258	<i>Passiflora tripartita</i> (Juss.) Poir. var. <i>mollissima</i> (Kunth) Holm-Niels. & P.Jorg. (= <i>P. mollissima</i> (Kunth) L.H.Bailey)	Banana poka, Bananadilla	1b	
259	<i>Passiflora suberosa</i> L.	Devil's pumpkin, Indigo berry	1b	
260	<i>Passiflora subpeltata</i> Ortega	Granadina	1b	
261	<i>Paulownia tomentosa</i> (Thunb.) Steud. (= <i>Paulownia imperialis</i> Siebold & Zucc.)	Empress tree, Princess tree, Royal Paulownia	1a	
262	<i>Peniocereus serpentinus</i> (Lag. & Rodr.) N.P.Taylor	Serpent cactus, Snake cactus	1b	

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263	<i>Pennisetum clandestinum</i> Hochst. ex Chiov.	Kikuyu grass	a. 1b in Protected Areas and wetlands in which it does not already occur.  b. Not listed elsewhere.	
264	<i>Pennisetum purpureum</i> Schumach.	Elephant grass, Napier grass	2	
265	<i>Pennisetum setaceum</i> (Forssk.) Chiov.	Fountain grass	a. 1b  b. Sterile cultivars or hybrids are not listed.	
266	<i>Pennisetum villosum</i> R.Br. ex Fresen.	Feathertop	1b	
267	<i>Pereskia aculeata</i> Mill.	Pereskia, Barbados gooseberry	1b	
268	<i>Persicaria capitata</i> (Buch.-Ham. ex D.Don) H.Gross (= <i>Polygonum capitatum</i> Buch.-Ham. ex D.Don)	Knotweed	1b	
269	<i>Phytolacca americana</i> L. (= <i>P. decandra</i> L.)	American pokeweed	1b	
270	<i>Phytolacca dioica</i> L.	Belhambra	3	
271	<i>Phytolacca octandra</i> L.	Forest inkberry	1b	
272	<i>Pinus canariensis</i> C.Sm.	Canary pine	3	
273	<i>Pinus elliotti</i> Engelm. and hybrids, varieties and selections	Slash pine	a. 2 for sterile specimens.  b. 1b for non-sterile specimens.	Exempted for an existing plantation of sterile specimens.
274	<i>Pinus halepensis</i> Mill.	Aleppo pine	a. 3 in Eastern Cape, Free State and Western Cape.  b. Not listed elsewhere.	

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275	<i>Pinus patula</i> Schiede ex Schltld. & Cham. and hybrids, varieties and selections	Patula pine	2	Exempted for an existing plantation.
276	<i>Pinus pinaster</i> Aiton and hybrids, varieties and selections	Cluster pine	<p>a. 2 for plantations and wind-rows.</p> <p>b. 1b elsewhere.</p> <p>c. National Heritage Trees or National Monument Trees in terms of the National Heritage Resources Act, 1999, (Act No. 25 of 1999), are not listed.</p>	Exempted for an existing plantation outside of the Western Cape.

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277	<i>Pinus radiata</i> D.Don and hybrids, varieties and selections	Radiate pine, Monterey pine	<p>a. 2 for plantations and wind-rows.</p> <p>b. 1b elsewhere.</p> <p>c. National Heritage Trees or National Monument Trees in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), are not listed.</p> <p>d. Specimens with a diameter (calliper width) greater than 400 mm at a height of 1000 mm at the date of publication of this Notice are not listed for urban areas in Cape Town, the Overberg District Council and Winelands District Council, except when in riparian areas where they remain Category 1b.</p>	Exempted for an existing plantation outside of the Western Cape.
278	<i>Pinus roxburghii</i> Sarg. and hybrids, varieties and selections (= <i>P. longifolia</i> Roxb. ex Lamb.)	Chir pine, Longifolia pine	2	Exempted for an existing plantation.
279	<i>Pinus taeda</i> L. and hybrids, varieties and selections	Loblolly pine	2	Exempted for an existing plantation.
280	<i>Pistia stratiotes</i> L.	Water lettuce	1b	
281	<i>Pittosporum crassifolium</i> Banks & Sol. ex A.Cunn.	Karo, Stiff-leaved cheesewood	3	

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282	<i>Pittosporum undulatum</i> Vent.	Australian cheesewood, Sweet pittosporum	1b	
283	<i>Plectranthus barbatus</i> var. <i>grandis</i> (= <i>P.</i> <i>comosus</i> Sims)	'Abyssinian' coleus, Woolly plectranthus	1b	
284	<i>Poa pratensis</i> L.	Kentucky bluegrass	a. 1a Prince Edward Island.  b. 1b Marion Island.  c. Not listed on mainland or other off-shore islands.	
285	<i>Polypodium aureum</i> (L.) J.Sm.	Rabbits-foot fern	a. 3 in Eastern Cape, KwaZulu- Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
286	<i>Pontederia cordate</i> L.	Pickerel weed	1b	
287	<i>Populus alba</i> L.	White poplar	2	
288	<i>Populus x canescens</i> (Aiton) Sm.	Grey poplar, Matchwood poplar	2	
289	<i>Prosopis glandulosa</i> Torr. var. <i>torreyana</i> (L.D. Benson) M.C. Johnst. and hybrids	Honey mesquite	a. 1b in Eastern Cape, Free State, North-West and Western Cape.  b. 3 in Northern Cape.  c. The utilisation of the pods for fodder is not listed in the Northern Cape, Eastern Cape, Free State, North-West and Western Cape.  d. Not listed elsewhere.	

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290	<i>Prosopis velutina</i> Wootton and hybrids	Velvet mesquite	<p>a. 1b in Eastern Cape, Free State, North-West and Western Cape.</p> <p>b. 3 in Northern Cape.</p> <p>c. The utilisation of the pods for fodder is not listed in the Northern Cape, Eastern Cape, Free State, North-West and Western Cape.</p> <p>d. Not listed elsewhere.</p>	
291	<i>Prunus serotina</i> Ehrh.	Black cherry	1b	
292	<i>Psidium cattleianum</i> Sabine (= <i>P. littorale</i> Raddi var. <i>longipes</i> (O.Berg.) Fosberg	Strawberry guava	1b	

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293	<i>Psidium guajava</i> L.	Guava	<p>a. 2 for plantations in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga and North-West.</p> <p>b. 3 elsewhere in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga and North-West.</p> <p>c. The fruit of the guava is not listed if used for human consumption.</p> <p>d. Not listed elsewhere.</p>	
294	<i>Psidium guineense</i> Sw.	Brazilian guava	1b	
295	<i>Psidium x durbanensis</i> Baijnath ined.	Durban guava	1b	
296	<i>Pueraria montana</i> (Lour.) Merr. var. <i>lobata</i> (Willd.) Maesen & S.M.Almeida (= <i>P. lobata</i> (Willd.) Ohwi)	Kudzu vine	1a	
297	<i>Pyracantha angustifolia</i> (Franch.) C.K.Schneid.	Yellow firethorn	<p>a. 1b</p> <p>b. Sterile cultivars or hybrids are not listed.</p>	
298	<i>Pyracantha coccinea</i> M.Roem.	Red firethorn	<p>a. 1b</p> <p>b. Sterile cultivars or hybrids are not listed.</p>	

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299	<i>Pyracantha crenatoserrata</i> (Hance) Rehder (= <i>P. fortuneana</i> misapplied)	Chinese firethorn, Broad leaf firethorn	a. 1b  b. Sterile cultivars or hybrids are not listed.	
300	<i>Pyracantha crenulata</i> (D.Don) M.Roem; including var. <i>rogersiana</i> (= <i>P. rogersiana</i> (A.B.Jacks.) Chitt.)	Himalayan firethorn	a. 1b  b. Sterile cultivars or hybrids are not listed.	
301	<i>Pyracantha koidzumii</i> (Hayata) Rehder	Formosa firethorn	a. 1b  b. Sterile cultivars or hybrids are not listed.	
302	<i>Rhus glabra</i> L.	Scarlet sumach, Vinegar bush	3	
303	<i>Ricinus communis</i> L.	Castor-oil plant	2	
304	<i>Rivina humilis</i> L.	Rivina, Bloodberry	1b	
305	<i>Robinia pseudoacacia</i> L.	Black locust	1b	
306	<i>Rosa rubiginosa</i> L. (= <i>R. eglanteria</i> L.)	Eglantine, Sweetbriar	1b	
307	<i>Rubus cuneifolius</i> Pursh and hybrid <i>R. x proteus</i> C.H.Stirt.	American bramble	1b	
308	<i>Rubus ellipticus</i> Sm.	Asian wild raspberry, Yellow Himalayan raspberry	1a	
309	<i>Rubus flagellaris</i> Willd.	Bramble	1b	
310	<i>Rubus fruticosus</i> L. agg.	European blackberry	a. 2  b. The fruit of the European blackberry is not listed if used for human consumption.	
311	<i>Rubus immixtus</i> Gust.	Hogsback raspberry	1b	
312	<i>Rubus niveus</i> Thunb.	Ceylon raspberry, Mysore raspberry	1b	

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313	<i>Rumex acetosella</i> L.	Sheep sorrel, Red sorrel	a. 1a Prince Edward and Marion Islands.  b. Not listed on mainland or other off-shore islands	
314	<i>Rumex usambarensis</i> (Dammer) Dammer (= <i>R. nervosus</i> Vahl var. <i>usambarensis</i> Dammer)	East African dock	1b	
315	<i>Sagina procumbens</i> L.	Birdeye pearlwort	a. 1b Prince Edward and Marion Islands.  b. Not listed on mainland or other off-shore islands.	
316	<i>Sagittaria platyphylla</i> (Engelm.) J.G.Sm.	Delta arrowhead, Slender arrowhead	1a	
317	<i>Salsola kali</i> L.	Tumbleweed	1b	
318	<i>Salsola tragus</i> L. (= <i>S. australis</i> R.Br.)	Russian tumbleweed	1b	
319	<i>Salvia tiliifolia</i> Vahl	Lindenleaf sage	1b	
320	<i>Salvinia minima</i> Baker	Small salvinia	1b	
321	<i>Salvinia molesta</i> D.S.Mitch. and other species of the Family Salviniaceae	Kariba weed, Salvinia	1b	
322	<i>Sambucus canadensis</i> L. (= <i>S. nigra</i> L. subsp. <i>canadensis</i> (L.) Bolli	Canadian elder	1b	
323	<i>Sambucus nigra</i> L.	European elder	1b	
324	<i>Sasa ramosa</i> (Makino) Makino & Shibata (= <i>Arundinaria vagans</i> Gamble)	Dwarf yellow-striped bamboo	3	

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325	<i>Schefflera actinophylla</i> (Endl.) Harms	Australian cabbage tree, Queensland umbrella tree	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
326	<i>Schefflera arboricola</i> (Hayata) Merr.	Dwarf umbrella tree	a. 3 in Eastern Cape, Kwazulu Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
327	<i>Schefflera elegantissima</i> (hort. Veitch ex Mast.) Lowry & Frodin (= <i>Dizygotheca elegantissima</i> (hort. Veitch ex Mast.) R.Vlg. & Guillaumin	False aralia	a. 3 in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
328	<i>Schinus terebinthifolius</i> Raddi	Brazilian pepper tree	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. 3 in Free State, Gauteng, North-West, Northern Cape and Western Cape.	
329	<i>Senna bicapsularis</i> (L.) Roxb. (= <i>Cassia bicapsularis</i> L.)	Rambling cassia	1b	
330	<i>Senna didymobotrya</i> (Fresen.) H.S.Irwin & Barneby (= <i>Cassia didymobotrya</i> Fresen.)	Peanut butter cassia	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga and Western Cape.  b. Not listed elsewhere.	

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331	<i>Senna hirsuta</i> (L.) H.S.Irwin & Barneby (= <i>Cassia hirsuta</i> L.)	Hairy senna, Woolly senna	1b	
332	<i>Senna occidentalis</i> (L.) Link (= <i>Cassia occidentalis</i> L.)	Stinking weed, Wild coffee	1b	
333	<i>Senna pendula</i> (Willd.) H.S.Irwin & Barneby var. <i>glabrata</i> (Vogel) H.S.Irwin & Barneby (= <i>Cassia coluteoides</i> Collad.)	Climbing cassia, Easter cassia	1b	
334	<i>Senna septemtrionalis</i> (Viv.) H.S.Irwin & Barneby (= <i>Cassia floribunda</i> sensu Brenan, C. <i>laevigata</i> Willd.)	Arsenic bush, Smooth senna	1b	
335	<i>Sesbania punicea</i> (Cav.) Benth.	Red sesbania	1b	
336	<i>Solanum betaceum</i> Cav. (= <i>Cyphomandra</i> <i>betacea</i> (Cav.) Sendtn.)	Tree tomato	a. 3 in Eastern Cape, KwaZulu- Natal, Limpopo and Mpumalanga.  b. The fruit of the tree tomato is not listed if used for human consumption, in the Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  c. Not listed elsewhere.	
337	<i>Solanum chrysotrichum</i> Schltdl. ( <i>S. hispidum</i> misapplied in South Africa)	Giant devil's fig	1b	

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338	<i>Solanum elaeagnifolium</i> Cav.	Silver-leaf bitter apple	1b	
339	<i>Solanum mauritianum</i> Scop.	Bugweed	1b	
340	<i>Solanum pseudocapsicum</i> L.	Jerusalem cherry	1b	
341	<i>Solanum seaforthianum</i> Andrews	Potato creeper	1b	
342	<i>Solanum sisymbriifolium</i> Lam.	Wild tomato, Dense-thorned bitter apple	1b	
343	<i>Sorghum halepense</i> (L.) Pers.	Johnson grass, Aleppo grass	2	
344	<i>Spartina alterniflora</i> Loisel.	Smooth cordgrass, Salt-water cordgrass	1a	
345	<i>Spartium junceum</i> L.	Spanish broom	a. 1b in Eastern Cape and Western Cape.  b. 3 in Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, North-West and Northern Cape.	
346	<i>Spathodea campanulata</i> P.Beauv.	African flame tree	a. 3 in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
347	<i>Sphagneticola trilobata</i> (L.) Pruski (= <i>Thelechitonía trilobata</i> (L.) H.Rob. & Cuatrec., <i>Wedelia trilobata</i> (L.) Hitchc.)	Singapore daisy	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. 3 in Free State, Gauteng, North-West, Northern Cape and Western Cape.	

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348	<i>Stachytarpheta cayennensis</i> (Rich.) Vahl (= <i>S. urticifolia</i> Sims)	Blue snakeweed, Cayenne snakeweed	3	
349	<i>Stachytarpheta mutabilis</i> (Jacq.) Vahl	Pink snakeweed	3	
350	<i>Stellaria media</i> (L.) Vill.	Common chickweed	a. 1a Prince Edward Island. b. 1b Marion Island. c. Not listed on mainland or other off-shore islands	
351	<i>Syngonium podophyllum</i> Schott	Goose foot, Arrow-head vine	a. 1b in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga. b. 2 for breeding in nurseries in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga, but may not be transferred within these Provincial boundaries. c. Not listed elsewhere.	
352	<i>Syzygium cumini</i> (L.) Skeels	Jambolan	a. 1b b. The fruit of the jambolan is not listed if used for human consumption.	
353	<i>Syzygium jambos</i> (L.) Alston	Rose apple	3	

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354	<i>Tamarix aphylla</i> (L.) H.Karst. Not to be confused with indigenous <i>Tamarix usneoides</i> E.Mey. ex Bunge	Athel tree, Desert tamarisk	1b	
355	<i>Tamarix chinensis</i> Lour. Not to be confused with indigenous <i>Tamarix usneoides</i> E.Mey. ex Bunge	Chinese tamarisk	1b	
356	<i>Tamarix gallica</i> L. Not to be confused with indigenous <i>Tamarix usneoides</i> E.Mey. ex Bunge	French tamarisk	1b	
357	<i>Tamarix ramosissima</i> Ledeb. Not to be confused with indigenous <i>Tamarix usneoides</i> E.Mey. ex Bunge	Pink tamarisk	1b	
358	<i>Tecoma stans</i> (L.) Juss. ex Kunth	Yellow bells	1b	
359	<i>Tephrocactus articulatus</i> (Pfeiff.) Backeb. (= <i>Opuntia articulata</i> (Pfeiff.) D.R.Hunt	Pine cone cactus, Paper- spine cholla	1a	
360	<i>Thevetia peruviana</i> (Pers.) K.Schum. (= <i>T. nerifolia</i> Juss. ex Steud.)	Yellow oleander	1b	
361	<i>Tipuana tipu</i> (Benth.) Kuntze (= <i>T. speciosa</i> Benth.)	Tipu tree	3	
362	<i>Tithonia diversifolia</i> (Hemsl.) A.Gray	Mexican sunflower	1b	
363	<i>Tithonia rotundifolia</i> (Mill.) S.F.Blake	Red sunflower	1b	
364	<i>Toona ciliata</i> M.Roem. <i>Cedrela toona</i> Roxb. ex Willd.)	Toon tree	3	

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365	<i>Toxicodendron succedaneum</i> (L.) Kuntze (= <i>Rhus succedanea</i> L.)	Wax tree	1b	
366	<i>Tradescantia fluminensis</i> Vell.	Wandering Jew	1b	
367	<i>Tradescantia zebrina</i> hort. ex Bosse (= <i>Zebrina pendula</i> Schnizl.)	Wandering Jew	1b	
368	<i>Triplaris americana</i> L.	Ant tree, Triplaris	1a	
369	<i>Tropaeolum speciosum</i> Poepp. & Endl.	Chilean flame creeper, Flame nasturtium	3	
370	<i>Ulex europaeus</i> L.	European gorse	1a	
371	<i>Verbena bonariensis</i> L.	Wild verbena, Tall verbena, Purple top	1b	
372	<i>Verbena brasiliensis</i> Vell.	Brazilian verbena	1b	
373	<i>Verbena rigida</i> Spreng. (= <i>V. venosa</i> Gillies & Hook.)	Veined verbena	1b	
374	<i>Vinca major</i> L.	Greater periwinkle	a. 1b b. Sterile cultivars or hybrids are not listed.	
375	<i>Vinca minor</i> L.	Lesser periwinkle	a. 1b b. Sterile cultivars or hybrids are not listed.	
376	<i>Vitex trifolia</i> L.	Indian three-leaf vitex	1b	
377	<i>Wigandia urens</i> (Ruiz & Pav.) Kunth var. <i>caracasana</i> (Kunth) D.N.Gibson (= <i>W. caracasana</i> Kunth)	Wigandia	3	
378	<i>Xanthium spinosum</i> L.	Spiny cocklebur	1b	
379	<i>Xanthium strumarium</i> L.	Large cocklebur	1b	

**List 2: National List of Invasive Marine Plant Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Asparagopsis armata</i> Harvey	Harpoon weed	3	
2	<i>Asparagopsis taxiformis</i> (Delile) Trevisan de Saint-Léon	Pleasant seaweed	3	
3	<i>Schimmelmannia elegans</i> Baardseth	Red algae	1b	
4	<i>Undaria pinnatifida</i> (Harvey) Suringar	Asian kelp	1b	

**List 3: National List of Invasive Mammal Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Addax nasomaculatus</i> (de Blainville, 1816)	Addax	2	
2	<i>Aepyceros melampus petersi</i> Bocage, 1879	Black-faced impala	2	
3	<i>Ammotragus lervia</i> (Pallas, 1777)	Barbary sheep	2	
4	<i>Antilope cervicapra</i> (Linnaeus, 1758)	Indian blackbuck	2	
5	<i>Axis axis</i> (Erxleben, 1777)	Axis deer (Chital)	2	
6	<i>Axis porcinus</i> (Zimmermann, 1780)	Hog deer	2	
7	<i>Boselaphus tragocamelus</i> (Pallas, 1766)	Nilgai	2	

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8	<i>Capra hircus</i> Linnaeus, 1758	Feral goat	a. 1a for off-shore islands. b. Not listed elsewhere.	
9	<i>Cervus elaphus</i> Linnaeus, 1758	Red deer	2	
10	<i>Cervus nippon</i> Temminick, 1838	Sika deer	2	
11	<i>Dama dama</i> (Linnaeus, 1758)	Fallow deer	2	
12	<i>Diceros bicornis michaeli</i> Zukowsky, 1965	Black rhinoceros (Kenya)	2	
13	<i>Elaphurus davidianus</i> Milne-Edwards, 1866	Père David's deer	2	
14	<i>Erythrocebus patas</i> (Schreber, 1775)	Patas monkey	a. 1a in KwaZulu-Natal. b. 1b elsewhere. c. 2 if bred for export.	
15	<i>Felis catus</i> Linnaeus, 1758	Domestic cat	a. 1a for off-shore islands. b. Not listed elsewhere.	
16	<i>Hemitragus jemlahicus</i> (C.H. Smith, 1826)	Himalayan tahr	1b	
17	<i>Hippotragus equinus koba</i> (Gray, 1872)	Western roan	2	
18	<i>Hydrochaeris hydrochaeris</i> (Linnaeus, 1766)	Capybara	2	Prohibited for Restricted Activity (c): "Growing, breeding or in any other way propagating any specimen of a listed invasive species, or causing it to multiply.
19	<i>Kobus leche kafuensis</i> Haltenorth, 1963	Kafue lechwe	2	

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20	<i>Kobus ellipsiprymnus crawshayi</i> (P.L. Sclater, 1894)	Crawshay's waterbuck (Zambia)	2	
21	<i>Kobus ellipsiprymnus defassa</i> (Rüppell, 1835).	Defassa waterbuck (Kenya)	2	
22	<i>Kobus leche leche</i> Gray, 1850	Red lechwe	2	
23	<i>Kobus vardonii</i> (Livingstone, 1857)	Puku	2	
24	<i>Madoqua kirkii</i> Günther, 1880	Damara dik-dik	3	
25	<i>Macaca fascicularis</i> Raffles, 1821	Crab-eating macaque	2	
26	<i>Mus musculus</i> Linnaeus, 1758	House mouse	a. 1b for off-shore islands. b. Not listed elsewhere.	
27	<i>Myocastor coypus</i> (Molina, 1782)	Coypu	2	Prohibited for Restricted Activity (c): "Growing, breeding or in any other way propagating any specimen of a listed invasive species, or causing it to multiply."
28	<i>Oryctolagus cuniculus</i> (Linnaeus, 1758)	European rabbit	a. 1b for off-shore islands. b. Not listed elsewhere.	
29	<i>Oryx dammah</i> (Cretzschmar, 1827)	Oryx, scimitar-horned	2	
30	<i>Ovis aries musimon</i> Pallas, 1762	Mouflon	2	
31	<i>Rattus norvegicus</i> (Berkenhout, 1769)	Brown rat	a. 1b for off-shore islands. b. Not listed elsewhere.	

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32	<i>Rattus rattus</i> (Linnaeus, 1758)	House rat	a. 1b for off-shore islands. b. Not listed elsewhere.	
33	<i>Rattus tanezumi</i> Temminck, 1844	Asian house rat	a. 1b for off-shore islands. b. Not listed elsewhere.	
34	<i>Rusa unicolor</i> (Kerr, 1792)	Sambar deer	2	
35	<i>Sciurus carolinensis</i> Gmelin, 1788	Grey squirrel	a. 1a in KwaZulu-Natal. b. 3 elsewhere.	
36	<i>Sus scrofa</i> Linnaeus, 1758	Feral pig	a. 1b b. Not listed when not feral.	
37	<i>Tragelaphus derbianus</i> (Gray, 1847)	Derby eland	2	
38	<i>Tragelaphus euryceros</i> (Ogilby, 1837)	Bongo	1a	
39	<i>Tragelaphus imberbis</i> (Blyth, 1869)	Lesser kudu	1a	
40	<i>Tragelaphus spekii</i> P.L. Sclater, 1863	Sitatunga	2	
41	All hybrids of mammal species or sub-species listed in this Notice		a. 1a b. 2 for hybrids of western roan for back-breeding purposes.	

**List 4: National List of Invasive Bird Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Acridotheres cristatellus</i> (Linnaeus, 1758)	Crested mynah	2	
2	<i>Acridotheres fuscus</i> Wagler, 1827	Jungle mynah	2	
3	<i>Acridotheres tristis</i> (Linnaeus, 1766)	Indian mynah	3	
4	<i>Alectoris chukar</i> (J.E. Gray, 1830)	Chukar partridge	2 on mainland.  1b on off-shore islands.	
5	<i>Anas platyrhynchos</i> (Mallard)	Mallard duck	2	
6	<i>Carduelis carduelis</i> (Linnaeus, 1758)	European goldfinch	2	
7	<i>Carduelis chloris</i> (Linnaeus, 1758)	European greenfinch	2	
8	<i>Carduelis flammea</i> (Linnaeus, 1758)	Common redpoll	2	
9	<i>Colinus virginianus</i> (Linnaeus, 1758)	Northern bobwhite quail	2	
10	<i>Columba palumbus</i> Linnaeus, 1758	Common wood-pigeon	2	
11	<i>Columa livia</i> (Gmelin, 1789)	Rock dove, Feral pigeon	3	
12	<i>Corvus splendens</i> Vieillot, 1817	Indian house crow	1a	
13	<i>Dendrocygna eytoni</i> (Eyton, 1838)	Plumed whistling duck	1b	
14	<i>Foudia madagascariensis</i> (Linnaeus, 1766)	Madagascar red fody	3	
15	<i>Fringilla coelebs</i> Linnaeus, 1758	Chaffinch	2	

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16	<i>Molothrus bonariensis</i> (Gmelin, 1789)	Shiny cowbird	3	
17	<i>Numida meleagris galeata</i> (Pallas, 1767)	West African helmeted guineafowl	3	
18	<i>Passer domesticus</i> (Linnaeus, 1758)	House sparrow	3	
19	<i>Psittacula krameri</i> (Scopoli, 1769)	Rose-ringed parakeet	2	
20	<i>Pycnonotus cafer</i> (Linnaeus, 1766)	Red-vented bulbul	2	
21	<i>Pycnonotus jocosus</i> (Linnaeus, 1758)	Red-whiskered bulbul	2	
22	<i>Sicalis flaveola</i> (Linnaeus, 1766)	Saffron finch	2	
23	<i>Sturnus vulgaris</i> Linnaeus, 1758	Eurasian/ Common starling	3	
24	All hybrids between indigenous and introduced species		1a	

**List 5: National List of Invasive Reptile Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Anolis carolinensis</i> Voigt, 1832	Green anole	a. 2 in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
2	<i>Apalone species</i> Rafinesque, 1832	Soft-shell terrapins	2	

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3	<i>Basiliscus plumifrons</i> (Cope, 1876)	Plumed basilisk, Green baslisk	a. 2 in Eastern Cape, KwaZulu- Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
4	<i>Bitis gabonica</i> (A.M.C. Duméril, Bibron & A.H.A. Duméril, 1854) <i>x Bitis sp.</i>	Gaboon adder <i>x</i> Any other <i>Bitis</i> species	1b	
5	<i>Basiliscus vittatus</i> Wiegmann, 1828	Basilisk, Brown basilisk	2	
6	<i>Bitis nasicornis</i> (Shaw, 1792)	Rhinoceros viper, River jack	a. 2 in KwaZulu- Natal, Mpumalanga, Eastern Cape, Gauteng and Limpopo.  b. Not listed elsewhere.	
7	<i>Bitis gabonica</i> <i>rhinoceros</i> (Schlegel, 1855)	Gabino viper, West African gaboon viper	a. 2 in KwaZulu- Natal, Mpumalanga, Eastern Cape, Gauteng and Limpopo.  b. Not listed elsewhere.	

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8	<i>Boa constrictor</i> Linnaeus, 1758	Common boa	a. 2 in KwaZulu-Natal, Mpumalanga, Eastern Cape, Gauteng and Limpopo.  b. Not listed elsewhere.	
9	<i>Calotes versicolor</i> (Daudin, 1802)	Changeable lizard	1b	
10	<i>Centrochelys sulcata</i> Gray, 1873	Spur-thighed tortoise, African spurred tortoise	2	
11	<i>Chamaeleo jacksonii</i> Boulenger, 1896	Jackson's chameleon	a. 2 in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
12	<i>Chamaeleo melleri</i> (Gray, 1865)	Meller's chameleon	a. 2 in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
13	<i>Chelydra serpentina</i> (Linnaeus, 1758)	Common snapping turtle	2	
14	<i>Crotalus species</i> Linnaeus, 1758	Rattlesnakes	2	
15	<i>Cuora species</i> Gray, 1856	Chinese/ Asian box terrapins	1b	

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16	<i>Emys orbicularis</i> (Linnaeus, 1758)	European pond turtle	1b	
17	<i>Furcifer oustaleti</i> (Mocquard, 1894)	Oustalet's chameleon	2	
18	<i>Furcifer pardalis</i> (Cuvier, 1829)	Panther chameleon	2	
19	<i>Gehyra mutilata</i> (Wiegmann, 1834)	Stump-tailed gecko	3	
20	<i>Gekko gekko</i> (Linnaeus, 1758)	Tokay gecko	2	
21	<i>Iguana iguana</i> (Linnaeus, 1758)	Green iguana	a. 2 in KwaZulu-Natal, Mpumalanga, Eastern Cape, Gauteng and Limpopo.  b. Not listed elsewhere.	
22	<i>Lepidodactylus lugubris</i> (Duméril and Bibron, 1836)	Mourning gecko; Common smooth-scaled gecko	1b	
23	<i>Macrochelys temminckii</i> Troost in Harlan, 1835)	Alligator snapper turtle	2	
24	<i>Morelia amethystina</i> (Schneider, 1801) Amethystine python		a. 2 in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
25	<i>Morelia spilotes</i> (Lacépède, 1804)	Carpet/ diamond python	2	
26	<i>Pantherophis guttatus guttatus</i>	Cornsnake	3	

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27	<i>Pelodiscus species</i> (Wiegmann, 1835)	Chinese softshell terrapins	1b	
28	<i>Python molurus</i> (Linnaeus, 1758)	Indian/ Burmese python, Asiatic rock python	2	
29	<i>Python sebae</i> (Gmelin, 1788)	North African python	a. 2 in KwaZulu-Natal, Limpopo, Mpumalanga, Eastern Cape and Gauteng.  b. Not listed elsewhere.	
30	<i>Python natalensis x Python molurus</i>	Southern African python x Burmese python	1a	
31	<i>Trachemys species</i>	Turtles / Sliders native to the Americas	1b	
32	<i>Trioceros (Chamaeleo) jacksonii</i> Boulenger, 1896	Jackson's chameleon	a. 2 in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	

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33	<i>Trioceros (Chamaeleo) melleri</i> (Gray, 1865)	Meller's chameleon	a. 2 in Eastern Cape, KwaZulu-Natal, Limpopo and Mpumalanga.  b. Not listed elsewhere.	
34	<i>Varanus salvator</i> (Laurenti, 1768)	Indonesian/ Common water monitor	3	
35	Unless otherwise listed, all hybrids between indigenous and introduced species of reptiles		1b	

**List 6: National List of Invasive Amphibian Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Amietophrynus gutturalis</i> (Power, 1927)	Guttural (African common) toad	a. 1b in Western Cape.  b. Not listed elsewhere.	
2	<i>Dendrobatidae</i> species	Poison arrow (or dart) frogs	2	
3	<i>Hyperolius marmoratus</i> Rapp, 1842	Painted reed frog	a. 3 in Western Cape.  b. Not listed elsewhere.	
4	<i>Pelophylax</i> species	Marsh frog; Edible frog; Pool frog	1b	
5	<i>Triturus carnifex</i> (Laurenti, 1768)	Italian crested newt	1b	

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6	<i>Xenopus laevis</i> Daudin, 1802 x <i>Xenopus gilli</i> Rose & Hewitt, 1927	African clawed toad x Cape (Gill's) platanna	1b	
7	Unless otherwise listed, all hybrids between indigenous and introduced species of amphibians		1b	

**List 7: National List of Invasive Fresh-water Fish Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Ctenopharyngodon idella</i> (Valenciennes, 1844)	Grass carp	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 2 for breeding of triploid grass carp.</p> <p>c. 3 in all other discrete catchment systems in which it occurs.</p>	<p>a. The transfer or release of a specimen of grass carp from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Catch and release of grass carp is exempted in discrete catchment systems in which it occurs.</p>

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2	<i>Ctenopharyngodon idella</i> (Valenciennes in Cuvier & Valenciennes, 1844)	Triploid grass carp	<p>a. Triploid grass carp is not listed for dams within discrete catchment systems in which it occurs.</p> <p>b. 2 for release of triploid grass carp into dams in discrete catchment systems in which it does not occur.</p> <p>c. 2 for release of triploid grass carp into rivers, wetlands, natural lakes and estuaries in which it occurs.</p> <p>d. 3 in all rivers, wetlands, natural lakes and estuaries in which it occurs.</p>	<p>a. The transfer or release of a specimen of triploid grass carp from one discrete catchment system in which it occurs, to a river, wetland, natural lake or estuary in another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to a river, wetland, natural lake or estuary in another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Triploid grass carp listed as Category 2 are exempted for a period of two years from the date upon which this notice takes effect, from requiring a Permit for any restricted activity in terms of the Act or Alien and Invasive Species Regulations, 2014, provided a person is in possession of a valid Provincial Permit issued in terms of Provincial legislation where required for triploid grass carp.</p> <p>c. Catch and release of triploid grass carp is exempted in discrete catchment systems in which it occurs.</p>
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3	<i>Cyprinus carpio</i> (Linnaeus, 1758)	Common carp	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 2 for release into a dam within a discrete catchment system in which it occurs.</p> <p>c. 3 in all rivers, wetlands, natural lakes and estuaries in which it occurs.</p> <p>d. Subject to b, common carp is not listed for dams within discrete catchment systems in which it occurs.</p>	<p>a. The transfer or release of a specimen of common carp from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Release of common carp in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act is prohibited.</p> <p>c. The release of common carp in any rivers, wetlands, natural lakes or estuaries is prohibited.</p>
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				<p>d. Common carp are exempted listed as category 2 for a period of two years from the date upon which this notice takes effect, from requiring a Permit for any restricted activity in terms of the Act or Alien and Invasive Species Regulations, 2014, provided a person is in possession of a valid Provincial Permit issued in terms of Provincial legislation where required for common carp.</p> <p>e. Catch and release of common carp is exempted in discrete catchment systems in which it occurs.</p> <p>f. Ornamental koi carp are exempt from requiring a permit for all restricted activities except for restricted activity 'g' in Notice 1: "Releasing any specimen of a listed invasive species."</p>
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4	<i>Gambusia affinis</i> (Baird and Girard, 1853)	Mosquito- fish	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 3 for all other discrete catchment systems in which it occurs.</p> <p>c. 2 for breeding for the purpose of feeding stock for zoos and animal breeders.</p>	<p>a. The transfer or release of a specimen of mosquito-fish from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Catch and release of mosquito-fish is exempted in discrete catchment systems in which it occurs.</p>
5	<i>Hypophthalmichthys molitrix</i> (Valenciennes, 1844)	Silver carp	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 3 in all other discrete catchment systems in which it occurs.</p>	<p>a. The transfer or release of a specimen of silver carp from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Catch and release of silver carp is exempted in discrete catchment systems in which it occurs.</p>

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6	<i>Lepomis macrochirus</i> (Rafinesque, 1819)	Bluegill	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 3 for all other discrete catchment systems in which it occurs.</p>	<p>a. The transfer or release of a specimen of bluegill from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Catch and release of bluegill is exempted in discrete catchment systems in which it occurs.</p>
7	<i>Micropterus dolomieu</i> (Lacepède, 1802) Small-mouth bass		a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.	a. The transfer or release of a specimen of a listed bass species from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.
8	<i>Micropterus floridanus</i> (Lesueur, 1822)	Florida bass	in terms of the Protected Areas Act.	to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.
9	<i>Micropterus floridanus</i> (Lesueur, 1822) x <i>Micropterus salmoides</i> (Lacepède, 1802)	Hybrids of the Florida bass and the largemouth bass	b. 2 for release into dams within discrete catchment systems in which it occurs	Provincial legislation where required for the specific listed bass species.
10	<i>Micropterus punctulatus</i> (Rafinesque, 1819)	Spotted bass	c. 3 in all rivers, wetlands, natural lakes and estuaries in which it occurs.	

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			<p>d. Subject to (b), each listed bass species is not listed for dams within discrete catchment systems in which it (the specific listed bass species) occurs.</p>	<p>b. The release of the listed bass species in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act is prohibited.</p> <p>c. The release of the listed bass species in any rivers, wetlands, natural lakes or estuaries is prohibited.</p> <p>d. Each listed bass species listed as Category 2 is exempted for a period of two years from the date upon which this notice takes effect, from requiring a Permit for any restricted activity in terms of the Act or Alien and Invasive Species Regulations, 2014, provided a person is in possession of a valid Provincial Permit issued in terms of</p> <p>e. Catch and release of the listed bass species is exempted in discrete catchment systems in which they occur.</p>
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11	<i>Micropterus salmoides</i> (Lacepède, 1802)	Large-mouth bass	<p>a. 2 in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 3 in all rivers, wetlands, natural lakes and estuaries in which it occurs.</p> <p>c. 2 for conveying, moving or otherwise translocating a live specimen.</p> <p>d. Large-mouth bass is not listed for dams within discrete catchment systems in which it occurs (excluding (a) above).</p>	<p>a. The transfer or release of a specimen of large-mouth bass from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. The release of large-mouth bass in any rivers, wetlands, natural lakes or estuaries is prohibited.</p> <p>c. Large-mouth bass listed as category 2 are exempted for a period of two years from the date upon which this Notice takes effect, from requiring a Permit for any restricted activity in terms of the Act or Alien and Invasive Species Regulations, 2014, provided a person is in possession of a valid Provincial Permit issued in terms of Provincial legislation where required for large-mouth bass.</p> <p>d. Catch and release of large-mouth bass is exempted in discrete catchment systems in which it occurs.</p>
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12	<i>Oreochromis niloticus</i> (Linnaeus, 1758)	Nile tilapia	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves specified in terms of the Protected Areas Act.</p> <p>b. 2 for aquaculture facilities in the rest of the country.</p> <p>c. 3 in all other discrete catchment systems in which it occurs.</p>	<p>a. The transfer or release of a specimen of Nile tilapia from one discrete catchment system in which it occurs, to a river, wetland, natural lake or estuary, or a dam that is not an aquaculture facility, in another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to a river, wetland, natural lake or estuary, or a dam that is not an aquaculture facility, in another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Release of Nile tilapia in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act is prohibited.</p> <p>c. Catch and release of Nile tilapia is exempted in discrete catchment systems in which it occurs.</p>
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13	<i>Perca fluviatilis</i> (Linnaeus, 1758)	Perch	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 3 for all other discrete catchment systems in which it occurs.</p>	<p>a. The transfer or release of a specimen of perch from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Catch and release of perch is exempted in discrete catchment systems in which it occurs.</p>
14	<i>Pterygoplichthys disjunctivus</i> (Weber, 1991)	Vermiculated sailfin catfish	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 3 for all other discrete catchment systems in which it occurs.</p>	<p>a. The transfer or release of a specimen of vermiculated sailfin catfish from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Catch and release of vermiculated sailfin catfish is exempted in discrete catchment systems in which it occurs.</p>

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15	<i>Tinca tinca</i> (Linnaeus, 1758)	Tench	<p>a. 1b in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves declared in terms of the Protected Areas Act.</p> <p>b. 3 for all other discrete catchment systems in which it occurs.</p>	<p>a. The transfer or release of a specimen of tench from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier, is prohibited.</p> <p>b. Catch and release of tench is exempted in discrete catchment systems in which it occurs.</p>
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**List 8: National List of Terrestrial Invasive Invertebrate Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Acarapis woodi</i> (Rennie, 1921)	Tracheal mite	1b	
2	<i>Anoplolepis gracillipes</i> (Smith, 1857)	Crazy ant	1b	
3	<i>Bactrocera invadens</i> (Drew, Tsuruta and White, 2005)	Asian fruit-fly	1a	
4	<i>Bemisia tabaci</i> (Gennadius, 1889)	Sweet potato whitefly	1b	
5	<i>Cinara cupressi</i> (Buckton, 1881)	Cypress aphid	1b	

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6	<i>Coptotermes formosanus</i> (Shiraki, 1909)	Formosan subterranean termite	1b	
7	<i>Cosmopolites sordidus</i> (Germar, 1824)	Banana root borer	1b	
8	<i>Diriofilaria immitis</i> Leidy, 1856	Heartworm nematode	1b	
9	<i>Ditylenchus destructor</i> Thorne, 1945	Potato rot nematode	1b	
10	<i>Ditylenchus dipsaci</i> (Kühn, 1857) Filip'ev, 1936	Stem and bulb nematode	1b	
11	<i>Globodera rostochiensis</i> (Wollenweber, 1923), Behrens, 1975	Golden cyst nematode; potato cyst nematode	1b	
12	<i>Harmonia axyridis</i> (Pallas, 1773)	Asian ladybeetle	1b	
13	<i>Linepithema humile</i> (Mayr, 1868)	Argentine ant	1b	
14	<i>Meloidogyne partityla</i> Kleynhans, 1986	"Pecan nut" nematode	1b	
15	<i>Phasmatodea</i> species (Jacobson and Bianchi, 1902)	Stick insect	3	
16	<i>Polistes dominula</i> (Christ, 1791)	European Paper Wasp	1b	
17	<i>Prostephanus truncatus</i> (Horn, 1878)	Larger grain borer	1a	
18	<i>Phenacoccus madeirensis</i> (Green, 1925)	Madeira mealybug	1b	
19	<i>Pseudococcus calceolariae</i> (Maskell, 1879)	Citrophilus mealybug	1b	
20	<i>Radopholus similis</i> (Cobb, 1893) Thorne, 1949	Burrowing nematode	1b	
21	<i>Trogoderma granarium</i> (Everts, 1899)	Khapra beetle	1b	

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22	<i>Varroa destructor</i> Anderson & Trueman, 2000	Varroa mite	1b	
23	<i>Vespa germanica</i> (Fabricius, 1793)	European wasp, German wasp, German yellow- jacket	1b	

**List 9: National List of Invasive Fresh-water Invertebrate Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Aedes albopictus</i> (Skuse, 1895)	Asian tiger mosquito	1b	
2	<i>Aplexa marmorata</i> (Guilding, 1828)	Marbled tadpole snail/ Slender bladder snail	1b	
3	<i>Astacus leptodactylus</i> (Eschscholtz, 1823)	Danube/Galician/ Turkish/Narrow- clawed crayfish	1a	Catch and release is prohibited
4	<i>Cherax destructor</i> Clark, 1936	Yabby	1a	Catch and release is prohibited
5	<i>Cherax quadricarinatus</i> (Von Martens, 1868)	Redclaw crayfish/ Tropical blue crayfish	1b	Catch and release is prohibited
6	<i>Cherax tenuimanus</i> (Smith, 1912)	Marron	2	Catch and release is prohibited
7	<i>Lymnaea columella</i> (Say, 1817)	Amphibious pond snail	1b	
8	<i>Tarebia granifera</i> (Lamarck, 1822)	Quilted melania snail	1b	

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**List 10: National List of Invasive Marine Invertebrate Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Balanus glandula</i> (Darwin, 1854)	Pacific barnacle	3	
2	<i>Boccardia proboscidea</i> Hartman, 1940	Shell worm	1b	
3	<i>Ciona intestinalis</i> (Linnaeus, 1767)	Sea vase, Ascidian	3	
4	<i>Crassostrea gigas</i> (Thunberg, 1793)	Japanese oyster, Pacific oyster	2	<p>a. Exempted from requiring a Permit for all restricted activities for existing aquaculture facilities that have a valid Permit from the Department of Agriculture, Forestry and Fisheries.</p> <p>b. Exempted from restricted activity (i) in Notice 1: "Discharging of or disposing into any waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a prohibited alien species or a listed invasive species."</p> <p>c. Exempted from restricted activity (e) in Notice 1: "Selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any live specimen of a listed invasive species."</p>

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5	<i>Discinisca tenuis</i> (Sowerby)	Disc lamp shell	1b	
6	<i>Dodecacerea fewkesi</i> Berkeley & Berkeley, 1954	Black coral worm	1b	
7	<i>Fenneropenaeus indicus</i> (H. Milne Edwards, 1837)	Indian/White prawn	a. 2 in all provinces except KwaZulu-Natal.  b. Indigenous to KwaZulu-Natal, and therefore not listed there.	
8	<i>Ficopomatus enigmaticus</i> (Fauvel, 1923)	Estuarine tube-worm	1b	
9	<i>Litopenaeus vannamei</i> (Boone, 1931)	White shrimp, Whiteleg shrimp	a. Exempted from requiring a Permit for all restricted activities for existing aquaculture facilities that have a valid Permit from the Department of Agriculture, Forestry and Fisheries.  b. Exempted from restricted activity (i) in Notice 1: "Discharging of or disposing into any waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a prohibited alien species or a listed invasive species."	

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10	<i>Metridium senile</i> (Linnaeus, 1761)	Feather-duster anemone, Plumose anemone	3	
11	<i>Mytilus galloprovincialis</i> (Lamarck, 1819)	Mediterranean mussel, Blue mussel	2	<p>a. Exempted from requiring a Permit for all restricted activities for existing aquaculture facilities that have a valid Permit from the Department of Agriculture, Forestry and Fisheries.</p> <p>b. Exempted from restricted activity (i) in Notice 1: "Discharging of or disposing into any waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a prohibited alien species or a listed invasive species."</p> <p>c. Exempted from restricted activity (e) in Notice 1: "Selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any live specimen of a listed invasive species."</p>
12	<i>Ostrea edulis</i> Linnaeus, 1758	European flat oyster	3	

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13	<i>Penaeus monodon</i> Fabricius, 1798	Giant tiger prawn/Tiger prawn	<p>a. 2 in all provinces except KwaZulu-Natal.</p> <p>b. Indigenous to KwaZulu-Natal, and therefore not listed there.</p>	<p>a. Exempted from requiring a Permit for all restricted activities for existing aquaculture facilities outside of KwaZulu-Natal that have a valid Permit from the Department of Agriculture, Forestry and Fisheries.</p> <p>b. Exempted from restricted activity (i) in Notice 1: "Discharging of or disposing into any waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a prohibited alien species or a listed invasive species."</p>
14	<i>Sagartia ornata</i> (Holdsworth, 1855)	Brooding sea anemone	3	
15	<i>Semimytilus algosus</i> (Gould, 1850)	Pacific mussel	1b	
16	<i>Tetrapyrgus niger</i> (Molina, 1782)	Black sea-urchin	1a	

**List 11: National List of Invasive Microbial Species**

No.	Species	Common name	Category / area	Scope of exemption from the provisions of section 71(3) / prohibition in terms of section 71a(1)
1	<i>Kirramyces destructans</i>		1b	
2	<i>Kirramyces eucalypti</i> (Cooke & Massee) J. Walker, B. Sutton & Pascoe 1992		1b	
3	<i>Phytophthora kernoviae</i>	Fungus-like pathogen	1b	
4	<i>Phytophthora pinifolia</i> Alv. Durán, Gryzenh. & M.J. Wingf.	Fungus-like pathogen	1b	
5	<i>Phytophthora cinnamomi</i>	Fungus-like pathogen	1b	
6	<i>Teratosphaeria cryptica</i>	Eucalyptus leaf blotch pathogen	1b	
7	<i>Fusarium circinatum</i> genotypes		1b	

**NOTICE 4:****LIST OF PROHIBITED ALIEN SPECIES IN TERMS OF SECTION 67(1)****List 1: Prohibited Terrestrial and Fresh-Water Plants**

No.	Scientific Name	Common name
1	<i>Acaena pallida</i> (Kirk) Allan	Pale biddy-biddy
2	<i>Achnatherum brachychaetum</i> (Godr.) Barkworth (= <i>Nassella brachychaeta</i> (Godr.) Barkworth, <i>Stipa brachychaeta</i> Godr.)	Puna grass
3	<i>Achnatherum caudatum</i> (Trin.) S.W.L.Jacobs & J.Everett	Spear grass
4	<i>Aegilops cylindrica</i> Host (= <i>Cylindropyrum cylindricum</i> (Host) Á. Löve, <i>Triticum cylindricum</i> (Host) Ces.)	Jointed goat grass
5	<i>Aegilops geniculata</i> Roth (= <i>A. ovata</i> auct., <i>Triticum ovatum</i> auct.)	Ovate goat grass
6	<i>Aegilops</i> species	Goat grasses

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7	<i>Aegilops triuncialis</i> L. (= <i>A. squarrosa</i> L., <i>Triticum triunciale</i> (L.) Raspail)	Barb goat grass
8.	<i>Aeginetia</i> species	Aeginetia species
9.	<i>Aeschynomene rudis</i> Benth.	Rough joint-vetch
10	<i>Allium paniculatum</i> L.	Panicled onion
11	<i>Allium vineale</i> L. (= <i>A. kochii</i> Lange)	Wild garlic
12	<i>Altemanthera philoxeroides</i> (Mart.) Griseb.	Alligator weed
13	<i>Ambrosia trifida</i> L.	Giant ragweed
14	<i>Andropogon bicornis</i> L.	West Indian foxtail grass
15	<i>Andropogon virginicus</i> L.	Broom-sedge
16	<i>Annona glabra</i> L.	Pond apple
17	<i>Artemisia verlotiorum</i> Lamotte	Mugwort
18	<i>Arundinaria</i> species	Arundinaria reeds / bamboos
19	<i>Azolla</i> species except <i>A. pinnata</i> R.Br. var. <i>africana</i> (Desv.) Baker which may be indigenous	<i>Azolla</i> species
20	<i>Baccharis halimifolia</i> L.	Groundsel bush
21	<i>Berberis glaucocarpa</i> Stapf	Barberry
22	<i>Bifora testiculata</i> (L.) Spreng. (= <i>Coriandrum testiculatum</i> L.)	Bifora
23	<i>Cabomba</i> species	<i>Cabomba</i> species
24	<i>Callistachys lanceolata</i> Vent. (= <i>Oxylobium lanceolatum</i> (Vent.) Druce)	Oxylobium
25	<i>Callum vulgaris</i> (L.) Hull	Heather
26	<i>Calotis lappulacea</i> Benth.	Bur-daisy
27	<i>Carduus acanthoides</i> L.	Plumeless thistle
28	<i>Carduus pycnocephalus</i> L.	Italian thistle
29	<i>Carthamus leucocaulos</i> Sm.	White-stem distaff thistle, Saffron thistle
30	<i>Carthamus oxyacanthus</i> M.Bieb. (= <i>C. flavescens</i> Willd.)	Wild safflower
31	<i>Cassinia arcuate</i> R.Br.	Chinese shrub, Drooping cassinia
32	<i>Celastrus orbiculatus</i> Thunb. (= <i>C. articulatus</i> Thunb.)	Climbing spindleberry, Oriental bittersweet
33	<i>Cenchrus echinatus</i> L.	Southern sandbur grass, Mossman River grass
34	<i>Cenchrus longispinus</i> (Hack.) Fernald	Mat sandbur, Spiny bur grass
35	<i>Centaurea diffusa</i> Lam.	Diffuse knapweed
36	<i>Centaurea iberica</i> Trevir. ex Spreng.	Iberian star thistle

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37	<i>Centaurea stoebe</i> L. subsp. <i>micranthos</i> (S.G. Gmel. ex Gugler) Hayek (= <i>Centaurea biebersteinii</i> auct. non Lam., <i>Centaurea maculosa</i> auct. non Lam.)	Spotted knapweed
38	<i>Centaurea sulphurea</i> Willd.	Sicilian star thistle
39	<i>Centaurea virgata</i> Lam. subsp. <i>squarrosa</i> (Boiss.) Gugler (= <i>C. squarrosa</i> Willd., <i>C. virgata</i> auct. Amer.)	Squarrose knapweed
40	<i>Chorispora tenella</i> (Pall.) DC.	Purple mustard
41	<i>Chrysopogon aciculatus</i> (Retz.) Trin. (= <i>Andropogon acicularis</i> Retz. ex Roem. & Schult., <i>A. aciculatus</i> Retz., <i>Rhaphis acicularis</i> (Retz. ex Roem. & Schult.) Desv., <i>R. aciculata</i> (Retz.) Honda)	Pilipiliula
42	<i>Cirsium japonicum</i> Fisch. ex DC.	Japanese thistle
43	<i>Cirsium ochrocentrum</i> A.Gray	Yellow-spine thistle
44	<i>Cirsium undulatum</i> (Nutt.) Spreng.	Wavy-leaf thistle
45	<i>Clematis vitalba</i> L.	Old man's beard
46	<i>Clidemia hirta</i> (L.) D.Don (= <i>Melastoma hirtum</i> L.)	Koster's curse
47	<i>Coccinia grandis</i> (L.) Voigt (= <i>C. cordifolia</i> auct., <i>C. indica</i> Wight & Am.)	Ivy gourd
48	<i>Cortaderia richardii</i> (Endl.) Zotov	New Zealand pampas grass
49	<i>Crassula helmsii</i> (Kirk) Cockayne	Swamp stonecrop
50	<i>Crataegus sinaica</i> Boiss.	Azzarola
51	<i>Crupina vulgaris</i> Cass.	Common crupina, Bearded creeper
52	<i>Cupaniopsis anacardioides</i> (A.Rich.) Radlk. (= <i>Cupania anacardioides</i> A.Rich.)	Carrotwood
53	<i>Cuscuta indecora</i> Choisy (= <i>C. jepsonii</i> Yunck.)	Large-seeded dodder
54	<i>Cuscuta reflexa</i> Roxb.	Giant dodder, Indian dodder
55	<i>Cylindropuntia</i> species not in South Africa	Chollas
56	<i>Cymbopogon refractus</i> (R.Br.) A.Camus (= <i>Andropogon refractus</i> R.Br.)	Barbwire grass
57	<i>Datura leichhardtii</i> F.Muell. ex Benth. (= <i>D. pruinosa</i> Greenm.)	Leichhardt's thorn apple
58	<i>Datura wrightii</i> Regel (= <i>D. meteloides</i> auct.)	Hairy thorn apple
59	<i>Dioscorea alata</i> L. (= <i>D. rubella</i> Roxb.)	White yam

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60	<i>Diplotaxis tenuifolia</i> (L.) DC. (= <i>Sisymbrium tenuifolium</i> L.)	Sand rocket
61	<i>Dipsacus fullonum</i> L. (= <i>D. sylvestris</i> Huds.)	Wild teasel
62	<i>Drymaria arenarioides</i> Humb. & Bonpl. ex Schult.	Alfombrilla, Lightningweed
63	<i>Echium italicum</i> L.	Italian bugloss
64	<i>Eichhornia azurea</i> (Sw.) Kunth	Anchored water hyacinth
65	<i>Eichhornia</i> species not in South Africa	Water hyacinth species
66	<i>Elephantopus mollis</i> Kunth (= <i>E. tomentosus</i> auct. nonn.)	Elephantopus, Elephant's foot
67	<i>Emex spinosa</i> (L.) Campd. (= <i>Rumex spinosus</i> L.)	Spiny emex, Devil's thorn, Lesser jack
68	<i>Equisetum arvense</i> L.	Field horsetail, Common horsetail
69	<i>Erica lusitanica</i> Rudolphi	Spanish heath, Portuguese heath
70	<i>Euphorbia oblongata</i> Griseb.	Oblong spurge
71	<i>Euphorbia terracina</i> L.	Geraldton carnation
72	<i>Fallopia japonica</i> (Houtt.) Ronse Decr. (= <i>Polygonum cuspidatum</i> Siebold & Zucc., <i>Polygonum Reynoutria</i> Makino, <i>Reynoutria japonica</i> Houtt.)	Japanese knotweed
73	<i>Fallopia X bohémica</i> (Chrtek. & Chrtková) J.P.Bailey	Japanese knotweed hybrid
74	<i>Gaura drummondii</i> (Spach) Torr. & A.Gray (= <i>G. odorata</i> auct.)	Drummond's gaura
75	<i>Gmelina asiatica</i> L.	Badhara bush
76	<i>Gymnocoronis spilanthoides</i> DC.	Senegal tea plant, Temple plant
77	<i>Halimodendron halodendron</i> (Pall.) Voss (= <i>Caragana argentea</i> Lam., <i>Halimodendron argenteum</i> (Lam.) DC., <i>Robinia halodendron</i> Pall.)	Russian salt tree
78	<i>Halogeton glomeratus</i> (M.Bieb.) C.A.Mey. (= <i>Anabasis glomerata</i> M.Bieb.)	Halogeton
79	<i>Harrisia</i> species not in South Africa	Prickly apples
80	<i>Harungana madagascariensis</i> Lam. ex Poir. (= <i>Haronga madagascariensis</i> (Lam. ex Poir.) Choisy)	Harungana, Haronga, Dragon's-blood-tree
81	<i>Helianthus ciliaris</i> DC.	Blueweed, Texas blueweed
82	<i>Hieracium aurantiacum</i> L. (= <i>Pilosella aurantiaca</i> (L.) F.W.Schultz & Sch. Bip.)	Orange hawkweed
83	<i>Hieracium pilosella</i> L. (= <i>Pilosella officinarum</i> F.W. Schultz & Sch. Bip.)	Mouse-ear hawkweed

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84	<i>Hieracium praealtum</i> Gochn.	King devil
85	<i>Hydrocharis morsus-ranae</i> L.	Frog's-bit
86	<i>Hydrodictyon reticulatum</i> Lagerh.	Water net
87	<i>Hygrophila costata</i> Nees et al. (= <i>H. brasiliensis</i> (Spreng.) Lindau, <i>H. guianensis</i> Nees, <i>Ruellia brasiliensis</i> Spreng.)	Hygrophila
88	<i>Hygrophila polysperma</i> (Roxb.) T.Anderson (= <i>Justicia polysperma</i> Roxb.)	Miramar weed, Hygrophila
89	<i>Hymenachne amplexicaulis</i> (Rudge) Nees	Olive hymenachne, West Indian marsh grass
90	<i>Hypericum triquetrifolium</i> Turra (= <i>H. crispum</i> L.)	Tangled hypericum
91	<i>Hypericum X inodorum</i> Mill. (= <i>H. elatum</i> Aiton)	Tall St John's wort, Tall tutsan
92	<i>Hyptis capitata</i> Jacq.	Knobweed
93	<i>Hyptis pectinata</i> (L.) Poit. (= <i>Nepeta pectinata</i> L.)	Comb hyptis
94	<i>Hyptis suaveolens</i> (L.) Poit. (= <i>Ballota suaveolens</i> L.)	Wild spikenard, Hyptis
95	<i>Imperata brasiliensis</i> Trin.	Brazilian satin-tail
96	<i>Imperata brevifolia</i> Vasey (= <i>Imperata hookeri</i> (Rupr. ex Andersson) Hack.)	Satin-tail
97	<i>Ipomoea triloba</i> L.	Little-bell, Aiea morning-glory
98	<i>Ischaemum rugosum</i> Salisb.	Murain-grass
99	<i>Iva axillaris</i> Pursh	Poverty weed
100	<i>Iva axillaris</i> Pursh subsp. <i>robustior</i> (Hook.) Bassett	Poverty weed
101	<i>Juncus acutus</i> L. subsp. <i>Acutus</i>	Spiny rush
102	<i>Lagascea mollis</i> Cay.	Acuate
103	<i>Lepidium appelianum</i> Al-Shehbaz (= <i>Cardaria pubescens</i> (C.A.Mey.) Jarm.)	Globe-pod hoary cress
104	<i>Lepidium draba</i> L. subsp. <i>chalepense</i> (L.) Thell. (= <i>Cardaria chalepensis</i> (L.) Hand.-Mazz)	Lens podded hoary cress
105	<i>Lepidium latifolium</i> L.	Perennial pepperweed / Perennial peppergrass
106	<i>Limnobium laevigatum</i> (Humb. & Bonpl. ex Willd.) Heine	South American spongeplant
107	<i>Limnobium spongia</i> (Bosc) Rich. ex Steud. (= <i>Hydrocharis spongia</i> Bosc)	American spongeplant

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108	<i>Limnocharis flava</i> (L.) Buchenau (= <i>Alisma flavum</i> L., <i>Limnocharis emarginata</i> Bonpl.)	Sawah flowering rush, Yellow burrhead
109	<i>Limnophila indica</i> (L.) Druce (= <i>Hottonia indica</i> L.)	Ambulia
110	<i>Limnophila sessiliflora</i> (Vahl) Blume (= <i>Hottonia sessiliflora</i> Vahl)	Ambulia
111	<i>Ludwigia peploides</i> (Kunth) P.H.Raven	Primrose willow, Creeping water-primrose
112	<i>Malachra alceifolia</i> Jacq	Malachra
113	<i>Malvella leprosa</i> (Ortega) Krapov. (= <i>Sida hederacea</i> (Douglas ex Hook.) Torr. ex A.Gray, <i>Sida leprosa</i> var. <i>hederacea</i> (Douglas ex Hook.) K.Schum.)	Alkali mallow, Alkali sida
114	<i>Martynia annua</i> L. (= <i>M. diandra</i> Gloxin)	Devil's claw
115	<i>Medinilla venosa</i> (Blume) Blume (= <i>Melastoma venosum</i> Blume)	
116	<i>Melastoma malabathricum</i> L. (= <i>Melastoma normale</i> D.Don)	Indian-rhododendron
117	<i>Melastoma</i> species	Melastoma species
118	<i>Menyanthes trifoliata</i> L.	Bog bean
119	<i>Miconia</i> species	Miconia
120	<i>Mikania cordata</i> (Burm.f.) B.L.Rob.	Mile-a-minute
121	<i>Mikania micrantha</i> Kunth	Mile-a-minute, Climbing hempweed
122	<i>Mikania scandens</i> (L.) Willd. (= <i>Eupatorium scandens</i> L., <i>Willoughbya scandens</i> (L.) Kuntze)	Climbing hempweed
123	<i>Mimosa diplotricha</i> C.Wright (= <i>M. invisa</i> Mart.)	Giant sensitive-plant
124	<i>Miscanthus floridulus</i> (Labill.) Warb. ex K.Schum. & Lauterb. (= <i>M. japonicus</i> Andersson, <i>Saccharum floridulum</i> Labill.)	Giant Chinese silver grass, Japanese silver grass
125	<i>Monochoria hastata</i> (L.) Solms	Arrow-leaf monochoria, Hastate-leaf-pondweed
126	<i>Monochoria vaginas</i> (Burm.f.) C.Presl. ex Kunth (= <i>M. vaginalis</i> var. <i>pauciflora</i> Merr., <i>Pontederia vaginalis</i> Burm.f.)	Oval-leaf monochoria, Oval-leaf-pondweed, Pickerel-weed
127	<i>Muhlenbergia schreberi</i> J.F.Gmel. (= <i>M. diffusa</i> Willd.)	Nimblewill
128	<i>Myagrum perfoliatum</i> L.	Muskweed
129	<i>Najas guadalupensis</i> (Spreng.) Magnus	Southern naiad

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130	<i>Nassella charruana</i> (Arechav.) Barkworth (= <i>Stipa charruana</i> Arechav.)	Lobed needlegrass
131	<i>Nassella hyalina</i> (Nees) Barkworth (= <i>Stipa hyalina</i> Nees)	Cane needlegrass
132	<i>Nassella leucotricha</i> (Trin. & Rupr.) R.W.Pohl (= <i>Stipa leucotricha</i> Trin. & Rupr.)	Texas needlegrass
133	<i>Nechamandra alternifolia</i> (Roxb.) Thwaites (= <i>Vallisneria alternifolia</i> Roxb.)	
134	<i>Neyraudia reynaudiana</i> (Kunth) Keng ex Hitchc. (= <i>Arundo reynaudiana</i> Kunth)	Burma reed
135	<i>Nymphoides geminata</i> (R.Br.) Kuntze (= <i>Villarsia geminata</i> R.Br.)	Entire marshwort
136	<i>Oenanthe pimpinelloides</i> L.	Water dropwort, Corky-fruit water-dropwort
137	<i>Ononis alopecuroides</i> L.	Foxtail restharrow
138	<i>Onopordum acaulon</i> L.	Stemless thistle
139	<i>Onopordum illyricum</i> L.	Illyrian thistle
140	<i>Onopordum tauricum</i> Willd.	Taurian thistle, Taurean thistle
141	<i>Opuntia</i> species not in South Africa	Prickly pears
142	<i>Orobanche cooperi</i> (A.Gray) A.Heller (= <i>O. ludoviciana</i> Nutt. var. <i>cooperi</i> (A.Gray) Beck)	Cooper's broomrape
143	<i>Oryza rufipogon</i> Griff. (= <i>O. fatua</i> J. König ex Trin., nom. nud., <i>O. Sativa</i> L. var. <i>fatua</i> Prain)	Red rice, Perennial wild red rice
144	<i>Ottelia alismoides</i> (L.) Pers.	Duck-lettuce, Water-plantain ottelia
145	<i>Oxyspora paniculata</i> (D.Don) DC. (= <i>Arthrostemma paniculatum</i> D.Don)	Bristletips
146	<i>Paederia cruddasiana</i> Prain	Sewer vine
147	<i>Paederia foetida</i> L. (= <i>P. magnifica</i> Noronha, nom. nud., <i>P. scandens</i> (Lour.) Merr., <i>P. tomentosa</i> Blume, <i>Gentiana scandens</i> Lour.)	Skunk vine
148	<i>Panicum antidotale</i> Retz. (= <i>P. miliare</i> Lam., <i>P. proliferum</i> Lam.)	Blue panic grass
149	<i>Parietaria judaica</i> L. (= <i>P. diffusa</i> Mert. & W.D.J. Koch)	Wall pellitory
150	<i>Passiflora bicornis</i> Mill. (= <i>P. pulchella</i> Kunth)	Wingleaf passionfruit

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151	<i>Pennisetum alopecuroides</i> (L.) Spreng. (= <i>Alopecurus hordeiformis</i> L., <i>Panicum alopecuroides</i> L., <i>Pennisteam compressum</i> R.Br., <i>P. hordeiforme</i> (Thunb.) Spreng., <i>P. japonicum</i> Trin. ex Spreng.)	Chinese pennisetum, Swamp foxtail grass
152	<i>Pennisetum pedicellatum</i> Trin.	Kyasuwa-grass
153	<i>Pennisetum polystachion</i> (L.) Schult.	Mission grass, Thin Napier grass
154	<i>Pereskia</i> species not in South Africa	
155	<i>Persicaria perfoliata</i> (L.) H.Gross (= <i>Polygonum perfoliatum</i> L.)	Devil's tail tearthumb, Mile-a-minute-vine, Mile-a-minute-weed
156	<i>Persicaria wallichii</i> Greuter & Burdet (= <i>P. polystachya</i> (Wall. ex Meisn.) H.Gross, <i>Polygonum polystachyum</i> Wall. ex Meisn., <i>Rubrivena polystachya</i> (Wall. ex Meisn.) M.Král)	Himalayan knotweed
157	<i>Physalis longifolia</i> Nutt. (= <i>P. subglabrata</i> Mack. & Bush, <i>P. virginiana</i> Mill. var. <i>sonorae</i> (Torr.) Waterf.)	Long-leaf ground-cherry
158	<i>Picnomon acarna</i> (L.) Cass.	Soldier thistle
159	<i>Piper aduncum</i> L. (= <i>P. angustifolium</i> Ruiz & Pay., <i>P. celtidifolium</i> Kunth, <i>P. elongatum</i> Vahl)	Spiked pepper, Piper
160	<i>Pontederia rotundifolia</i> L.f. (= <i>Reussia rotundifolia</i> (L.f.) A.Cast.)	Tropical pickerel-weed
161	<i>Potamogeton perfoliatus</i> L.	Clasped pondweed
162	<i>Prosopis alpataco</i> Phil.	Mesquite
163	<i>Prosopis argentina</i> Burkart	Mesquite
164	<i>Prosopis burkartii</i> Muñoz	Mesquite
165	<i>Prosopis caldenia</i> Burkart	Mesquite
166	<i>Prosopis calingastana</i> Burkart	Cusqui, Mesquite
167	<i>Prosopis campestris</i> Griseb.	Mesquite
168	<i>Prosopis castellanosi</i> Burkart	Mesquite
169	<i>Prosopis denudans</i> Benth. = <i>P. patagonica</i> Speg.)	Mesquite
170	<i>Prosopis elata</i> (Burkart) Burkart (= <i>P. campestris</i> Griseb. var. <i>elata</i> Burkart)	Mesquite
171	<i>Prosopis farcta</i> (Banks & Sol.) J.F.Macbr. (= <i>Mimosa farcta</i> Banks & Sol.), <i>M. stephaniana</i> M.Bieb., <i>P. stephaniana</i> (M.Bieb.) Kunth ex Spreng.)	Syrian mesquite
172	<i>Prosopis ferox</i> Griseb.	Mesquite

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173	<i>Prosopis fiebrigii</i> Harms	Mesquite
174	<i>Prosopis hassleri</i> Harms	Mesquite
175	<i>Prosopis humilis</i> Gillies ex Hook. & Arn.	Mesquite
176	<i>Prosopis kuntzei</i> Harms	Mesquite
177	<i>Prosopis palmeri</i> S.Watson	Mesquite
178	<i>Prosopis reptans</i> Benth. (= <i>P. cinerascens</i> (A.Gray) Benth., <i>Strombocarpa cinerascens</i> A.Gray)	Mesquite
179	<i>Prosopis rojasiana</i> Burkart	Mesquite
180	<i>Prosopis ruizlealii</i> Burkart	Mesquite
181	<i>Prosopis ruscifolia</i> Griseb.	Mesquite
182	<i>Prosopis sericantha</i> Gillies ex Hook. & Arn.	Mesquite
183	<i>Prosopis strombulifera</i> (Lam.) Benth. (= <i>Acacia strombulifera</i> (Lam.) Willd., <i>Mimosa strombulifera</i> Lam.)	Argentine screwbean, Creeping mesquite
184	<i>Prosopis torquata</i> (Cav. ex Lag.) DC. (= <i>Acacia torquata</i> Cav. Ex Lag.)	Mesquite
185	<i>Pueraria phaseoloides</i> (Roxb.) Benth. (= <i>Dolichos phaseoloides</i> Roxb., <i>Neustanthus javanicus</i> Benth., <i>Pueraria javanica</i> (Benth.) Benth.)	Tropical kudzu
186	<i>Ranunculus acris</i> L. (= <i>R. friesianus</i> Jord.)	Giant buttercup
187	<i>Ranunculus sceleratus</i> L.	Celery-leaf buttercup
188	<i>Reseda phyteuma</i> L.	Rampion mignonette
189	<i>Rorippa austriaca</i> (Crantz) Besser (= <i>Nasturtium austriacum</i> Crantz)	Austrian field cress
190	<i>Rorippa sylvestris</i> (L.) Besser	Creeping yellow field cress
191	<i>Rubus anglocandicans</i> A.Newton	Blackberry
192	<i>Rubus argutus</i> Link	Prickly Florida blackberry
193	<i>Rubus moluccanus</i> L. (= <i>R. hillii</i> F.Muell.)	Wild blackberry, Wild raspberry
194	<i>Rubus sieboldii</i> Blume	Molucca raspberry
195	<i>Saccharum spontaneum</i> L. (= <i>S. arenicola</i> Ohwi, <i>S. biflorum</i> Forssk.)	Wild sugarcane
196	<i>Sagittaria montevidensis</i> Cham. & Schldl. (= <i>Lophotocarpus spongiosus</i> (Engelm.) J.G.Sm., <i>S. calycina</i> Engelm.)	Giant arrowhead
197	<i>Salsola collina</i> Pall.	Spineless Russian thistle, Tumbleweed
198	<i>Salsola paulsenii</i> Litv.	Barbwire Russian thistle
199	<i>Salsola vermiculata</i> L.	Wormleaf salsola, Wormleaf saltwort
200	<i>Salvia aethiopsis</i> L.	Mediterranean sage

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201	<i>Salvia virgata</i> Jacq. (= <i>S. campestris</i> M.Bieb.)	Meadow sage
202	<i>Salvinia auriculata</i> Aubl. (= <i>S. Rotundifolia</i> Willd.)	Salvinia, Giant salvinia
203	<i>Salvinia biloba</i> Raddi	Giant salvinia
204	<i>Salvinia herzogii</i> de la Sota	Giant salvinia
205	<i>Sclerolaena birchii</i> (F.Muell.) Domin (= <i>Anisacantha birchii</i> F.Muell.)	Galvanised burr
206	<i>Scolymus hispanicus</i> L.	Golden thistle
207	<i>Scolymus maculatus</i> L.	Spotted golden thistle
208	<i>Senecio jacobaea</i> L.	Tansy ragwort, St James' ragwort
209	<i>Senecio squalidus</i> L.	Oxford ragwort
210	<i>Senna tora</i> (L.) Roxb. (= <i>Cassia tora</i> L.)	Java bean, Sicklepod senna
211	<i>Setaria faberi</i> R.A.W.Herrm.	Chinese foxtail, Giant foxtail
212	<i>Setaria palmifolia</i> (J.König) Stapf (= <i>Panicum palmifolium</i> Willd. ex Poir., <i>Chaetochloa palmifolia</i> Hitchc. & Chase)	Palm grass
213	<i>Solanum carolinense</i> L.	Horse nettle, Carolina horse nettle
214	<i>Solanum dimidiatum</i> Raf. (= <i>S. torreyi</i> A.Gray)	Torrey's nightshade
215	<i>Solanum lanceolatum</i> Cav.	Lance-leaf nightshade
216	<i>Solanum marginatum</i> L.f.	White-margined nightshade, White-edged nightshade
217	<i>Solanum robustum</i> H.L.Wendl. (= <i>S. alatum</i> Seem. & J. C. Schmidt)	Silver-leaf nightshade
218	<i>Solanum tampicense</i> Dunal	Wetland nightshade
219	<i>Sonchus arvensis</i> L.	Perennial sow thistle
220	<i>Sorghum</i> hybrid 'Silk'	Silk forage sorghum
221	<i>Sorghum X almum</i> Parodi (= <i>S. bicolor</i> (L.) Moench X <i>S. halepense</i> (L.) Pers.)	Columbus grass
222	<i>Sparganium erectum</i> L. (= <i>S. chlorocarpum</i> Rydb., <i>S. polyedrum</i> (Asch. & Graebn.) Juz., <i>S. ramosum</i> Huds.)	Exotic bur-reed, Bur reed
223	<i>Spermacoce alata</i> Aubl. (= <i>Borreria alata</i> (Aubl.) DC.)	Borreria, Buttonweed
224	<i>Sphaerophysa salsula</i> (Pall.) DC. (= <i>Colutea caspica</i> M.Bieb., <i>Phaca salsula</i> Pall., <i>Swainsona salsula</i> (Pall.) Taub.)	Austrian peaweed

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225	<i>Sporobolus indicus</i> (L.) R.Br. var. <i>major</i> (Büse) Baaijens (= <i>Agrostis fertilis</i> Steud., <i>S. diandrus</i> (Retz) P.Beauv. var. <i>major</i> Büse, <i>S. elongatus</i> R.Br. var. <i>purpureosuffusus</i> Ohwi., <i>S. fertilis</i> (Steud.) Clayton, <i>S. indicus</i> var. <i>fertilis</i> (Steud.) Jovet & Guédès, <i>S. indicus</i> var. <i>purpureo-suffusus</i> (Ohwi) T.Koyama)	Giant Parramatta grass
226	<i>Stratiotes aloides</i> L.	Water-aloë, Soldier plant, Water-soldier
227	<i>Symphytum asperum</i> Lepech. (= <i>S. asperimum</i> Sims)	Prickly comfrey, Rough comfrey
228	<i>Taeniatherum caput-medusae</i> (L.) Nevski (= <i>Cuviera caput-medusae</i> (L.) Koeler var. <i>aspera</i> Simonk., <i>Elymus caput-medusae</i> L., <i>E. crinitus</i> Schreb., <i>Hordeum crinitum</i> (Schreb.) Desf., <i>T. asperum</i> (Simonk.) Nevski, <i>T. crinitum</i> (Schreb.) Nevski)	Medusa-head, Medusa's-head
229	<i>Themeda quadrivalvis</i> (L.) Kuntze (= <i>Andropogon quadrivalvis</i> L., <i>Anthristia ciliata</i> L.f., <i>Themeda ciliata</i> (L.f.) Hack.)	Grader grass, Habana grass
230	<i>Themeda villosa</i> (Poir.) A.Camus (= <i>Anthistiria villosa</i> Poir., <i>Themeda gigantea</i> (Cav.) Hack. subsp. <i>villosa</i> (Poir.) Hack.)	Lyon's grass
231	<i>Thunbergia annua</i> Hochst.	Thunbergia
232	<i>Thunbergia fragrans</i> Roxb. (= <i>T. volubilis</i> Pers., <i>Flemingia grandiflora</i> Roxb. ex Rottler)	Fragrant thunbergia, White thunbergia
233	<i>Tribulus cistoides</i> L. (= <i>T. terrestris</i> L. Var. <i>cistoides</i> (L.) Oliv.)	Caltrop
234	<i>Triumfetta semitriloba</i> Jacq.	Sacramento bur
235	<i>Vallisneria gigantea</i> Graebn.	Eelgrass
236	<i>Viscum album</i> L.	European mistletoe
237	<i>Zizania latifolia</i> (Griseb.) Turcz. ex Stapf (= <i>Z. caduciflora</i> Hand.-Mazz., <i>Hydropyrum latifolium</i> Griseb.)	Manchurian wild rice
238	<i>Zygophyllum fabago</i> L. (= <i>Z. fabago</i> L. var. <i>brachycarpum</i> Boiss.)	Syrian bean-caper

**List 2: Prohibited Marine Plants**

No.	Scientific Name	Common name
1	<i>Caulerpa taxifolia</i> (Vahl) C.Agardh (excluding indigenous form in deep water off KwaZulu-Natal)	Notched caulerpa, Feather caulerpa, Killer alga
2	<i>Sargassum muticum</i> (Yendo) Fensholt	Strangle weed

**List 3: Prohibited Mammals**

No.	Scientific Name	Common name
1	<i>Alcelaphus buselaphus</i> (Pallas, 1766) (all subspecies with the exception of <i>A. b. caama</i> and <i>A. b. lichtensteinii</i> )	Hartebeest (except red hartebeest and Lichtenstein's hartebeest)
2	<i>Bos frontalis</i> Lambert, 1804	Gaur
3	<i>Castor</i> species (all species)	Beaver
4	<i>Erinaceus europaeus</i> Linnaeus, 1758	European hedgehog
5	<i>Giraffa camelopardalis</i> (Linnaeus, 1758) (all subspecies with the exception of <i>giraffa</i> )	Giraffe (except the South African giraffe)
6	<i>Herpestes auropunctatus</i> (Hodgson, 1836)	Kleiner Mungo, Small Indian mongoose
7	<i>Herpestes javanicus</i> (É. Geoffroy Saint-Hilaire, 1818)	Small Indian mongoose
8	<i>Hippotragus niger</i> Harris, 1838 (all subspecies except of <i>H. n. niger</i> )	Sable
9	<i>Kobus kob</i> (Erxleben, 1777)	Kob
10	<i>Kobus leche</i> subspecies (all subspecies except <i>K. l. kafuensis</i> and <i>K. l. leche</i> )	Lechwe subspecies (except red lechwe and Kafue lechwe)
11	<i>Kobus megaceros</i> (Fitzinger, 1855)	Nile lechwe
12	<i>Mustela erminea</i> Linnaeus, 1758	Short-tailed weasel / Stoat
13	<i>Oryx beisa</i> (Rüppell, 1835)	Beisa oryx
14	<i>Rattus exulans</i> (Peale, 1848) on off-shore islands	Pacific/Polynesian rat
15	<i>Redunca redunca</i> (Pallas, 1767)	Bohor reedbuck
16	<i>Suncus murinus</i> Linnaeus, 1766	Asian/Indian musk shrew
17	<i>Trichosurus vulpecula</i> (Kerr, 1792)	Brush-tail possum
18	<i>Vulpes vulpes</i> (Linnaeus, 1758)	Red fox

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**List 4: Prohibited Birds**

No.	Scientific Name	Common name
1	<i>Alectoris rufa</i> (Linnaeus, 1758)	Red-legged partridge
2	<i>Carpodacus mexicanus</i> (Statius Muller, 1776)	House finch
3	<i>Colinus cristatus</i> (Linnaeus, 1766)	Crested quail
4	<i>Corvus brachyrhynchos</i> C. L. Brehm, 1822	American crow
5	<i>Corvus frugilegus</i> Linnaeus, 1758	Rook
6	<i>Corvus monedula</i> Linnaeus, 1758	Eurasian/ Western jackdaw
7	<i>Emberiza citrinella</i> Linnaeus, 1758	Yellowhammer
8	<i>Francolinus pondicerianus</i> (Gmelin, 1789)	Grey francolin
9	<i>Icterus pectoralis</i> (Wagler, 1829)	Spot-breasted oriole
10	<i>Molothrus ater</i> (Boddaert, 1783)	Brown-headed Cowbird
11	<i>Oxyura jamaicensis</i> (Gmelin, 1789)	Northern ruddy duck
12	<i>Oxyura leucocephala</i> (Scopoli, 1769)	White-headed duck
13	<i>Passer hispaniolensis</i> (Temminck, 1820)	Spanish sparrow
14	<i>Passer montanus</i> (Linnaeus, 1758)	Eurasian tree sparrow
15	<i>Perdix perdix</i> (Linnaeus, 1758)	Grey partridge
16	<i>Streptopelia picturata</i> (Temminck, 1813)	Madagascar (Malagasy) turtle-dove
17	<i>Struthio camelus molybdophanes</i> Reichenow, 1883	North African (Somali) ostrich
18	<i>Turdus philomelos</i> C. L. Brehm, 1831	Song thrush
19	<i>Turdus merula</i> Linnaeus, 1758	Common/Eurasian Blackbird
20	<i>Zenaida asiatica</i> (Linnaeus, 1758)	White-winged dove

**List 5: Prohibited Reptiles**

No.	Scientific Name	Common name
1	<i>Agama agama</i> (Linnaeus, 1758) (including <i>Agama agama africana</i> , <i>Agama agama boensis</i> , <i>Agama agama savattieri africana</i> , <i>Agama lebretoni</i> , <i>Agama mucosoensis</i> , <i>Agama paragama</i> , <i>Agama paraficana</i> , <i>Agama wagneri</i> and <i>Agama tassiliensis</i> )	Common agama
2	<i>Anolis distichus</i> Cope, 1861	Bark anole
3	<i>Anolis sagrei</i> Cocteau in Duméril and Bibron, 1837	Brown anole
4	<i>Boiga irregularis</i> (Merrem, 1802)	Brown tree snake

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5	<i>Hemidactylus frenatus</i> Schlegel, 1836	House gecko
6	<i>Hemidactylus garnotii</i> Duméril and Bibron, 1836	Indo-Pacific gecko
7	<i>Hemidactylus turcicus</i> (Linnaeus, 1758)	Mediterranean gecko
8	<i>Leiocephalus carinatus</i> Gray, 1827	Northern curlytail lizard
9	<i>Podarcis</i> species (Boulenger, 1905)	True and Italian wall lizards
10	<i>Tarentola mauritanica</i> (Linnaeus, 1758)	Moorish wall gecko

**List 6: Prohibited Amphibians**

No.	Scientific Name	Common name
1	<i>Ambystoma tigrinum</i> (Green, 1825)	Tiger salamander
2	<i>Bufo bufo</i> (Linnaeus, 1758)	European toad
3	<i>Eleutherodactylus coqui</i> Thomas, 1966	Puerto Rican coqui
4	<i>Eleutherodactylus planirostris</i> (Cope, 1862)	Greenhouse frog
5	<i>Lithobates catesbeianus</i> (Shaw, 1802)	American bull frog
6	<i>Litoria caerulea</i> (White, 1790)	Great green tree-frog
7	<i>Notophthalmus viridescens</i> (Rafinesque, 1820)	Red-spotted newt
8.	<i>Osteopilus septentrionalis</i> (Duméril and Bibron, 1841)	Cuban tree-frog
9.	<i>Rhinella marina</i> (Linnaeus, 1758)	Cane / Marine toad

**List 7: Prohibited Fresh-Water Fishes**

No.	Scientific Name	Common name
1	<i>Abramis</i> species	Bream
2	<i>Acantharchus</i> species	Mud sunfish
3	<i>Acheilognathus</i> species	Bitterling
4	<i>Acipenser</i> species	Sturgeon/Greater sturgeon
5	<i>Ameiurus</i> species	Bullheads
6	<i>Amia calva</i> (Linnaeus, 1766)	Bowfin/Mudfish/Dogfish
7	<i>Amphilius</i> species	Golden African kuhli
8.	<i>Anabas</i> species	Climbing perch/Climbing fish
9.	<i>Anguilla</i> species (except those that are indigenous to South Africa)	Eels
10	<i>Aphanius</i> species	Minnow/Killifish
11	<i>Aplocheilichthys</i> species (except those that are indigenous to South Africa)	Killifish
12	<i>Arapaima gigas</i> (Schinz, 1822)	Arapaima

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13	<i>Bagrus</i> species	Catfish
14	<i>Barilius</i> species (except those that are indigenous to South Africa)	Barbs
15	<i>Bathyclarias</i> species	Catfish
16	<i>Centrarchus</i> species	Sunfish
17	<i>Chaca chaca</i> (Hamilton, 1822)	Frogmouth catfish/ Square-head catfish
18	<i>Channa</i> species	Snakeheads
19	<i>Chela</i> species	Minnows
20	<i>Chetia</i> species (except those that are indigenous to South Africa)	Kurpers
21	<i>Chiloglanis</i> species (except those that are indigenous to South Africa)	Suckermouth catfishes
22	<i>Chologaster cornutus</i> (Agassiz, 1853)	Cavefish/Swampfish
23	<i>Chondrostoma</i> species	Nasling/Nases
24	<i>Chrysichthys</i> species	Catfishes
25	<i>Cichla</i> species	Peacock cichlid/Bass
26	<i>Clarias batrachus</i> (Linnaeus 1758)	Clarias catfish, Climbing perch, Walking catfish
27	<i>Colossoma</i> species	Pacu
28	<i>Coregonus</i> species	Ciscos
29	<i>Cottus</i> species	Sculpins
30	<i>Croilia</i> species	Burrowing goby
31	<i>Cyprinodon</i> species	Pupfish
32	<i>Docimodus</i> species	Catfish
33	<i>Elassoma</i> species	Pygmy sunfishes
34	<i>Electrophorus electricus</i> (Linnaeus, 1766)	Electric eel
35	<i>Engraulicyprus</i> species	Lake sardines
36	<i>Enneacanthus</i> species	Banded or little sunfishes
37	<i>Esox</i> species	Pike
38	<i>Eutropius</i> species	Cichlid
39	<i>Fundulus</i> species	Top minnows
40	<i>Galaxias</i> species (except those that are indigenous to South Africa)	Galaxias
41	<i>Gambusia</i> species (except <i>Gambusia affinis</i> (Baird & Girard, 1853) already listed under 1b)	Mosquito-fish
42	<i>Gasterosteus</i> species	Sticklebacks
43	<i>Gephyroglanis</i> species	Catfish
44	<i>Glossogobius</i> species (except those that are indigenous to South Africa)	Gobies
45	<i>Gobio</i> species	Gudgeons

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46	<i>Gymnallabes</i> species	Air-breathing catfishes
47	<i>Heterobranchus</i> species	Air-breathing catfishes
48	<i>Hucho hucho</i> (Linnaeus, 1758)	Huchen/Danube salmon
49	<i>Huso huso</i> (Linnaeus, 1758)	Beluga sturgeon/ European sturgeon
50	<i>Hydrocynus</i> species (except <i>Hydrocynus vittatus</i> Castelnau, 1861 which is indigenous to South Africa)	African tiger fish
51	<i>Ictalurus</i> species	Catfish
52	<i>Idus idus</i> (Linnaeus, 1758)	Silver/Golden orfe
53	<i>Jordanella floridae</i> (Goode Bean, 1879)	American flagfish
54	<i>Lampetra</i> species	Lampreys
55	<i>Lates</i> species (except <i>Lates calcarifer</i> (Bloch, 1790))	Perch and barramundi
56	<i>Lepomis</i> species (except <i>Lepomis macrochirus</i> Rafinesque, 1819 already listed as 1b)	Sunfishes
57	<i>Leptoglanis</i> species (except those that are indigenous to South Africa)	Catfishes
58	<i>Leuciscus</i> species	Eurasian daces
59	<i>Liposarcus</i> species	Plecostomus
60	<i>Lota Lota</i> (Linnaeus, 1758)	Burbot
61	<i>Luciosoma setigerum</i> (Valenciennes, 1842)	Apollo shark
62	<i>Malapterurus</i> species (except those that are indigenous to South Africa)	Electric catfish
63	<i>Marcusenius</i> species (except those that are indigenous to South Africa)	Elephantfish
64	<i>Mesobola</i> species (except those that are indigenous to South Africa)	Sardines
65	<i>Micropterus</i> species (except the species listed as restricted invasive species)	Bass
66	<i>Misgurnus</i> species	Weather fish
67	<i>Myleus</i> species	Brown metynnis
68	<i>Neochanna</i> species	Mudfish
69	<i>Neomacheilus</i> species	Loaches
70	<i>Notemigonus crysoleucas</i> (Mitchill, 1814)	Golden shiner
71	<i>Notropis</i> species	Shiner
72	<i>Oncorhynchus</i> species, excluding rainbow trout ( <i>O. mykiss</i> (Walbaum, 1792)), coho salmon ( <i>O. kisutch</i> (Walbaum, 1792)) and king salmon ( <i>O. tshawytscha</i> (Walbaum, 1792))	Trout / Salmon

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73	<i>Ophicephalus</i> species	Snakehead
74	<i>Opsaridium</i> species (except those that are indigenous to South Africa)	Barilius
75	<i>Oreochromis</i> species (excluding species already in South Africa and species indigenous to South Africa)	Tilapias
76	<i>Oryzias</i> species	Rice fish/Geisha girl/Golden mede
77	<i>Osmerus eperlanus</i> (Linnaeus, 1758)	European smelt
78	<i>Paragalaxias</i> species	Paragalaxias
79	<i>Perca</i> species	Perch
80	<i>Percina</i> species	Percina darters
81	<i>Petrocephalus</i> species	Mormyrid
82	<i>Petromyzon marinus</i> (Linnaeus, 1758)	Lamprey
83	<i>Phoxinus</i> species	Minnow
84	<i>Plecostomus</i> species	Plecostomus
85	<i>Pogonopoma</i> species	Catfish
86	<i>Pomoxis</i> species	Crappies
87	<i>Protopterus</i> species	Lung fish
88	<i>Pseudocrenilabrus</i> species	Mouthbrooder
89	<i>Pseudorasbora</i> species	Whiptail sturgeon
90	<i>Pseudorinelepis</i> species	Catfish
91	<i>Pterygoplichthys</i> species (except <i>P. disjunctivus</i> Weber, 1991 already listed under 1b)	Plecos
92	<i>Pungitius</i> species	Stickleback
93	<i>Pygocentrus</i> species	Piranha
94	<i>Pygosteus</i> species	Stickleback
95	<i>Rhinelepis</i> species	Catfish
96	<i>Rhamdia</i> species	Three-barbeled catfish
97	<i>Rhinichthys atratulus atratulus</i> (Hermann, 1804)	Black-nose dace
98	<i>Rhinichthys atratulus obtusus</i> (Agassiz, 1854)	Western black-nose dace
99	<i>Rhodeus</i> species	Bitterlings
100	<i>Rooseveltiella</i> species	Piranha
101	<i>Rutilus</i> species	Roach
102	<i>Salmo</i> species, excluding brown trout ( <i>S. trutta</i> Linnaeus, 1758) and Atlantic salmon ( <i>S. salar</i> Linnaeus, 1758)	Trout and salmon
103	<i>Salvelinus</i> species	Char

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104	<i>Sargochromis</i> species (except those that are indigenous to South Africa)	Cichlid
105	<i>Sarotherodon</i> species	Tilapia
106	<i>Schilbe</i> species (except those that are indigenous to South Africa)	Schilbid catfish
107	<i>Serrasalmus</i> species	Piranha
108	<i>Silurus glanis</i> (Linnaeus, 1758)	European/Wels/Waller catfish
109	<i>Thymallus thymallus</i> (Linnaeus, 1758)	Grayling
110	<i>Tilapia</i> species excluding <i>Tilapia rendalli</i> (Boulenger, 1897) & <i>Tilapia sparrmanii</i> Smith, 1840 (regulated by area) and <i>Tilapia bakossiorum</i> & <i>Tilapia snyderae</i> Stiassny, Schliewen and Dominey, 1992 (exempted)	Tilapias

**List 8: Prohibited Marine Fish Species**

No.	Scientific Name	Common name
1	<i>Pterois volitans</i> (Linnaeus, 1758)	Pacific red lionfish

**List 9: Prohibited Terrestrial Invertebrates**

No.	Scientific Name	Common name
<b>a. Prohibited Mollusca (Snails and Molluscs)</b>		
1	<i>Achatina fulica</i> Bowdich, 1822	Giant African snail
2	<i>Euglandina rosea</i> (Férussac, 1821)	Rosy wolf snail
<b>b. Prohibited Nematoda (Nematodes)</b>		
3	<i>Aphelenchoides fragariae</i> (Ritzema Bos, 1890) Christie, 1932	Strawberry crimp disease nematode
4	<i>Belonolaimus longicaudatus</i> Rau, 1958	Sting nematode
5	<i>Bursaphelenchus xylophilus</i> (Steiner & Bühner, 1934) Nickel, 1970	Pine wilt or Pine wood nematode
6	<i>Globodera pallida</i> (Stone, 1973) Behrens, 1975	Pale cyst nematode, Potato cyst nematode
7	<i>Heterodera glycines</i> Ichinohe, 1952	Soybean cyst nematode
8.	<i>Heterodera goettingiana</i> Liebscher, 1892	Pea cyst nematode
9.	<i>Longidorus attenuatus</i> Hooper, 1961	Tomato docking disorder nematode
10	<i>Longidorus elongatus</i> (De Man, 1876) Micoletzky, 1922	Sugar beet docking disorder nematode
11	<i>Paratrichodorus nanus</i> (Allen, 1957) Siddiqi, 1974	Stubby root nematode

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12	<i>Paratrichodorus pachydermus</i> (Seinhorst, 1954) Siddiqi, 1974	Stubby root nematode
13	<i>Paratrichodorus tunisiensis</i> (Siddiqi, 1963)	
14	<i>Paratylenchus bukowinensis</i> Micoletzky, 1922	
15	<i>Rhadinaphelenchus cocophilus</i> (Cobb, 1919) J.B. Goodey, 1960	Red ring disease nematode
16	<i>Scutellonema bradys</i> (Steiner & Lehw, 1933) Andr�ssy, 1958	Yam nematode
17	<i>Trichodorus primitivus</i> (de Man, 1880)	
18	<i>Trichodorus similis</i> Seinhorst, 1963	
19	<i>Trichodorus viruliferus</i> Hooper, 1963	
<b>c. Prohibited Insecta (Insects)</b>		
20	<i>Aleurodicus destructor</i> Mackie, 1912	Aleyrodidae, Coconut whitefly
21	<i>Aleurodicus dispersus</i> Russell, 1965	Aleyrodidae, Spiralling whitefly
22	<i>Amblypelta lutescens</i> (Distant)	Coccidae, Banana spotting bug
23	<i>Anastrepha ludens</i> (Loew)	Tephritidae, Mexican fruit fly
24	<i>Anastrepha obliqua</i> (Macquart)	Tephritidae, West Indian fruit fly
25	<i>Anastrepha pseudoparallela</i> (Loew, 1873)	Tephritidae
26	<i>Anastrepha serpentina</i> (Wiedemann)	Tephritidae, Sapodilla fruit fly
27	<i>Anastrepha striata</i> Schiner	Tephritidae, Guava fruit fly
28	<i>Anastrepha suspensa</i> (Loew)	Tephritidae, Caribbean fruit fly
29	<i>Anoplophora glabripennis</i> (Motschulsky)	Asian long-horned beetle
30	<i>Archips argyrospilus</i> (Walker, 1863)	Tortricidae, Fruit tree leaf-roller
31	<i>Argyrotaenia citrana</i> (Fernald)	Tortricidae, Orange tortrix moth
32	<i>Aulacaspis yasumatsui</i> Tagaki	Asian cycad scale
33	<i>Bactrocera aquilonis</i> (May, 1965)	Tephritidae
34	<i>Bactrocera carambolae</i> Drew & Hancock, 1994	Tephritidae, Carambola fruit fly
35	<i>Bactrocera caryeae</i> (Kapoor, 1971)	Tephritidae
36	<i>Bactrocera correcta</i> (Bezzi, 1916)	Tephritidae, Guava fruit fly
37	<i>Bactrocera cucurbitae</i> (Coquillett, 1899)	Tephritidae, Melon fly
38	<i>Bactrocera dorsalis</i> (Hendel, 1912)	Tephritidae, Oriental fruit fly
39	<i>Bactrocera facialis</i> (Coquillett, 1909)	Tephritidae
40	<i>Bactrocera frauenfeldi</i> (Schiner, 1868)	Tephritidae, Mango fruit fly
41	<i>Bactrocera jarvisi</i> (Tryon, 1927)	Tephritidae, Jarvis' fruit fly
42	<i>Bactrocera kandiensis</i> Drew & Hancock, 1994	Tephritidae
43	<i>Bactrocera kirki</i> (Froggatt, 1911)	Tephritidae
44	<i>Bactrocera latifrons</i> (Hendel, 1915)	Tephritidae, Malaysian fruit fly
45	<i>Bactrocera melanotus</i> (Coquillett, 1909)	Tephritidae, Black fruit fly

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46	<i>Bactrocera musae</i> (Tryon, 1927)	Tephritidae, Banana fruit fly
47	<i>Bactrocera neohumeralis</i> (Hardy, 1951)	Tephritidae
48	<i>Bactrocera occipitalis</i> (Bezzi, 1919)	Tephritidae, Breadfruit fruit fly
49	<i>Bactrocera papayae</i> Drew & Hancock, 1994	Tephritidae, Asian papaya fruit fly
50	<i>Bactrocera passiflorae</i> (Froggatt, 1911)	Tephritidae, Fijian fruit fly
51	<i>Bactrocera philippinensis</i> Drew & Hancock, 1994	Tephritidae
52	<i>Bactrocera psidii</i> (Froggatt, 1899)	Tephritidae, South sea guava fruit fly
53	<i>Bactrocera pyrifoliae</i> Drew & Hancock, 1994	Tephritidae
54	<i>Bactrocera tryoni</i> (Froggatt, 1897)	Tephritidae, Queensland fruit fly
55	<i>Bactrocera xanthodes</i> (Broun, 1904)	Tephritidae, Pacific fruit fly
56	<i>Bactrocera zonata</i> (Saunders, 1842)	Peach fruit fly
57	<i>Castnia licoides</i> (Boisduval, 1875)	Castniidae, Banana stem borer
58	<i>Castnia penelope</i> Schaufuss, 1870	Castniidae
59	<i>Ceroplastes floridensis</i> Comstock, 1881	Coccidae, Florida wax scale
60	<i>Chloropulvinaria polygonata</i> (Cockerell)	Coccidae
61	<i>Choristoneura rosaceana</i> (Harris, 1841)	Tortricidae, Rosaceous/Oblique-banded leaf roller
62	<i>Chrysodeixis eriosoma</i> (Doubleday, 1843)	Noctuidae, Green garden looper
63	<i>Cnephasia jactatana</i> Walker	Tortricidae, Black-lyre leaf roller moth
64	<i>Colaspis hypochlora</i> Lefèvre	Chrysomelidae, Leaf scarring beetle
65	<i>Conogethes punctiferalis</i> (Guenée)	Pyralidae, Yellow peach moth, Castor capsule borer
66	<i>Conopomorpha litchiella</i> Bradley, 1986	Gracillariidae
67	<i>Cryptophlebia illepida</i> (Butler) 1882	Tortricidae
68	<i>Cryptophlebia ombrodelta</i> (Lower)	Tortricidae, Litchi fruit moth
69	<i>Ctenopseustis obliquana</i> (Walker)	Tortricidae, Brownheaded leafroller
70	<i>Dudua aprobola</i> (Meyrick, 1886)	Tortricidae
71	<i>Dysmicoccus neobrevipes</i> Beardsley, 1959	Pseudococcidae, Grey pineapple mealybug
72	<i>Epiphyas postvittana</i> Walker	Tortricidae, Light brown apple moth
73	<i>Erionota thrax</i> (Linnaeus, 1767)	Hesperiidae, Banana skipper
74	<i>Holopothrips ananasi</i> Costa Lima, 1935	Thripidae
75	<i>Hyphantria cunea</i> (Drury)	Fall webworm
76	<i>Lachnopus</i> sp. near <i>campechianus</i>	Curculionidae
77	<i>Lobesia aeolopa</i> Meyrick, 1907	Tortricidae
78	<i>Lymantria dispar</i> Linnaeus, 1758	Asian gypsy moth
79	<i>Maconellicoccus hirsutus</i> (Green, 1908)	Pseudococcidae, Pink hibiscus mealybug

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80	<i>Metamasius callizona</i> (Chevrolat)	Curculionidae, Mexican bromeliad weevil
81	<i>Nacoleia octasema</i> (Meyrick, 1886)	Pyralidae, Banana scab moth
82	<i>Erechthias flavistriata</i> Zimmerman, 1978	Tineidae, Sugarcane bud moth
83	<i>Odoiporus longicollis</i> (Olivier, 1807)	Curculionidae, Banana pseudostem weevil
84	<i>Oryctes rhinoceros</i> (Linnaeus)	Asiatic rhinoceros beetle
85	<i>Paratachardina pseudolobata</i> Kondo & Gullan	Lobate lac scale
86	<i>Planococcoides njalensis</i> Laing	Pseudococcidae, West African cocoa mealybug
87	<i>Planococcus litchi</i> Cox, 1989	Pseudococcidae, Mealybug
88	<i>Planococcus minor</i> (Maskell)	Pseudococcidae, Passionvine mealybug
89	<i>Planotortix excessana</i> (Walker)	Tortricidae, Leafroller moth
90	<i>Platynota stultana</i> Walsingham	Tortricidae, Omnivorous leafroller
91	<i>Proeulia auraria</i> (Clarke, 1949)	Tortricidae, Chilean fruit leafroller
92	<i>Proeulia chrysopteris</i> (Butler, 1883)	Tortricidae
93	<i>Pseudococcus comstocki</i> (Kuwana)	Pseudococcidae, Comstock mealybug
94	<i>Pseudococcus cryptus</i> Hempel	Pseudococcidae, Citriculu mealybug
95	<i>Pseudococcus elisae</i> Borchsenius, 1947	Pseudococcidae, Banana mealybug
96	<i>Pseudococcus jackbeardsleyi</i> Gimpel and Miller, 1996	Pseudococcidae, Jack Beardsley mealybug
97	<i>Rastrococcus iceryoides</i> (Green, 1908)	Pseudococcidae, Mango mealybug
98	<i>Rastrococcus invadens</i> Williams	Pseudococcidae, Fruit tree mealybug
99	<i>Rastrococcus mangiferae</i> (Green)	Pseudococcidae, mango shield scale
100	<i>Rastrococcus spinosus</i> (Robinson)	Pseudococcidae, Philippine mango mealybug
101	<i>Rhipiphorothrips cruentatus</i> Hood, 1919	Thripidae, Grapevine thrip
102	<i>Solenopsis invicta</i> Buren, 1972	Red imported fire ant (RIFA)
103	<i>Spodoptera litura</i> (Fabricius)	Noctuidae, Oriental leafworm moth
104	<i>Stemochetus frigidus</i> (Fabricius, 1787)	Curculionidae, Mango pulp weevil
105	<i>Thecla basilides</i> Geyer	Lycaenidae, Pineapple borer
106	<i>Thecla legota</i> Hewitson, 1877	Lycaenidae
107	<i>Thrips hawaiiensis</i> (Morgan, 1913)	Thripidae, Banana flower thrip
108	<i>Thrips palmi</i> Karny, 1925	Thripidae, Melon thrip
109	<i>Tmolus echion</i> (Linnaeus, 1767)	Lycaenidae, Red-spotted hairstreak
110	<i>Toxotrypana curvicauda</i> Gerstaecker	Aleyrodidae, Papaya fruit fly
111	<i>Unaspis citri</i> (Comstock, 1883)	Diaspididae, Citrus snow scale
112	<i>Vespa velutina</i> Lepeletier, 1836	Asian predatory wasp
113	<i>Vespula vulgaris</i> (Linnaeus, 1758)	Common wasp, Common yellowjacket

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114	<i>Vinsonia stellifera</i> (Westwood)	Coccidae, Stellate scale
115	<i>Wasmannia auropunctata</i> (Roger, 1863)	Cocoa tree-ant, Little red fire ant
116	<i>Xylosandrus compactus</i> (Eichhoff, 1875)	Ambrosia beetle
117	<i>Xylosandrus mutilates</i> (Blandford)	Camphor shoot beetle
118	All Formicidae, Tephritidae, <i>Apis</i> and <i>Vespula</i> species not in the country, unless for biological control purposes	All ant, fruit fly, bee, and wasp species not listed, and not in the country, unless for biological control purposes
119	All non-indigenous sub-species of <i>Apis mellifera</i> other than <i>A m scutellata</i> and <i>A m capensis</i>	All non-indigenous sub-species of the African bee and Cape bee
<b>d. Prohibited Acari (Mites)</b>		
120	<i>Calacarus brionesae</i> Keifer 1963	Eriophyidae
121	<i>Cisaberoptus kenyae</i> Keifer	Eriophyidae, Mango leafcoating mite
122	<i>Oligonychus biharensi</i> (Hirst)s	Tetranychidae, Spider mite/Cassava red mite
123	<i>Oligonychus punicae</i> (Hirst)	Tetranychidae, Avocado brown mite
124	<i>Oligonychus yothersi</i> (McGregor)	Tetranychidae, Avocado red mite
125	<i>Tetranychus desertorum</i> Banks, 1900	Tetranychidae, Desert spider mite
126	<i>Tetranychus mexicanus</i> (McGregor)	Tetranychidae, Spider mite
127	<i>Tetranychus piercei</i> McGregor	Tetranychidae, Banana spider mite
128	<i>Tuckerella pavoniformis</i> (Ewing, 1922)	Tuckerellidae
129	Any species of the genera <i>Varroa</i> , <i>Eugarroa</i> or <i>Tropilaelaps</i>	
<b>e. Prohibited Other Invertebrate Species</b>		
130	<i>Platydemus manokwari</i> de Beauchamp, 1963	Flatworm (Turbellaria)

**List 10: Prohibited Fresh-Water Invertebrates**

No.	Scientific Name	Common name
1	<i>Corbicula fluminea</i> (O. F. Müller, 1774)	Asian clam/ Golden clam
2	<i>Dreissena polymorpha</i> (Pallas, 1771)	Zebra mussel, Eurasian zebra mussel
3	<i>Dreissena rostriformis</i>	Quagga mussel
4	<i>Orconectes limosus</i> (Rafinesque, 1817)	North American spiny cheek crayfish
5	<i>Orconectes rusticus</i> (Girard, 1852)	Rusty crayfish
6	<i>Pacifastacus leniusculus</i> (Dana, 1852)	North American signal crayfish
7	<i>Potamocorbula amurensis</i> (Schrenck, 1861)	Amur river clam, Asian bivalve, Asian clam, brackish-water corbula
8.	<i>Procambarus clarkii</i> (Girard, 1852)	Red swamp crayfish

**List 11: Prohibited Marine Invertebrates**

No.	Scientific Name	Common name
1	<i>Argopecten purpuratus</i> (Lamarck, 1819)	Chilean scallop
2	<i>Asterias amurensis</i> (Lütken, 1871)	Pacific seastar
3	<i>Eriocheir sinensis</i> (H. Milne Edwards, 1853)	Asian mitten crab
4	<i>Mnemiopsis leidyi</i> (A. Agassiz, 1865)	Comb jelly/ sea walnut
5	<i>Perna viridis</i> (Linnaeus 1758)	Asian green mussel
6	<i>Potamocorbula amurensis</i> (Schrenck, 1861)	Asian clam
7	<i>Venerupis philippinarum</i> A. Adams & Reeve, 1850	Manila clam

**List 12: Prohibited Microbes**

No.	Scientific Name	Common name
1	<i>Banana bunchy top virus</i> (BBTV)	Banana bunchy top pathogen, Bunchy top virus
2	<i>Fusarium oxysporum f. sp. cubense</i> W.C. Snyder & H.N. Hansen (GNI.)	Panama wilt disease
3	<i>Phytophthora ramorum</i>	Sudden oak death pathogen
4	<i>Plasmodium relictum</i>	Avian malarial pathogen
5	<i>Puccinia psidii</i> genotypes introduced by plants in the family Myrtaceae	Myrtaceae rust
6	<i>Nosema ceranae</i>	Kiss-of-death bacteria
7	<i>Paenibacillus larvae</i>	American foulbrood bacteria



THREATENED OR PROTECTED SPECIES REGULATIONS

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GNR 152 of 23 February 2007**

**THREATENED OR PROTECTED SPECIES REGULATIONS**

*[Commencement date: 1 June 2007]*

*[GN R150 / GG 29657 / 20070223]*

Amended by:

<b>GN R69</b>	<b>GG 30703</b>	<b>28/1/2008</b>	
<b>GN R209</b>	<b>GG 31962</b>	<b>27/2/2009</b>	
<b>GN R210</b>	<b>GG 31962</b>	<b>27/2/2009</b>	
<b>GN R576</b>	<b>GG 34453</b>	<b>11/7/2011</b>	
<b>GN R614</b>	<b>GG 35565</b>	<b>2/8/2012</b>	
<b>GN R324</b>	<b>GG 37596</b>	<b>29/4/2014</b>	(w.e.f. 29 April 2014)

The Minister of Environmental Affairs and Tourism has in terms of section 97 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), made the regulations relating to listed threatened and protected species as set out in the Schedule hereto.

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## CHAPTER 1

### INTERPRETATION AND PURPOSE OF REGULATIONS

#### 1. Definitions

- (1) In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Biodiversity Act, has the same meaning, and -

**“applicable legal requirements”** means-

- (a) all legislation and instruments mentioned in section 88(3) of the Biodiversity Act;
- (b) any national norms and standards issued in terms of section 9 of the Biodiversity Act or section 11 of the Protected Areas Act which apply to the implementation of these regulations;
- (c) any specific requirements of these regulations; and
- (d) any applicable provincial legislation;

[Definition of “applicable legal requirements” substituted by GN R576/2011]

**“applicant”** means a person who has submitted a permit application or registration application;

**“arrow”** means a projectile launched by a bow;

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**“artificially propagated”** means a listed threatened or protected plant species that is grown under controlled conditions; grown from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules derived from cultivated parental stocks;

**“Biodiversity Act”** means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

**“bow”** means an instrument consisting of a body and string designed to launch and propel an arrow;

**“bred in captivity”** or **“captive bred”**, in relation to a specimen of a listed threatened or protected animal species, means that the specimen was bred in a controlled environment;

**“broad-based black economic empowerment”** has the meaning assigned to it in terms of section 1 of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

**“captive breeding operation”** means a facility where specimens of a listed threatened or protected animal species are bred in a controlled environment for -

- (a) conservation purposes; or
- (b) commercial purposes;

**“commercial exhibition facility”** means a facility, including, but not limited to zoological gardens, aquariums, travelling exhibitions, that keep listed threatened or protected species for display or performance purposes

[Definition of “commercial exhibition facility” substituted by GN R69/2008]

**“commercial purposes”**, in relation to a restricted activity involving a specimen of a listed threatened or protected species, means that the primary purpose of the restricted activity is to obtain economic benefit, including profit in cash or in kind, and is directed towards trade, exchange or another form of economic use or benefit;

**“controlled conditions”** means an artificial or a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production and includes nurseries;

**“controlled environment”** means an enclosure designed to hold specimens of a listed threatened or protected species in a way that-

- (a) prevents them from escaping;
- (b) facilitates intensive human intervention or manipulation in the form of the provision of-

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- (i) food or water;
  - (ii) artificial housing; or
  - (iii) health care; and
- (c) may facilitate the intensive breeding or propagation of a listed threatened or protected species,

but excludes fenced land on which self-sustaining wildlife populations of that species are managed in an extensive wildlife system;

[Definition of "controlled environment" substituted by GN R576/2011]

**"culling"**

- (a) in relation to a specimen of a listed threatened or protected species in a protected area, means an operation executed by an official of, or other person designated by, the management authority of the area to kill a specific number of specimens of a listed threatened or protected species within the area in order to manage that species in the area in accordance with the management plan of the area; or
- (b) .....

[Para. (b) deleted by GN R69/2008]

- (c) in relation to a specimen of a listed threatened or protected species on a registered game farm, or communal land means an operation executed by the land owner or other person designated by the land owner, to kill a specific number of specimens of a listed threatened or protected species within the registered game farm in order to manage that species on the farm;

[Para. (c) amended by GN R69/2008]

**"cultivated parental stock"** means listed threatened or protected plant species legally obtained and grown under controlled conditions and used for reproduction;

**"damage causing animal"** means an individual of a listed threatened or protected species that, when interacting with human activities, there is substantial proof that it -

- (a) causes losses to stock or to other wild specimens;
- (b) causes excessive damage to cultivated trees, crops, natural flora or other property;
- (c) presents a threat to human life; or

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(d) is present in such numbers that agricultural grazing is materially depleted;

**“darting”**, in relation to a live specimen of a listed threatened or protected species, means to shoot the specimen with a projectile loaded with a tranquillising, narcotic, immobilising, or similar agent;

**“elderly person”** means a person of 65 years and older;

**“elephant ivory”** in relation to marking and registration means any piece of elephant tusk which is both 20cm or more in length and more than 1kg in weight, whether carved or not; [Definition of “elephant ivory” substituted by GN R69/2008]

**“environmental assessment practitioner”** means the individual responsible for conducting risk assessments in terms of regulation 15; [Definition of “environmental assessment practitioner” inserted by GN R69/2008]

**“extensive wildlife system”** means a system that is large enough, and suitable for the management of self-sustaining wildlife populations in a natural environment which requires minimal human intervention in the form of -

- (a) the provision of water;
- (b) the supplementation of food, except in times of drought;
- (c) the control of parasites; or
- (d) the provision of health care.

**“fair chase principle”** means a set of hunting conditions in which the individual decision-maker judges the taking of prey as acceptably uncertain and difficult for the hunter; [Definition of “fair chase principle” inserted by GN R69/2008]

**“game capturer”** means a person that captures and conveys specimens of listed threatened or protected terrestrial vertebrate species for commercial purposes on behalf of another person and may include buying, temporary possession and selling of these specimens; [Definition of “game capturer” inserted by GN R69/2008]

**“game farm hunting permit”** means a permit issued by the issuing authority to the landowner of a registered game farm, authorising a person authorised by the landowner to carry out a specific restricted activity, namely the buying and hunting of a listed threatened or protected species on that landowner’s registered farm, including the subsequent transport and possession of the dead specimen of a listed threatened or protected species subsequent to the hunt;

[Definition of “game farm hunting permit” substituted by GN R69/2008]

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“**gin trap**” means a leg hold or foothold trap made up of two tightly closing jaws, a spring of sorts, and a trigger in the middle, without an off-set jaw or padded jaw that reduces chances of injury to the animal;

“**hunt**” in relation to a specimen of a listed threatened or protected species, includes -

- (a) to intentionally kill such species by any means, method or device whatsoever;
- (b) to capture such species by any means, method or device whatsoever with the intent to kill;
- (c) to search for, lie in wait for, pursue, shoot at, tranquillise or immobilise such species with the intent to kill; or
- (d) to lure by any means, method or device whatsoever, such species with the intent to kill, but excludes the culling of a listed threatened or protected species in a protected area or on a registered game farm or the culling of a listed threatened or protected species that has escaped from a protected area and has become a damage causing animal;

“**hunting client**” means a person who -

- (a) is not resident in the Republic; and
- (b) pays or rewards a professional hunter directly or indirectly through a hunting outfitter for, or in connection with, the hunting of a listed threatened or protected species;

[Definition of “hunting client” substituted by GN R69/2008]

“**hunting organisation**” means any organisation that represents hunters, and that has an accepted constitution and code of conduct that provide for disciplinary actions, should a member not adhere to the code of conduct of the organisation to which he or she is a member;

[Definition of “hunting organisation” inserted by GN R69/2008]

“**hunting outfitter**” means a person who is licensed in terms of provincial legislation as a hunting outfitter;

[Definition of “hunting outfitter” inserted by GN R69/2008]

“**hybridisation**” means the cross-breeding of individuals from different species or sub-species;

“**issuing authority**” means an organ of state referred in regulation 3 as an issuing authority;

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“**IUCN Red List status**” means the conservation status of the species based on the IUCN Red List categories and criteria;

“**kept in captivity**” or “**captive kept**” in relation to a specimen of a listed threatened or protected species, means that the species is kept in a controlled environment for a purpose other than -

- (a) transfer or transport;
- (b) quarantine; or
- (c) veterinary treatment;

“**land owner**” includes the authorised representative of the land owner or persons in control of the land;

[Definition of “land owner” inserted by GN R69/2008]

“**listed large predator**” means a specimen of any of the following listed threatened or protected species:

- (a) Cheetah (*Acinonyx jubatus*);
- (b) Spotted hyaena (*Crocuta crocuta*);
- (c) Brown hyaena (*Parahyaena brunnea*);
- (d) Wild dog (*Lycaon pictus*); or
- (f) Leopard (*Pantherapardus*);

[Definition of “listed large predator” substituted by GN R69/2008]

“**listed threatened or protected species**” means a species listed as a threatened or protected species in terms of section 56(1) of the Biodiversity Act;

“**management plan**” means-

- (a) a management plan referred to in section 41 of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);
- (b) a biodiversity management plan developed in terms of section 43 of the Biodiversity Act; or

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- (c) a management plan done in terms of paragraph 6 of the National Norms and Standards for the Management of Elephants in South Africa, 2008, issued in terms of section 9 of the Biodiversity Act.

[Definition of “management plan” substituted by GN R209/2009]

“**Marine and Coastal Management Unit**” means the unit, within the Department, which is responsible for the administration of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“**mark**” means an indelible imprint, micro-chip or other recognised means of identifying a specimen, designed in such a way as to render the imitation thereof by unauthorized persons as difficult as possible;

“**norms and standards**” means any national norms and standards issued in terms of-

- (a) section 9 of the Biodiversity Act to the extent that they apply to -
- (i) restricted activities involving listed threatened or protected species; or
  - (ii) registered captive breeding operations, registered commercial exhibition facilities, registered game farms, registered nurseries, registered scientific institutions, registered sanctuaries, registered rehabilitation facilities or registered wildlife traders; or
- (b) section 11 of the Protected Areas Act, to the extent that they apply to restricted activities involving listed threatened or protected species in protected areas;

“**nursery**” means a facility where a listed threatened or protected plant species is sold, artificially propagated or multiplied for commercial purposes;

[Definition of “nursery” substituted by GN R69/2008]

“**nursery possession permit**” means a permit issued by the issuing authority to a registered nursery, authorising a person to buy threatened or protected species from the registered nursery and for such person to convey and keep it in his or her possession for a period specified on the permit;

“**permit**” means a permit issued by an issuing authority, authorising a restricted activity involving a specimen of a listed threatened or protected species;

“**permit application**” means an application in terms of -

- (a) regulation 6 for the issuing of a permit;

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(b) regulation 38 for the renewal of a permit;

(c) regulation 41 for the amendment of a permit.

“**person**” means a natural or juristic person;

“**personal effects permit**” means a permit issued by the issuing authority to a registered wildlife trader, authorising a person to buy dead or live specimens of listed threatened or protected species, including products derived from such species, for non-commercial purposes, from the registered wildlife trader and for such person to transport or convey and keep it in his or her possession for a period specified on the permit or to export it from the Republic;

[Definition of “personal effects permit” substituted by GN R69/2008]

“**physically disabled person**” means a person with a disability that significantly limits their functional mobility as defined by the World Health Organisation’s International Classification on Functioning and Disability in Health;

“**possession permit**” means a permit for keeping or conveying a specimen of a listed threatened or protected species for personal use in a person’s possession without carrying out any other restricted activity;

[Definition of “possession permit” substituted by GN R69/2008]

“**professional hunter**” means a person who is licensed in terms of provincial legislation as a professional hunter;

“**provincial department**” means the provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;

[Definition of “provincial department” substituted by GN R614/2012]

“**put and take animal**” means a live specimen of a captive bred listed large predator, or a live specimen of a captive bred *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros) that is released for the purpose of hunting that animal within a period of twenty four months after its release from a captive environment;

[Definition of “put and take animal” substituted by GN R69/2008]

“**registration application**” means an application in terms of-

- (a) regulations 30 for the registration of a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trader; or

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- (b) regulation 38 for the renewal of the registration of a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trader;
- (c) regulation 41 for the amendment of the registration of a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trader;

**“registered game farm”** means a game farm registered with the issuing authority;

**“registered wildlife trader”** means a person who may hawk, peddle, barter, exchange, offer, advertise, expose or have in his or her possession for the purpose of exhibition, display, sale, hawking, peddling, bartering or exchanging, any listed threatened or protected species, and includes taxidermists and game capturers;

[Definition of “registered wildlife trader” substituted by GN R69/2008]

**“rehabilitation facility”** means a registered facility equipped for the temporary keeping of live specimens of a listed threatened or protected species for -

- (a) treatment and recovery purposes, in the case of sick or injured specimens;
- (b) rearing purposes, in the case of young orphaned specimens;
- (c) quarantine purposes; or
- (d) relocation, with the overall intent to release the species.

**“rhinoceros horn”** in relation to marking and registration, an unprocessed rhinoceros horn or part thereof longer than 10cm in length;

[Definition of “rhinoceros horn” inserted by GN R69/2008]

**“risk assessment”** means a risk assessment requested by an issuing authority in terms of section 89 of the Biodiversity Act;

**“SANBI”** means the South African National Biodiversity Institute established by section 10 of the Biodiversity Act;

**“sanctuary”** means a registered facility in which a permanent captive home is provided in a controlled environment for specimens of a listed threatened or protected species that would be unable to sustain themselves if released;

**“Scientific Authority”** means the Scientific Authority referred to in section 60 of the Biodiversity Act;

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**“scientific institution”** means a museum, organ of state involved in research, registered research unit of a tertiary institution or herbarium where specimens of a listed threatened or protected species are kept or used for research, scientific, information or identification purposes;

[Definition of “scientific institution” substituted by GN R69/2008]

**“scientific purposes”** means the purpose is directed towards the practice of science and includes research;

**“standing permit”** means a permit referred to in regulation 5(2) that is valid for a longer specified period than an ordinary permit;

**“threatened species”** means indigenous species listed as critically endangered, endangered or vulnerable species in terms of section 56(1) of the Biodiversity Act;

[Definition of “threatened specie” inserted by GN R69/2008]

**“tracking”** means to search for or pursue a specimen of a listed threatened or protected species without killing the specimen;

[Definition of “tracking” inserted by GN R69/2008]

**“trade”** includes the import into the Republic, export from the Republic, selling or otherwise trading in, buying, receiving, giving, donating, or accepting as a gift, or in any way acquiring or disposing of any specimen;

**“wild populations”** means a group or collection of wild specimens;

**“wild specimen”** means a specimen that is living and growing in natural conditions with or without human intervention.

(2) In these regulations, a word or expression which is a derivative or other grammatical form of a word or expression defined in subregulation (1) or in the Biodiversity Act, has a corresponding meaning, unless the context indicates that another meaning is intended.

## 2. Purpose of regulations

The purpose of these regulations is to -

- (a) further regulate the permit system set out in Chapter 7 of the Biodiversity Act insofar as that system applies to restricted activities involving specimens of listed threatened or protected species;

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- (b) provide for the registration of captive breeding operations, commercial exhibition facilities, game farms, nurseries, scientific institutions, sanctuaries and rehabilitation facilities and wildlife traders;
- (c) provide for the regulation of the carrying out of a specific restricted activity, namely hunting;
- (d) provide for the prohibition of specific restricted activities involving specific listed threatened or protected species;
- (e) provide for the protection of wild populations of listed threatened species; and
- (f) provide for the composition and operating procedure of the Scientific Authority.

**CHAPTER 2**

**PERMIT SYSTEM FOR LISTED THREATENED OR PROTECTED SPECIES**

**Part 1**

**Issuing authorities**

**3. Issuing authorities**

(1) All permit applications must be decided upon by an issuing authority.

(2) .....

[Subreg. (2) substituted by GN R576/2011 and GN R614/2012 and repealed by GN R324/2014]

(3) .....

[Subreg. (3) substituted by GN R576/2011 and GN R614/2012 and repealed by GN R324/2014]

(4) The MEC must enter into an agreement with the management authority of a national park in relation to the control of damage causing animals originating from the national park.

(5) An official of the Department or a organ of state may exercise a power or duty of an issuing authority in terms of the Biodiversity Act or these regulations to the extent that that power or duty has been delegated or sub-delegated to that official in terms of section 42 or 42A of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

[Reg. 3 substituted by GN R69/2008 and GN R210/2009]

#### **4. Integrated permits**

- (1) A permit issued in terms of provincial legislation by a provincial department that is an issuing authority in terms of regulations 3 for a restricted activity involving a listed threatened or protected species is regarded as a permit issued in terms of the Biodiversity Act and these regulations.
- (2) A permit issued in terms of the Marine Living Resources Act, 1998 by an organ of state that is an issuing authority in terms of regulation 3 for a restricted activity involving a listed threatened or protected species is regarded as a permit issued in terms of the Biodiversity Act and these regulations.
- (3) An exemption issued in terms of the legislation referred to in subregulation (1) and (2) will not be regarded as a permit or exemption in terms of these regulations.
- (4) A person operating under an exemption in terms of the legislation referred to in subregulation (1) may continue to do so for a period of six months from the date of coming into effect of these regulations, within which period he or she must either apply for a permit under these regulations or stop the activity.

[Subreg. (4) added by GN R69/2008]

### **Part 2**

#### **Applications for permits**

#### **5. Who may apply for permits**

- (1) Any person may in terms of section 88(1) of the Biodiversity Act apply for a permit.
- (2) Only the following persons may apply for standing permits:
  - (a) The provincial department, for a standing permit authorising the carrying out of restricted activities involving listed threatened or protected species on land under its jurisdiction and to control damage causing animals originating from protected areas or private land in accordance with regulation 14;

[Para. (a) substituted by GN R576/2011]

- (b) a national department, for a standing permit authorising the carrying out of restricted activities involving listed threatened or protected species on land under its jurisdiction;
- (c) the management authority of a protected area, for a standing permit authorising restricted activities involving specimens of listed threatened or protected species

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within the protected area that are necessary for their management in accordance with the management plan of the area;

- (d) a veterinarian engaged in the treatment of listed threatened or protected species, for a standing permit authorising the restricted activities involving specimens of listed threatened or protected species that are necessary for their treatment or for applying medical procedures;
  - (e) a person conducting a registered captive breeding operation, for a standing permit authorising restricted activities involving specimens of listed threatened or protected species kept or bred at that captive breeding operation that are necessary for the purpose for which that captive breeding operation is registered;
  - (f) a person conducting a registered nursery, for a standing permit authorising restricted activities involving specimens of listed threatened or protected species cultivated or artificially propagated at that nursery that are necessary for the purpose for which that nursery is registered;
  - (g) the operator of any registered sanctuary or registered rehabilitation facility, for a standing permit authorising restricted activities involving specimens of listed threatened or protected species brought to that sanctuary or rehabilitation facility that are necessary for their treatment or care;
  - (h) the operator or head of a registered scientific institution or a person approved in writing by such an institution, for a standing permit authorising restricted activities involving specimens of listed threatened or protected species kept at that institution or being researched by the institution;
  - (i) the operator or head of a registered commercial exhibition facility, for a standing permit authorising restricted activities involving specimens of listed threatened or protected species under the care of the exhibitor that are necessary for the purpose for which the commercial exhibition facility is registered;
  - (j) a landowner of a registered game farm, for a standing permit authorising restricted activities involving specimens of listed threatened or protected species kept on the farm that are necessary for the management of the farm;
  - (k) a registered wildlife trader, for a standing permit authorising him or her to operate as a wildlife trader in listed threatened or protected species as specified by the issuing authority.
- (3) A landowner of a registered game farm may apply for game farm hunting permits, authorising a person to buy and hunt a listed threatened or protected species on the registered game farm and for the subsequent transport and possession of the dead

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specimen(s) that was hunted, if the registration provisions in Chapter 3 are complied with.

[Subreg. (3) substituted by GN R69/2008]

- (4) A registered nursery may apply for nursery possession permits authorising a person to buy, transport or convey and keep in his or her possession a listed threatened or protected species acquired from the registered nursery, if the registration provisions of Chapter 3 are complied with.
- (5) Any person may apply for a possession permit for having or conveying a listed specimen of a threatened or protected species or a product or derivative of a listed threatened or protected species in his or her possession, if that person does not intend to carry out any other restricted activity with that specimen.

[Subreg. (5) substituted by GN R69/2008]

- (6) A registered wildlife trader may apply for personal effects permits, authorising a person to buy, transport or convey and keep in his or her possession and, or export out of the Republic, dead or live specimens of listed threatened or protected species, including products derived from such species and acquired from the registered wildlife trade, if the registration provisions in Chapter 3 are complied with.

[Subreg. (6) substituted by GN R69/2008]

### **6. Application procedure**

- (1) A person may apply for a permit by submitting an application on the form set out in Annexure 1 to these regulations.

[Subreg. (1) substituted by GN R324/2014]

- (2) Unless the Minister directs otherwise in the case of a specific application or applications, the application contemplated in subregulation (1) must be submitted to the organ of state as specified in Section 87A of the Biodiversity Act.

[Subreg. (2) substituted by GN R576/2011 and GN R324/2014]

- (3) An application referred to in subregulation (1) must be accompanied by -
  - (a) a written consent, if required in terms of regulation 7;
  - (b) the applicable processing fee as set out in Annexure 5 to these regulations and the species fee as determined by the issuing authority if the restricted activity applied for is hunting;

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- (c) the risk assessment contemplated in regulation 15, if it was required by the issuing authority;
- (d) if the person applying is physically disabled and relies on that condition, a written confirmation from the National Council for Persons with Physical Disabilities in South Africa that he or she is a physical disabled person;

[Para. (d) amended by GN R209/2009]

(dA)an approved management plan; and

[Para. (dA) inserted by GN R209/2009]

(e) any other additional information as requested by the issuing authority.

- (4) Notwithstanding the provision of subregulation (3)(b), payment of the applicable processing fee as set out in Annexure 5 to these regulations does not apply to organs of state.

[Subreg. (4) added by GN R576/2011]

### **7. Restricted activities on land owned by person other than applicant**

- (1) If the restricted activity applied for is to be carried out on private land and the applicant is not the owner of the land, the applicant must -
  - (a) in the case of a listed threatened species obtain and submit the written consent of the landowner to undertake the proposed restricted activity on that land, when applying for a permit; or
  - (b) in the case of a listed protected species, obtain the written consent of the landowner prior to undertaking the proposed restricted activity on that land.
- (2) Subregulation (1) does not apply to the control of damage causing animals under the control of provincial departments.

[Reg. 7 substituted by GN R69/2008]

## **Part 3**

### **Consideration of and decision on applications by issuing authorities**

#### **8. Consideration of applications**

On receipt of an application in terms of regulation 6, an issuing authority must consider and decide on the application within 20 working days and in accordance with this Part.

**9. Additional information**

- (1) An issuing authority may request within 14 working days of receipt of the application an applicant to furnish such additional information as the issuing authority may determine for the proper consideration of the application.
- (2) The issuing authority must consider and decide on the application within 20 working days from the date of receipt of such additional information.

**10. Factors to be taken into account by issuing authorities when considering permit applications**

When considering a permit application, an issuing authority must, to the extent applicable, take into account -

- (a) all applicable legal requirements, in order to ensure that any decision with respect to a permit is consistent with regulation 17;
- (b) whether the species to which the application relates is listed in terms of section 56, of the Biodiversity Act as a critically endangered species, an endangered species, a vulnerable species or a protected species;
- (c) the IUCN Red List status of the species;
- (d) whether the application involves a listed threatened or protected species that will be taken or removed from a wild population;
- (e) whether the restricted activity applied for is prohibited in terms of regulations 23, 24, 26 or 25;
- (f) whether the issuing authority has cancelled other permits issued to the applicant in terms of section 93 of the Biodiversity Act;
- (g) all other relevant factors, including -
  - (i) all the information and documentation submitted by the applicant to the issuing authority in connection with the application;
  - (ii) any additional information required by the issuing authority in terms of section 88(2)(a) of the Biodiversity Act;
  - (iii) whether the restricted activity in respect of which the application is submitted is likely to have a negative impact on the survival of the relevant listed threatened or protected species;

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- (iv) the biodiversity management plan for the species concerned (if any);
- (v) any recommendation by the Scientific Authority in terms of section 61(1)(c) of the Biodiversity Act regarding the application;
- (vi) any risk assessment or expert evidence requested by the issuing authority;
- (vii) any relevant information on the database that SANBI is required to keep in terms of section 11(1)(j) of the Biodiversity Act;
- (viii) any objections to the application;
- (ix) whether the restricted activity will be carried out by, or will take place in a registered captive breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, rehabilitation facility, or by a wildlife trader registered in compliance with these regulations; and
- (x) whether the restricted activity will be carried out on a registered game farm registered in terms of Chapter 3 of these regulations.

### **11. Additional requirements for applications involving wild populations of listed critically endangered species**

If the application involves a wild populations of listed critically endangered species, the issuing authority must, in addition to the factors listed in regulation 10, -

- (a) require a risk assessment in accordance with regulation 15; and
- (b) consider whether the restricted activity applied for is in line with the biodiversity management plan for the species involved (if available).

### **12. Additional factors to be taken into account by issuing authorities when considering applications for hunting permits**

When considering an application for a permit to hunt a specimen of a listed threatened or protected animal species, an issuing authority must, in addition to the factors listed in regulation 10 and 11, also take into account:

- (a) Prohibited activities listed in regulation 24;
- (b) prohibited methods of hunting as listed in regulation 26;
- (c) whether the activity will take place on a registered game farm that is registered in terms of these regulations;

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- (d) whether the activity involves the control of damage causing animals as provided for in regulation 14;
- (e) in the case of a hunting client, whether he or she will be accompanied by a professional hunter;
- (f) in the case of a disabled person, the view of the National Council for Persons with Physical Disabilities in South Africa on whether the applicant is a physically disabled person;
- (g) whether a person applying for a permit is a member of a recognised hunting organisation; and
- (h) the hunting off-take limits determined by SANBI for a listed threatened or protected animal species determined by the Minister in terms of regulation 72 (if available).

**13. Additional factors to be taken into account by issuing authorities when considering applications for game farm hunting permits, personal effects permits and nursery possession permits**

- (1) When considering an application for game farm hunting permits, the issuing authority must, in addition to the factors listed in regulation 10, 11 and 12, take the following into consideration:
  - (a) Whether the applicant has a registered game farm that is registered in compliance with Chapter 3 of these regulations;
  - (b) whether the species applied for is a listed threatened or protected species;
  - (c) whether the restricted activity applied for is buying and hunting of a listed threatened or protected species and the subsequent transport and possession of a dead specimen; and

[Para. (c) substituted by GN R69/2008]

- (d) whether any permit issued to the landowner of the registered game farm has been cancelled in terms of section 93 of the Biodiversity Act.
- (2) When considering an application for nursery possession permits, the issuing authority must, in addition to the factors listed in regulation 10 and 11 take the following into consideration:
    - (a) Whether the nursery is registered in compliance with Chapter 3 of these regulations;
    - (b) whether the species applied for is a listed threatened or protected species;

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- (c) whether the restricted activities applied for are buying, having in possession, and the transport or conveyance of the specimen as specified in regulation 5(4); and
  - (d) whether any permit issued to the registered nursery has been cancelled in terms of section 93 of the Biodiversity Act.
- (3) When considering an application for personal effects permits, the issuing authority must, in addition to the factors listed in regulation 10 and 11 take the following into consideration:
- (a) Whether the wildlife trader is registered in compliance with Chapter 3 of these regulations;
  - (b) whether the specimens applying for are live or dead or processed specimens of listed threatened or protected species, including products or derivatives of such species;

[Para. (b) substituted by GN R69/2008]

- (c) whether the restricted activities applied for are buying, having in possession, transporting or conveying and / or export out of the Republic as specified in regulation 5(6); and
- (d) whether any permit issued to the registered wildlife trader has been cancelled in terms of section 93 of the Biodiversity Act.

### **14. Provisions relating to damage causing animals**

- (1) The provincial department responsible for the conservation of biodiversity in a province, must determine whether an individual of a listed threatened or protected species can be deemed to be a damage causing animal.

[Subreg. (1) substituted by GN R69/2008]

- (2) In the case of a damage causing animal originating from a protected area, the following control options must be considered by the provincial department referred to in subregulation (1) or the management authority of a protected area:
- (a) Capture and relocation by the provincial department referred to in subregulation (1) or the management authority of the protected area;
  - (b) control by the provincial department referred to in subregulation (1) or the management authority of a protected area by culling or by using methods prescribed in subregulations (4), (5) and (6); or
  - (c) control by a person, other than a hunting client, designated in writing, by the provincial department referred to in subregulation (1) or the management authority of

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the protected area, and in possession of a valid permit to capture and relocate or to control by means of methods prescribed in subregulation (4), (5) and (6).

[Para. (c) substituted by GN R69/2008]

- (3) Subregulation (1) does not prevent a landowner from killing a damage causing animal in self-defence where human life is threatened. If a damage causing animal is killed in an emergency situation -
  - (a) the landowner must inform the relevant issuing authority of the incident within 24 hours after it has taken place; and
  - (b) the issuing authority must evaluate the evidence and may condone the action in writing or if necessary, take appropriate steps to institute criminal proceedings.
- (4) The holder of a permit referred to in regulation 5(2)(a) and (c) or a person referred to in subregulation 2(c) may hunt a damage causing animal by any of the following means, as specified on his or her permit:
  - (a) poison, which has in terms of applicable legislation, been registered for the purpose of poisoning the species involved and as specified by the issuing authority;
  - (b) bait and traps, excluding gin traps, where the damage causing animal is -
    - (i) in the immediate vicinity of the carcass of domestic stock or wildlife which it has or apparently has killed;
    - (ii) about to cause damage to domestic stock or wildlife;
  - (c) dogs, for the purpose of flushing the damage causing animal or tracking a wounded animal;
  - (d) darting, for the subsequent translocation of the damage causing animal, and
  - (e) a firearm suitable for hunting purposes.

[Subreg. (4) substituted by GN R69/2008]

- (5) The holder of a permit referred to in regulation 5(2)(a) and (c) or a person referred to in subregulation 2(c) may hunt a damage causing individual by luring it by means of-
  - (a) sounds; or
  - (b) smell.

[Subreg. (5) substituted by GN R 69/2008]

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- (6) The holder of a permit referred to in regulation 5(2)(a) and (c) or a person referred to in subregulation 2(c) may hunt a damage causing animal by using a motorised vehicle and flood or spotlights.

[Subreg. (6) substituted by GN R 69/2008]

- (7) In the case of a damage causing animal originating from an area other than a protected area, the following control options must be considered by the provincial department referred to in subregulation (1):
- (a) Capture and relocation by the provincial department referred to in subregulation (1);
  - (b) control by the provincial department referred to in subregulation (1) by using methods prescribed in subregulations (4), (5) and (6); or
  - (c) control by a person, other than a hunting client, designated in writing, by the provincial department referred to in subregulation (1), and in possession of a valid permit to capture and relocate or to control by means of methods prescribed in subregulation (4), (5) and (6).

[Subreg. (7) inserted by GN R 69/2008]

### **15. Risk assessment**

- (1) If an issuing authority requests that a risk assessment be carried out, the assessment must, as the issuing authority may determine, include the following:
- (a) Information regarding the relevant listed threatened or protected species, including -
    - (i) the taxonomy of the species, including the class, order, family, scientific name, scientific synonyms and common names of the species;
    - (ii) the national and provincial conservation status of the species, including IUCN Red List Status;
    - (iii) the population status and trends of the species, including -
      - (aa) its national population status;
      - (bb) the size of its local population which will be affected by the restricted activity in respect of which application is made; and
      - (cc) its current national and local population trends;
    - (iv) the geographic distribution and trends of the species, including -

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- (aa) the distribution of the natural population;
- (bb) the distribution of any translocated and introduced populations; and
- (cc) the geographic distribution trends;
- (v) the requirements of the species with respect to habitat and climate;
- (vi) the role of the species in its ecosystem, taking into account -
  - (aa) whether the species is a keystone or indicator species;
  - (bb) the species' level in the food-chain; and
  - (cc) the functions which the species performs in its ecosystem; and
- (vii) the major threats affecting the species nationally and locally;
- (b) information regarding, the restricted activity in respect of which application is made, including -
  - (i) the nature of the restricted activity;
  - (ii) the reason for the restricted activity;
  - (iii) where the restricted activity is to be carried out;
  - (iv) the gender, age and number of the specimens of the species involved; and
  - (v) the intended destination of the specimens, if they are to be translocated;
- (c) any regulations, policies, norms and standards or international agreements binding on the Republic which may be applicable to the application;
- (d) the potential risks associated with the restricted activity to the particular listed threatened or protected species and a specific population of such threatened or protected species or to any other species or ecosystems, including -
  - (i) degradation and fragmentation of a species' habitat;
  - (ii) creation of a significant change in an ecosystem caused by the removal or addition of keystone species;
  - (iii) over-exploitation of a species; and

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- (iv) hybridisation of species;
  - (e) evaluation of the risk identified under paragraph (d) in terms of-
    - (i) the likelihood of the risk being realised; and
    - (ii) the severity of the risk and consequences of the realisation of the risk for the particular species as well as for other species, habitats and ecosystems; and
  - (f) options for minimising potential risks;
  - (g) management of potential risks; and
  - (h) any other information as the issuing authority may determine.
- (2) An applicant must appoint an environmental assessment practitioner at own cost to provide the information required in regulation 15(1).
- (3) The applicant must -
- (a) take all reasonable steps to verify whether the environmental assessment practitioner to be appointed complies with regulation 16(a) and (b); and
  - (b) provide the environmental assessment practitioner with access to all information at the disposal of the applicant regarding the application, whether or not such information is favourable to the applicant.

### **16. General requirements for environmental assessment practitioner**

An environmental assessment practitioner appointed in terms of regulation 15(2) must -

- (a) be independent; and
- (b) have expertise in conducting risk assessments, including knowledge of the Biodiversity Act, these regulations and any guidelines that have relevance to the proposed application.

### **17. Decision on permit applications**

- (1) When an issuing authority decides upon a permit application the decision must be consistent with all applicable legal requirements.
- (2) After having taken a decision on a permit application, the issuing authority must, in writing and within 5 working days -

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- (a) notify the applicant of the decision; and
- (b) if the decision is to refuse the application or to grant the permit on conditions -
  - (i) give reasons for the decision to the applicant if required by the applicant; and
  - (ii) inform the applicants of the right to appeal against the decision in terms of Part 2 of Chapter 7 of the Biodiversity Act, if an appeal against the decision is allowed having regard to regulation 54(2).

### **Part 4**

#### **Permits and permit conditions**

##### **18. Issuing of permits**

- (1) If an application is approved, the issuing authority must issue a permit -
  - (a) within 5 working days after making the decision;
  - (b) in the name of the applicant, except if it is a game farm hunting permit, a personal effects permit or a nursery possession permit; and
  - (c) containing the information referred to in regulation 19.
- (2) No permit may be issued with retrospective effect.

##### **19. Contents-of permits**

- (1) A permit issued in terms of these regulations must, in addition to the matters referred to in section 90(1)(a)(i) and (ii) of the Biodiversity Act, contain the following information:
  - (a) The name, identity number or passport number, postal address and physical address of the person to whom the permit is issued, except if it is a game farm hunting permit or a personal effects permit or a nursery possession permit issued to a landowner of a registered game farm or a registered wildlife trader or a registered nursery;
  - (b) the name of the issuing authority;
  - (c) the permit number and date of issue;
  - (d) particulars of the specimen in respect of which the permit is issued, including the scientific and common name(if any) of the species, sub-species or variation involved;

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- (e) particulars of the restricted activity in respect of which the permit is issued, including specific requirements relating to how the activity can be carried out by the permit holder, as determined by the issuing authority;
- (f) the number of specimens involved, and their sex (if applicable);
- (g) the markings of the specimen (where applicable);
- (h) the period of validity;
  - (i) to the extent applicable -
    - (i) the name and physical address of a person appointed by the applicant as an agent for purposes of obtaining the permit on the applicant's behalf;
    - (ii) the name and physical address of the consignee or consignor, in the case of an export or import permit;
    - (iii) the name and physical address of the seller or supplier, in the case of a permit authorising the purchase or acquisition of a specimen of a listed threatened or protected species;
    - (iv) the name and physical address of the person purchasing or acquiring the specimen of a listed threatened or protected species, in the case of a permit authorising the sale or supply of such a species;
  - (v) in the case of a hunting client, the particulars of the professional hunter;
  - (vi) the location and other relevant particulars of the place where the restricted activity is to be carried out;
  - (vii) in the case of a standing permit for a registered captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or a wildlife trader -
    - (aa) the physical address of the premises where the captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary or rehabilitation facility will be conducted or in the case of a wildlife trader, the physical address of the premises he will be trading from;
    - (bb) a unique registration number;
  - (viii) in the case of a permit authorising the possession of elephant ivory or rhinoceros horn -

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- (aa) the weight of each piece of elephant ivory or of each rhinoceros horn or piece of rhinoceros horn;
  - (bb) the length of the elephant ivory or rhinoceros horn and the circumference at the base of the tusk or horn;
  - (cc) a description of the markings effected on or any other form of identification effected in respect of each piece of elephant ivory, or each rhinoceros horn or piece of rhinoceros horn as provided for in terms of regulation 70; and
- (j) the specific conditions subject to which the permit is issued, if the permit is issued conditionally, and
  - (k) the game farm hunting permit, the personal effects permit and the nursery possession permit must reflect, in addition to the information stipulated in paragraphs (b) - (h) of this subregulation, the registration number or standing permit number of the registered game farm, the registered wildlife trader or the registered nursery.
- (2) If any norms and standards apply to the restricted activity for which a permit is issued, that permit must be issued subject to a condition that the permit holder is bound by those norms and standards and must act in accordance with those norms and standards when carrying out the restricted activity.
  - (3) A permit authorising the hunting of a specimen of a listed threatened or protected animal species must specify the instrument and the method by which the animal may be hunted in terms of that permit having regard to regulation 26.
  - (4) A game farm hunting permit, a personal effects permit, or a nursery possession permit must specify that the permit holder must apply for -
    - (a) a possession permit referred to in regulation 5(5) before the game farm hunting permit, the personal effects permit or the nursery possession permit expires; or
    - (b) a permit in terms of regulation 5(1) if the permit holder wants to carry out a restricted activity with the specimens specified on the game farm hunting permit, a personal effects permit or a nursery possession permit.

### **20. Validity of permits**

- (1) A permit issued for live specimens of listed threatened or protected species is only valid within the area of jurisdiction of the issuing authority or for the specific locality where the restricted activity involving the specimen of a listed threatened or protected species will take place, except for a possession permit, a personal effects permit or a nursery possession permit.

[Subreg. (1) substituted by GN R69/2008]

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (2) A permit issued for a dead or processed specimen of listed threatened or protected species or a product or derivative derived from a listed threatened or protected species is valid throughout the Republic.

### **21. Compulsory conditions subject to which hunting permits must be issued**

- (1) All permits, including game farm hunting permits, authorising the buying and hunting of a specimen of a listed threatened or protected animal species must, in addition to any other conditions the issuing authority may or must impose, be issued subject to the following conditions:
- (a) The permit holder must have all relevant documentation authorising the hunt on his or her person during the hunt;
  - (b) the permit holder must within 21 days of the hunt furnish the issuing authority with a written return on the hunt stating -
    - (i) the permit number and date of issuance of the permit;
    - (ii) the species, sex and number of animals hunted; and
    - (iii) the location where the hunt took place; and
  - (c) in the case of a hunting client, that he or she is accompanied by a professional hunter.

[Subreg. (1) substituted by GN R69/2008]

- (2) All game farm hunting permits for the buying and hunting of listed threatened or protected species, must, in addition to any other conditions the issuing authority may or must impose, be subject to the following conditions:
- (a) The landowner of the registered game farm must return all the copies of the game farm hunting permits used during a 12 month period to the issuing authority; and
  - (b) must submit a list of any unused permit numbers to the issuing authority.

[Subreg. (2) substituted by GN R69/2008]

### **22. Period of validity of permits**

- (1) A permit must, subject to subregulation (2), specify the period for which it remains valid.
- (2) No permit remains valid for more than twelve months, except -

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (a) a standing permit which may be issued for a period of -
  - (i) 48 months for provincial departments or national department;
  - (ii) 36 months for a registered captive breeding operation; registered commercial exhibition facility; registered game farm; registered nursery; a veterinarian; registered sanctuary; registered rehabilitation facility; a registered scientific institution; and a registered wildlife trader;
  - (iii) 48 months for a protected area;
- (b) a possession permit referred to in regulation 5(5) which may be issued for a period of 50 years if the permit holder is keeping the specimen in his or her possession without carrying out any other restricted activity; or

[Para. (b) substituted by GN R69/2008]

- (c) a game farm hunting permit, a nursery possession permit and a personal effects permit which may be issued for a period of 12 months.

### Part 5

#### Circumstances in which permit applications must be refused

#### 23. Applications for translocation of listed threatened or protected animals to extensive wildlife systems

An issuing authority must refuse a permit application for the transfer, transport or translocation of a specimen of a listed threatened or protected animal species to an extensive wildlife system -

- (a) if such an extensive wildlife system falls outside the natural distribution range of that animal species and the extensive wildlife system is a protected area; or
- (b) if there is a risk of-
  - (i) transmitting disease; or
  - (ii) hybridisation with other species in that extensive wildlife system

#### 24. Prohibited activities involving listed large predators, *Ceratotherium simum* (White rhinoceros) and *Diceros bicornis* (Black rhinoceros)

- (1) The following are prohibited activities involving a listed large predator, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros):

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- (a) The hunting of a listed large predator, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros) that is a put and take animal;
- (b) the hunting of a listed large predator, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros) in a controlled environment;
- (c) the hunting of a listed large predator, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros) under the influence of any tranquilising, narcotic, immobilising or similar agent; and
- (d) the hunting of a listed large predator released in an area adjacent to a holding facility for listed large predators; and
- (e) the hunting of a listed large predator, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros) by making use of a gin trap;
- (f) the hunting of a listed large predator, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros), unless the owner of the land on which the animal is to be hunted provides an affidavit or other written proof indicating -
  - (i) the period for which the species to be hunted has been on that property, if that species was not born on that property; and
  - (ii) that the species to be hunted is not a put and take animal;
- (g) the breeding in captivity of a listed large predator, unless the prospective breeder provides a written undertaking that no predator of that species will be bred, sold, supplied or exported for hunting activities that are considered prohibited activities in terms of paragraphs (a) to (e) of this subregulation;
- (h) the sale, supply or export of a live specimen of a listed large predator, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros) bred or kept in captivity unless the person selling, supplying or exporting the animal provides an affidavit or other written proof indicating -
  - (i) the purpose for which the species is to be sold, supplied or exported; and
  - (ii) that the species is not sold, supplied or exported for hunting activities that are considered prohibited activities in terms of paragraphs (a) to (e) of this subregulation;
- (i) the purchase or acquisition of a live specimen of a listed large predator species, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros) bred or kept in captivity unless the person purchasing or acquiring the species provides an affidavit or other written proof indicating -

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- (i) the purpose for which the species is to be purchased or acquired; and
  - (ii) that the species is not purchased or acquired for hunting activities that are considered prohibited activities in terms of paragraphs (a) to (e) of this subregulation.
- (2) Subregulation (1) does not apply to a listed large predator, *Ceratotherium simum* (White rhinoceros) or *Diceros bicornis* (Black rhinoceros) bred or kept in captivity which -
- (a) has been rehabilitated in an extensive wildlife system; and
  - (b) has been fending for itself in an extensive wildlife system for at least twenty four months.

**25. ....**

[Reg. 25 substituted by GN R69/2008, amended by GN R209/2009 and repealed by GN R614/2012]

**26. Prohibited methods of hunting**

- (1) An issuing authority considering an application for the hunting of a listed threatened or protected species may not authorise the following methods of hunting, unless it is for the management of damage causing animals in accordance with regulation 14:
- (a) Listed threatened or protected species, may not be hunted by means of-
    - (i) poison;
    - (ii) traps, except as provided for in subregulation (2);
    - (iii) snares;
    - (iv) dogs, except as provided for in subregulation (3);
    - (v) darting, except as provided for in subregulation (4);
    - (vi) a weapon which, after it has been discharged, automatically reloads and fires when the trigger thereof is pulled or held in a discharged position;
    - (vii) a weapon discharging a rim firing cartridge of .22 of an inch or smaller calibre;
    - (viii) shotguns, except for the hunting of birds; and
    - (ix) air guns;

THREATENED OR PROTECTED SPECIES REGULATIONS

- (b) listed threatened or protected species may not be hunted by luring it, by means of -
  - (i) bait, except in the case of -
    - (aa) lions, leopards and hyena, where dead bait may be used;
    - (bb) listed threatened or protected marine and other aquatic species; and
    - (cc) terrestrial vertebrates and invertebrates to be collected for scientific purposes;
  - (ii) sounds;
  - (iii) smell; or
  - (iv) any other induced luring method;

[Para. (b) substituted by GN R69/2008 (erroneously published as an amendment to Subreg. (2))]

- (c) except as provided for in subregulation (4), (5), (6) or (7) the animal may not be hunted by using -
    - (i) flood or spotlights;
    - (ii) motorised vehicles; or
    - (iii) aircraft; and
  - (d) the animal may not be hunted if it is -
    - (i) under the influence of any tranquillising, narcotic, immobilising or similar agent;  
or
    - (ii) trapped against a fence or in a small enclosure where the animal does not have a fair chance of evading the hunter.
- (2) Subregulation (1)(a)(ii) does not prevent the use of traps for the purpose of -
- (a) the hunting and / or catching of listed threatened or protected marine and other aquatic species;
  - (b) collecting invertebrates for scientific purposes; and
  - (c) trapping listed threatened or protected terrestrial vertebrate species for scientific, veterinary or management purposes.

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- (3) Subregulation (1)(a)(iv) does not prevent the use of dogs for the purpose of -
- (a) tracking a wounded animal; or
  - (b) flushing, pointing and retrieving listed threatened or protected species.
- (4) Subregulation (1)(a)(v) and (c) does not prevent the darting of an animal by a veterinarian or any other person authorised by the South African Veterinary Council in writing and in possession of a valid permit, whether on foot or from a motorised vehicle or aircraft, to immobilise or tranquillise the animal for the purpose of-
- (a) carrying out a disease control procedure or a scientific experiment or for management purposes;
  - (b) veterinary treatment of the animal; or
  - (c) translocating or transporting the animal.

[Subreg. (4) substituted by GN R576/2011]

(4A)A veterinarian must be present when an animal is darted by a person contemplated in subregulation (4).

[Subreg. (4A) added by GN R576/2011]

- (5) Notwithstanding subregulation (1)(c) -
- (a) an aircraft may be used for -
    - (i) tracking an animal in an area where the hunt takes place over long ranges;
    - culling;
    - controlling damage causing animals; and

[Para. (a) substituted by GN R69/20008]

- (b) a motorised vehicle may be used for -
  - (i) tracking an animal in an area where the hunt takes place over long ranges;
  - (ii) culling;
  - (iii) allowing a physically disabled or elderly person to hunt.

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (6) Subregulation (1)(a) and (b) does not prevent the use of the hunting methods or luring methods described in these, subregulations for the purpose of controlling damage causing animals in accordance with regulation 14.
- (7) Subregulation (1)(c) does not prevent the use of flood or spotlights for the purpose of-
- (a) controlling damage causing individuals;
  - (b) culling of listed threatened or protected species; or
  - (c) hunting of leopards and hyenas.
- (8) An issuing authority may not issue a permit to hunt a listed large predator, *Ceratotherium simum* (white rhinoceros), *Crocodylus niloticus* (Nile crocodile), *Diceros bicornis* (black rhinoceros) or *Loxodonta africana* (African elephant) by means of or by the use of a bow and arrow.

## CHAPTER 3

### **REGISTRATION OF CAPTIVE BREEDING OPERATIONS, COMMERCIAL EXHIBITION FACILITIES, GAME FARMS, NURSERIES, SCIENTIFIC INSTITUTIONS, SANCTUARIES, REHABILITATION FACILITIES AND WILDLIFE TRADERS**

#### **Part 1:**

#### **Compulsory registration requirements**

#### **27. Compulsory registration requirement for captive breeding operations, commercial exhibition facilities, nurseries, scientific institutions, sanctuaries, rehabilitation facilities and wildlife traders**

- (1) No person may operate a captive breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, rehabilitation facility or act as a wildlife trader involving specimens of any listed threatened or protected species, unless that breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trader is registered in terms of this Chapter with the issuing authority.

[Subreg. (1) substituted by GN R69/2008]

- (2) The issuing authority is responsible for the registration of captive breeding operations, commercial exhibition facilities, nurseries, scientific institutions, sanctuaries, rehabilitation facilities and wildlife traders referred to in subregulation (1).

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (3) A registered nursery may only apply for misery possession permits referred to in regulation 5(4) if the nursery is registered in terms subregulation (1).
- (4) Registered wildlife trader may only apply for personal effects permits referred to in regulation 5(6) if the wildlife trader is registered in terms of subregulation (1.)

### **28. Registration of game farms**

- (1) A landowner of a game farm may only apply for a standing permit or for game farm hunting permits referred to in regulation 5(2) and (3) if the game farm is registered in terms of this Chapter.
- (2) The issuing authority is responsible for the registration of game farms referred to in subregulation (1)

### **29. Factors to be taken into account by issuing authority**

When considering a registration application, the issuing authority must take into account -

- (a) all applicable legal requirements in order to ensure that any decision with respect to the registration is consistent with those requirements;
- (b) whether the species to which the application relates is listed in terms of section 56 of the Biodiversity Act as a critically endangered species, an endangered species, a vulnerable species or a protected species;
- (c) the purpose for which the captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary or rehabilitation facility is conducted;
- (d) all other relevant factors, including all relevant documentation and information submitted to it by the applicant;
- (e) in the case of an application for the registration of a captive breeding operation, commercial exhibition facility, game farm, nursery, sanctuary, rehabilitation facility or as a wildlife trader, whether the applicant is prepared to micro-chip or mark, where appropriate, each specimen of a listed threatened or protected species bred or kept at the captive breeding operation, commercial exhibition facility, game farm, nursery, sanctuary or rehabilitation facility or traded with by the wildlife trader; and
- (f) in the case of an application for the registration of a game farm, whether the game farm is fenced in accordance with the specifications provided for in provincial legislation.

## **Part 2**

### **New registrations**

#### **30. Application for registration**

- (1) A person intending to conduct a captive breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, rehabilitation facility or act as a wildlife trader which requires registration in terms of regulation 27(1), must submit an application for the registration of that operation, nursery, institution, sanctuary, facility and / or wildlife trader on the form provided by the issuing authority in the relevant province that contains, as a minimum, the information reflected in Annexure 2;
- (2) A person intending to register a game farm as required in terms of regulation 28(1), must submit an application for the registration of that game farm on the form provided by the issuing authority in the relevant province that contains, as a minimum, the information reflected in Annexure 3.
- (3) Applications referred to in subregulations (1) and (2) must be accompanied by
  - (a) documentation or information in support of the application; and
  - (b) the applicable processing fee set out in Annexure 5.

#### **31. Application affecting rights of other persons**

- (1) If the granting of an approval of for a registration application will affect the rights of a specific person, the applicant must give notice of the application to that person.
- (2) A person notified of an application in terms of subregulation (1) may within 15 working days of having been notified, submit to the issuing authority, in writing, any objections that he or she has against the application.

#### **32. Consideration of and decision on applications**

- (1) On receipt of an application in terms of regulation 30, the issuing authority must-
  - (a) instruct an official in that department to inspect the premises in respect of which the application has been lodged;
  - (b) make a written recommendation as to -
    - (i) whether the application must be granted or refused; and

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (ii) if the recommendation is to grant the application, any conditions on which the application must be granted.
- (2) The issuing authority may -
- (a) grant the application conditionally or unconditionally; or
  - (b) refuse the application.
- (3) After having reached a decision on an application, the issuing authority must within 10 working days, in writing
- (a) notify -
    - (i) the applicant of the decision;
    - (ii) any person who lodged an objection against the application; and
  - (b) if the decision is to refuse the application or to grant the application on conditions -
    - (i) give reasons for the decision to the applicant if so requested by the applicant; and
    - (ii) draw the applicant's attention to the fact that an appeal may be lodged against the decision in terms of Chapter 6 of these regulations.

### **33. Issuing of registration certificates**

If the issuing authority decides to grant an application for registration of a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trader, the issuing authority must issue a registration certificate to the applicant within 10 working days after the decision was made.

[Reg. 33 substituted by GN R69/2008]

### **34. Contents of registration certificates**

- (1) A registration certificate issued in terms of these regulations must reflect the following information:
- (a) The name, identity number or passport number and physical address of the person to whom the certification is issued;
  - (b) the physical address of the premises where the captive breeding operation, nursery, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trader operation will be conducted;

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (c) particulars of the species in respect of which the registration certificate is issued, including the scientific (genus, species and sub-species) and common name
  - (d) particulars of the activities to be conducted at the captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility
  - (e) the specific conditions subject to which the registration is issued, if the registration is issued conditionally;
  - (f) the period of validity of the registration certificate not exceeding 36 months.
- (2) If any norms and standards apply to the captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trade for which a registration is granted, that registration must be issued subject to a condition that the registration holder is bound by those norms and standards and must act in accordance with those norms and standards in conducting that captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trade

### **35. Compulsory conditions for the registration of captive breeding operations, commercial exhibition facilities and rehabilitation facilities**

A registration certificate issued in respect of a captive breeding operation, rehabilitation facility and a commercial exhibition facility must be subject to a condition that the person to whom the registration certificate is granted to, must

- (a) prevent hybridisation and or inbreeding;-
- (b) keep a studbook, where appropriate;
- (c) provide information relating to paragraphs (a) and (b) of this regulation to the issuing authority within three months after the end of each calendar year.

### **36. Additional compulsory conditions for the registration of commercial exhibition facilities**

A registration in respect of a commercial exhibition facility must, in addition to any other conditions the issuing authority may impose and the compulsory conditions in regulation 35, be subject to a condition that the person to whom the registration is granted must, if it is a travelling exhibition, inform the province to which it will be going at least two months prior to leaving the province it is registered in.

**37. Compulsory condition for the registration of sanctuaries**

A registration certificate issued in respect of a sanctuary for listed threatened or protected species must be subject to the condition that no breeding will be allowed in the sanctuary.

**CHAPTER 4**

**RENEWAL, AMENDMENT AND CANCELLATION OF PERMITS AND  
REGISTRATION CERTIFICATES**

**Part 1**

**Renewal and amendment of permits and registration certificates**

**38. Renewal of permits and registration certificates**

- (1) The holder of a permit or registration certificate may, before the expiry of the period for which a permit or registration certificate was issued, apply in writing to the issuing authority which issued the permit or registration certificate for the renewal of that permit or registration certificate.
- (2) An application referred to in subregulation (1) must be accompanied by -
  - (a) the reasons for the application; and
  - (b) the applicable processing fee as set out in Annexure 5 to these regulations and the species fee as determined by the issuing authority, if the restricted activity applied for is hunting.

**39. Consideration of and decision on renewal applications**

- (1) On receipt of an application in terms of regulation 38, an issuing authority -
  - (a) must consider the application; and
  - (b) may require the applicant to furnish additional information.
- (2) After having reached a decision on an application for renewal, the issuing authority must -
  - (a) if the application was approved, issue a new permit or registration certificate in the name of the applicant; and
  - (b) if the application was refused -

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (i) notify the applicant of the decision, in writing
- (ii) give reasons for the refusal if required by the applicant; and
- (iii) inform the applicant of his or her right to appeal against the decision.

### **40. Amendment of permits or registration certificates**

- (1) The issuing authority may amend a permit or registration certificate -
  - (a) on application by the holder of the permit or registration certificate in accordance with regulation 41; or
  - (b) on the issuing authority's own initiative in accordance with regulation 43.
- (2) A permit or registration certificate may be amended by -
  - (a) removing a condition;
  - (b) changing a condition;
  - (c) adding a condition;
  - (d) updating or changing any detail on the permit or registration certificate; or
  - (e) correcting a technical or editorial error on the permit or registration certificate.

### **41. Applications for amendment by holder of permit or registration certificate**

- (1) The holder of a permit or registration certificate may at any time apply to the issuing authority for an amendment of the permit or registration certificate.
- (2) An application in terms of subregulation (1) must be -
  - (a) on an official application form determined by the issuing authority and containing, as a minimum the information as set out in Annexure 4 and obtainable from the issuing authority; and
  - (b) accompanied by the applicable processing fee set out in Annexure 5.

### **42. Consideration of and decision on applications for amendment**

- (1) On receipt of an application in terms of regulation 41, the issuing authority -

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (a) must consider whether the granting of the application is likely to adversely affect the environment or the rights or interest of other parties; and
  - (b) may require the applicant to furnish additional information.
- (2) The issuing authority must promptly decide on the application if-
- (a) the application is for a non-substantive amendment to the environmental authorisation, or the environmental rights or interests of other parties are not likely to be adversely affected; or
  - (b) the environment or rights or interests of other parties are not likely to be adversely affected.
- (3) If the application is for a substantive amendment, or if the environment or rights or interests of other parties are likely to be adversely affected, the issuing authority, must before deciding on the application consider the relevant factors in Chapter 2 of these regulations.
- (4) After having reached a decision on an application, the issuing authority must -
- (a) notify the applicant of the decision, in writing; and
  - (b) if the application was approved, issue an amended permit or registration certificate to the applicant; or
  - (c) if the application was refused -
    - (i) give reasons for the refusal to the applicant; and
    - (ii) draw the applicant's attention to the fact that an appeal may be lodged against the decision in terms of Chapter 6 of these regulations.

### **43. Amendment on initiative of issuing authority**

The issuing authority may on own initiative amend a permit or registration certificate if it is necessary -

- (a) for the more effective protection of the listed threatened or protected species to which the permit or registration relates;
- (b) for the more effective enforcement of the Biodiversity Act or these regulations;
- (c) to give effect to any norms and standards that apply to the relevant captive breeding operation, commercial exhibition facility, game farms nursery, scientific institution, sanctuary, rehabilitation facility or wildlife traders; or

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (d) to correct technical or editorial errors on the permit or registration certificate.

### **44. Process**

The issuing authority -

- (a) must notify the holder of the relevant permit or registration certificate, in writing, of -
  - (i) the proposed amendment; and
  - (ii) the reasons for the proposed amendment; and
- (b) must afford the holder of the permit or registration certificate a reasonable opportunity to submit representations regarding the proposed amendment.

### **45. Decision**

After having reached a decision whether or not to amend the permit or registration certificate, the issuing authority must -

- (a) notify the holder of the permit or registration certificate, in writing, if the permit or registration certificate is not to be amended;
- (b) if the decision is to amend the permit or registration certificate -
  - (i) give reasons for the decision to the holder of the permit or registration certificate;
  - (ii) issue an amended permit or registration certificate to the holder; and
  - (iii) draw the attention of the holder of the permit or registration to the fact that an appeal may be lodged against the decision in terms of Chapter 6 of these regulations.

### **46. Consideration of renewal of permit or registration certificate**

- (1) The issuing authority may consider renewing a permit or registration certificate if -
  - (a) all conditions subject to which the permit or registration was issued were complied with;
  - (b) there is no evidence that the permit holder or the operation, facility, game farm or institution is managed in a manner which is detrimental to the species kept by the permit holder or at the operation, facility, game farm or institution; and
  - (c) the conservation status of the species has been maintained or has improved, or the legislation that affects the continuation of the permit or registration has not changed.

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- (2) If the conservation status of the species has deteriorated or the legislation has changed, the issuing authority may request a risk assessment to be submitted prior to considering renewal of the permit or registration certificate.

### Part 2

#### Cancellation of permits and registration certificates

##### 47. Cancellation of permits and registration certificates

- (1) An issuing authority may cancel a permit in the circumstances specified in section 93 of the Biodiversity Act.
- (2) The issuing authority may cancel the permit or registration of a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or a wildlife trader if -
  - (a) the permit or registration certificate holder has breached a condition subject to which the permit was issued or registration was registered;
  - (b) the operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary or rehabilitation facility is managed, or a wildlife trader is operating, in a manner which is -
    - (i) detrimental to the specimens being bred, reared, propagated, or kept at such operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trading premises;
    - (ii) not in accordance with any information provided to the issuing authority or
  - (c) there is a change in the conservation status of the relevant species being bred, propagated or kept by a permit holder or at such facility that affects the continuation of the permit or registration.
- (3) An issuing authority considering the cancellation of a permit or registration certificate in terms of subregulation (1) and (2) must -
  - (a) notify the holder of that permit or registration certificate that cancellation of the permit or registration certificate is being considered, together with the reasons for the proposed cancellation; and
  - (b) afford the holder of the permit or registration certificate a reasonable opportunity to submit representations regarding the proposed cancellation.

## THREATENED OR PROTECTED SPECIES REGULATIONS

- (4) After having reached a decision on the cancellation of the permit or registration certificate, the issuing authority must -
  - (a) notify the permit or registration certificate holder of the decision, in writing; and
  - (b) if the decision is to cancel the permit or registration -
    - (i) instruct the permit or registration certificate holder to return the permit within 30 days; and
    - (ii) inform the permit or registration certificate holder of the right to appeal against the decision.

### **48. Cancelled permits and registration certificates to be returned to issuing authority**

- (1) The holder of a permit or registration certificate which has been cancelled must return the permit or registration certificate to the issuing authority within 30 days of the date of cancellation.
- (2) Any failure by a permit holder to return a cancelled permit in accordance with subregulation (1) must be taken into account by an issuing authority when considering any future application from that person in terms of regulation 6 or 30.

### **49. Permits or registration certificates may not be transferred**

- (1) No permit or registration certificate may be transferred to any other person.
- (2) In the event of a change in ownership, the holder of the permit or registration certificate must apply for the amendment of such permit or registration certificate, which amendment must not unreasonably be withheld by the issuing authority.

### **50. Lost or stolen permits and registration certificates**

An issuing authority may, on the written request of a permit or registration certificate holder, issue a replacement of that permit or registration certificate if the original was lost or stolen, provided that such request is accompanied by -

- (a) proof that the original was lost or stolen or an affidavit by that permit or registration certificate holder stating that the permit or registration certificate was lost or stolen; and
- (b) the applicable processing fee specified in Annexure 5.

## CHAPTER 5

### HUNTING ORGANISATIONS

#### 51. Recognition of hunting organisations

- (1) A hunting organisation must apply in writing to the Director-General for recognition as a hunting organisation,
- (2) Any hunting organisation, which is in existence on the date that these regulations take effect, must apply in writing to the Director-General for recognition as a hunting organisation, within three month after the coming into effect of the regulations.
- (3) An application in terms of subregulation (1) and (2) must be approved if the applicant -
  - (a) has adopted a code of ethical conduct and good practices, which is ascribed to by its members and acceptable to the Director-General;
  - (b) gives a written undertaking to the Director-General that it will -
    - (i) enforce its code of ethical conduct and good practices against members, who breach the code;
    - (ii) report to the Director-General or the South African Police Service any case of alleged criminal conduct by any of its members involving the hunting of a listed threatened or protected species or a breach of any conditions subject to which any national hunting permit was granted to such member; and
  - (c) has a clear policy on broad based black economic empowerment to include persons from disadvantage communities as members.

#### 52. Codes of ethical conduct and good practice

The code of ethical conduct and good practices of a hunting organisation must -

- (a) require its members to act in strict compliance with -
  - (i) legislation regulating the hunting industry; and
  - (ii) any conditions subject to which national hunting permits are granted to a member;
- (b) define criteria for the hunting of listed threatened or protected species in accordance with the fair chase principle;

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- (c) require its members to act in strict compliance with those criteria when hunting a listed threatened or protected species; and
- (d) provide for disciplinary steps against any member who breaches a provision of the code, which should include steps for the suspension or expulsion of such a member from the organisation.

### **53. Withdrawal of recognition of hunting organisations**

- (1) The Director-General may by written notice to a recognised hunting organisation withdraw the recognition of that organisation if it fails to honour its written undertaking given to the Director General in terms of regulation 51(3)(b).
- (2) The Director-General must-
  - (a) notify the organisation that withdrawal of its recognition is being considered, together with the reasons for the proposed withdrawal; and
  - (b) afford the organisation a reasonable opportunity to submit written representations regarding the proposed withdrawal of its recognition.

## **CHAPTER 6**

### **APPEALS**

#### **54. Application**

- (1) This Part applies to a decisions taken by an issuing authority in terms of these regulations;
- (2) No appeal lies against decisions taken by the Minister personally in his or her capacity as an issuing authority.

#### **55. Lodging of appeal**

- (1) A person who feels aggrieved by a decision taken by an issuing authority in terms of these regulations, may appeal to the Minister within 30 days after which the person became aware of the decision or might reasonably be expected to have become aware of the decision;

[Subreg. (1) substituted by GN R69/2008]

- (2) An appeal must be submitted to the Director-General and must -
  - (a) set out the grounds for the appeal; and

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- (b) be accompanied by -
  - (i) supporting documentation which is referred to in the appeal and which is not already in the possession of that issuing authority; and
  - (ii) the applicable processing fee as set out in Annexure 5.
- (3) the Minister must either -
  - (a) consider and decide the appeal; or
  - (b) designate a panel to consider and decide the appeal.
- (4) If the Minister decides that the appeal must be decided and considered by an appeal panel, the Minister must designate -
  - (a) a number of persons with appropriate knowledge as member of the panel;
  - (b) one of the panel members as the presiding member.
- (5) The presiding member decides where and when the panel meets.
- (6) An appeal panel must -
  - (a) consider the regulations in accordance with the prescribed procedure;
  - (b) keep records of its proceedings and decisions.

### **56. Processing of appeals**

The Director-General must-

- (a) acknowledge receipt of the appeal within 14 working days; and
- (b) submit the appeal to the Minister together with,
  - (i) the reasons for the decision against which the appeal is lodged; and
  - (ii) all relevant information in the possession of the issuing authority which was taken into account when the decision was taken.

### **57. Appeal panel**

- (1) If the Minister decides to appoint an appeal panel all documentation relating to the appeal must be submitted to that appeal panel.

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- (2) If the appeal panel consists of -
  - (a) two members, a decision of the panel must be unanimous; or
  - (b) more than two members, a decision is taken by the majority of the members of the panel.
- (3) The presiding member of the panel designated in terms of section 95(1)(b) of the Biodiversity Act presides at meetings of the panel.
- (4) An appeal panel must -
  - (a) consider and decide the appeal within 30 days of its designation for the relevant appeal in terms of section 94(2)(c) of the Biodiversity Act; and
  - (b) inform the Director-General of its decision, together with reasons.

### **58. Decisions**

- (1) The Minister or appeal panel considering the appeal may -
  - (a) either uphold or refuse the appeal; and
  - (b) when upholding or refusing the appeal; make such other orders as he may deem appropriate.
- (2) If the appeal is upheld against -
  - (a) a refusal to issue a permit or registration certificate, the Minister or appeal body may issue the permit or registration certificate unconditionally or subject to conditions;
  - (b) a condition subject to which the permit or registration certificate was issued, the Minister or appeal body may amend the condition;
  - (c) the cancellation or refusal to renew or amend a permit or registration certificate, restore the permit or registration, renew the permit or registration certificate or amend the permit or registration certificate.
- (3) When an appeal has been decided the appellant must be notified in writing of the decision within 14 working days of the date the decision was taken, of such a decision.

## CHAPTER 7

### SCIENTIFIC AUTHORITY

#### Part 1

#### Establishment, composition and operating procedures

##### 59. Establishment

A Scientific Authority is hereby established.

##### 60. Composition

- (1) The Scientific Authority consists of:
  - (a) Two members to represent the Department;
  - (b) one member to represent each provincial department;
  - (c) one member to represent South African National Parks;
  - (d) one member to represent SANBI;
  - (e) one member to represent the natural history museums; and
  - (f) one member to represent the National Zoological Gardens.
- (2) The Minister appoints the members of the Scientific Authority.
- (3) The Director General must request each provincial department, South African National Parks, the SANBI, the natural history museums or the National Zoological Gardens, as the case may be, to nominate persons for appointment to the Scientific Authority in accordance with subregulation (1).

##### 61. Chairperson and deputy chairperson

- (1) Whenever necessary, the Minister must appoint one of the members of the Scientific Authority as the Chairperson and another of the members as the Deputy Chairperson of the Scientific Authority.
- (2) The Deputy Chairperson acts as chairperson if
  - (a) the Chairperson is absent or unable to perform the functions of chairperson; or

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- (b) the office of chairperson is vacant.

### **62. Term of office**

The term of office for a member of the Scientific Authority is four years and can be renewed if approved by the Minister for another term.

### **63. Removal from office**

The Minister may remove a member of the Scientific Authority from office, but only on the ground of:

- (a) Misconduct, incapacity or incompetence;
- (b) insolvency; or
- (c) conviction of a criminal offence without the option of a fine.

### **64. Filling of vacancies**

Whenever a vacancy arises in the membership of the Scientific Authority, the Minister must fill the vacancy in accordance with regulation 60(3).

### **65. Meetings**

- (1) The Scientific Authority must meet at least once a year to develop a report to the Minister regarding compliance with provisions in terms of section 61 of the Biodiversity Act.
- (2) The Chairperson may convene additional meetings as and when necessary.

### **66. Expert advisors**

The Scientific Authority may co-opt expert advisors from within or outside the public service to be present and speak at meetings.

### **67. Participation in meetings by way of electronic or other media**

A member of the Scientific Authority or another person co-opted to participate in a meeting, who is not present at the meeting, may participate in the meeting by telephone, radio, closed-circuit television, the internet or any other medium of instantaneous communication, provided that -

- (a) a facility for such communication is available; and
- (b) the person who is not present at the meeting and the persons present at the meeting are all -

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- (i) audible to one another, if participation is by telephone, radio or the internet; or
- (ii) audible and visible to one another, if participation is by closed-circuit television.

### **68. Procedures**

The Scientific Authority determines its own internal procedures.

### **69. Quorum and decisions**

- (1) A majority of the persons serving as members of the Scientific Authority at the time a meeting is held, constitutes a quorum for a meeting of the Scientific Authority.
- (2) A matter before a meeting of the Scientific Authority is decided by a supporting vote of a majority of the members present at the meeting.
- (3) A member of the Scientific Authority who participates in a meeting in accordance with regulation 67 must for the purpose of subregulation (2) be regarded as being present at the meeting.

## **CHAPTER 8**

### **MISCELLANEOUS**

#### **70. Marking of elephant ivory and rhinoceros horn**

- (1) Any person who is in possession of elephant ivory or rhinoceros horn must within three months of commencement of these regulations apply in writing to the issuing authority in the relevant province to have such elephant ivory or rhinoceros horn -
  - (a) permitted;
  - (b) marked in accordance with subregulation (3); and
  - (c) registered on the national database for elephant ivory and rhinoceros horn.
- (2) If the elephant ivory or rhinoceros horn, in respect of which the application contemplated in subregulation (1) is made, has already been marked and registered in terms of other relevant legislation, the application referred to in subregulation (1) shall be accompanied by proof of such marking and registration.
- (3) The issuing authority, if satisfied that the possession of the elephant ivory or rhinoceros horn is lawful, must, at the expense of the person applying for marking -

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- (a) mark the elephant ivory by means of punch-die, or if not practicable, with indelible ink, using the following formula:
- (i) The country-of-origin two letter ISO code and the last two digits of the particular year, followed by a forward slash;
  - (ii) the serial number for the particular year, followed by a forward slash; and
  - (iii) the weight of the ivory in kilograms; or
- (b) mark the rhinoceros horn by means of a micro-chip.
- (4) In the case of an application in terms of subregulation (2), if the marking requirements as stipulated in subregulation 3 (a) and (b) are met, the existing marking should be accepted and the information reflected in the permit.

**71. Transitional provision in respect of existing captive breeding operations, commercial exhibition facilities, game farms, nurseries, scientific institutions, sanctuaries, rehabilitation facilities or wildlife traders and listed threatened or protected *Encephalartos* species**

[Heading substituted by GN R69/2008]

- (1) Any person who, immediately before the commencement of these regulations, conducts a captive breeding operation, commercial exhibition facility, game farms, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trader involving specimens of a threatened or protected species referred to in regulation 27(1) and 28(1) must, within three months of such commencement, apply for registration of that captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or wildlife trader in terms of Chapter 3 of these regulations.
- (2) If an application referred to in subregulation (1) is refused in terms of regulation 32(3)(b) because the applicant does not meet the requirements for captive breeding operations, commercial exhibition facilities, game farm, nurseries, scientific institutions, sanctuaries, rehabilitation facilities or wildlife traders, the issuing authority must, after notifying the applicant of the refusal, afford the applicant an opportunity to comply with such requirements and to reapply within 9 months after the refusal.
- (3) .....

[Subreg. (3) added by GN R69/2008, substituted by GN R210/2009 and repealed by GN R614/2012]

**72. Setting of annual hunting off-take limits**

- (1) SANBI must each year before the end of September determine for the following year, annual hunting off-take limits for the country as a whole and per province in respect of a listed threatened or protected animal species determined by the Minister.
- (2) Hunting off-take limits set in terms of this regulation do not apply to listed threatened or protected animal species culled in protected areas in accordance with the management plans of the respective area.

**73. Offences**

- (1) A person is guilty of an offence if that person -
  - (a) undertakes a restricted activity involving a threatened or protected species without a permit;
  - (aA) undertakes an activity prohibited in terms of regulations 23, 24, 25, 26, or operates in contravention of subregulation 27(1);

[Para. (aA) inserted by GN R209/2009]

- (b) fabricates or forges any document for the purpose of passing it as a permit or certificate of registration;
- (c) knowingly makes any false statement or report for the purpose of obtaining a permit or certificate of registration; or
- (d) alters, erases or in any way tampers with the markings made on elephant ivory or rhinoceros horn in terms of regulation 70.
- (e) permits or allows any other person to undertake any restricted activity, which is an offence, in terms of paragraph (a).

[Para. (e) added by GN R209/2009]

- (2) A person registered to conduct a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or to operate as a wildlife trader is guilty of an offence if that person -
  - (a) conducts such captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or operates as a wildlife trader in a manner that is not in accordance with any condition subject to which registration was granted; or

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(aA) conducts a captive breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, rehabilitation facility or acts as a wildlife trader involving specimens of any listed threatened or protected species without being registered with the issuing authority in terms of Chapter 3 of these regulations;

[Para. (aA) inserted by GN R209/2009]

(b) fraudulently alters any certificate of registration issued in terms of regulation 32.

(3) A person who owns a registered game farm is guilty of an offence if -

(a) that person fraudulently alters any game farm hunting permit issued in terms of regulation 5(3);

(b) prohibited activities takes place on the registered game farm; or

(c) any conditions of the registration certificate, standing permit or game farm hunting permits were contravened.

(4) A person who owns or operates a registered nursery is guilty of an offence if -

(a) that person fraudulently alters any nursery possession permit issued in terms of regulation 5(4); or

(b) any conditions of the registration certificate, standing permit or nursery possession permits were contravened.

(5) A person who operates as a registered wildlife trader is guilty of an offence if -

(a) that person fraudulently alters any personal effects permit issued in terms of regulation 5(6); or

(b) any conditions of the registration certificate, standing permit or personal effects permits were contravened.

(6) A person who-

(a) owns or is in control of an elephant or land on which an elephant roams or is kept, or

(b) is a management authority of a protected area,

is guilty of an offence if he or she or it fails to comply with the norms and standards issued in terms of section 9 of the Biodiversity Act.

[Subs. (6) added by GN R209/2009]

#### **74. Penalties**

A person convicted of an offence in terms of regulation 73 is liable to-

- (a) imprisonment for a period not exceeding five years;
- (b) a fine not exceeding R5 million, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment; or
- (c) both a fine and such imprisonment.

[Reg. 74 substituted by GN R576/2011]

#### **75. Short title and commencement**

These regulations are called the Threatened or Protected Species Regulations, 2007, and take effect on a date determined by the Minister by notice in the *Government Gazette*.

### **ANNEXURE 1**

#### **APPLICATION FORM**

[Annexure 1 substituted by GN R69/2008]

### **ANNEXURE 2**

#### **APPLICATION INFORMATION FOR REGISTRATION OF CAPTIVE BREEDING OPERATIONS, COMMERCIAL EXHIBITION FACILITIES, NURSERIES, SCIENTIFIC INSTITUTIONS, SANCTUARIES, REHABILITATION FACILITIES AND WILDLIFE TRADERS**

- A. Applicant details, including name; identity no; telephone no; cellphone no; fax no; e-mail; postal address and physical address
- B. Facility details, including name of facility, farm name and registration number if applicable); kind of facility; address of premises where facility will be conducted and date of establishment
- C. Listed threatened or protected species involved, including scientific names; common name; quantity and size; markings (where applicable)
- D. Restricted activities to be undertaken at facility

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- E. Information to be submitted in case of application for registration of captive breeding operation and commercial exhibition facilities that keep animals:
- (a) Details of the number and age (if known or appropriate) of males and females that comprise the parental breeding stock.
  - (b) Evidence of legal acquisition.
  - (c) Current stock (numbers, by sex and age of progeny held in addition to parental breeding stock above).
  - (d) Information on the percentage mortalities and, where possible, on the percentage mortalities in the different age groups and between males and females.
  - (e) Past, current and expected annual production of offspring and, where possible, information on the number of females producing offspring each year.
  - (f) An assessment of the anticipated need for, and source of, additional specimens to augment the breeding stock to increase the genetic pool of the captive population in order to avoid deleterious inbreeding.
  - (g) Detailed description of the marking methods used for the breeding stock and offspring.
  - (h) Description of the strategies used by the breeding operation, or other activities, that contribute to improving the conservation status of wild populations of the species.
  - (i) Description and schematic diagram of the facilities to house the current and expected stock.
  - (j) Security measures to prevent escapes and/or thefts.
  - (k) Number and size of breeding, rearing enclosures and egg incubation (as appropriate).
  - (l) Food production or supply.
  - (m) Removal of waste.
  - (n) Availability of veterinary services.
- F. Information to be submitted in case of application for registration of sanctuary and rehabilitation facility:
- (a) Description and schematic diagram of the facilities to house the current and expected stock.

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- (b) Security measures to prevent escapes and/or thefts.
  - (c) Number and size of breeding, rearing enclosures and egg incubation (as appropriate).
  - (d) Food production or supply.
  - (e) Removal of waste.
  - (f) Availability of veterinary services.
  - (g) Measures taken to prevent breeding in sanctuaries.
- G. Information to be submitted in case of application for registration of nursery:
- (a) Description of the facilities and the propagation techniques.
  - (b) Description of the historical background of the nursery, in particular information on which species or plant groups have been propagated in the past.
  - (c) Taxa currently in propagation (only relevant listed threatened or protected species).
  - (d) Description of the (listed threatened or protected species) parental stock of wild origin, including quantities and evidence of legal acquisition.
  - (e) Mother plants must be micro-chipped, photos taken thereof and submitted.
- H. Information to be submitted in case of application for registered wildlife trader:
- (a) Evidence of legal acquisition.
  - (b) Current and anticipated stock to be kept.
  - (c) Past, current and anticipated turnover of stock.
  - (d) Information relating to record keeping.
  - (e) Security measures to prevent thefts.

**ANNEXURE 3**

**APPLICATION INFORMATION FOR REGISTRATION OF A GAME FARM**

- A. Applicant details, including name; identity no; telephone no; cellphone no; fax no; e-mail; postal address and physical address

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- B. Property details, including property description in terms of title deed; registered owner; physical address; postal address; registered owner contact details (if different from applicant details); telephone no; cellphone no and fax no.
- C. Listed threatened or protected species involved, including scientific name (species, sub-species and variation), common name, population size and markings (if any).
- D. Restricted activities to be undertaken on game farm
- E. Information relating to management of populations of listed threatened or protected species & the game farm:
  - (a) Details of the number and age (if known or appropriate) of males and females of each listed species currently on game farm.
  - (b) Details relating to fencing. The certificate of adequate enclosure or comparable document as issued by the provincial authority must be attached to the application form.
  - (c) Past, current and expected annual production of offspring and, where possible, information on the number of females producing offspring each year.
  - (d) An assessment of the anticipated need for, and source of, additional specimens to augment the breeding stock to increase the genetic pool of the population in order to avoid deleterious inbreeding.
  - (e) Detailed description of the marking methods used (if any).
  - (f) Details regarding measures / strategies to prevent hybridisation.
  - (g) Description of the strategies used by the game farmer, or other activities, that contribute to improving the conservation status of wild populations of the species.

## ANNEXURE 4

### **APPLICATIONS FOR RENEWAL/AMENDMENT/ OF PERMITS OR REGISTRATION CERTIFICATES OF CAPTIVE BREEDING OPERATIONS, GAME FARMS, NURSERIES, SCIENTIFIC INSTITUTIONS, SANCTUARIES, REHABILITATION FACILITIES, AND WILDLIFE TRADERS**

- A. Applicant details, including name, identity no, telephone no, fax no, cellphone no, e-mail, postal address and physical address

THREATENED OR PROTECTED SPECIES REGULATIONS

- B. Details of current permit or registered facility, including the kind of facility, the name of the permit holder or facility, the address of the permit holder or facility, the permit number or registration certificate number and the date it was issued.
- C. Details of renewal/amendment applied for and reasons (if appropriate)

**ANNEXURE 5**

**PROCESSING FEES**

[Annexure 5 substituted by GNR.69 of 2008 w.e.f. 4 February 2008.]

<b>Regulation</b>	<b>Fee</b>
6 (3) (b) – all restricted activities	International import/export/re-export permit application – R50.00 Hunting/catching/killing – R100.00 Gathering/plucking/collecting – R50.00 Conveying/moving/translocation – R50.00 Growing/breeding/propagating – R50.00 Selling/buying/receiving/giving/donating – R50.00 Standing permit – R1 000.00 Game farm hunting permit – R500.00 (per registered game farm) Nursery possession permit – R500.00 (per registered nursery) Personal effects permit – R500.00 (per registered wildlife trader) Possession permit – R50.00
30 (3) (b) – Registrations/ <u>Standing permit</u>	R1 000.00
38 (2) (b) – Renewal	R50.00
41 (2) (b) – Amendment of registration	R200.00
50 (b) – Lost/stolen permit	R50.00
55 (2) (b) (ii) – Lodging an appeal	R50.00

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GNR 138 OF 8 FEBRUARY 2008**

**REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING**

*[Commencement of GN R138 : 1 April 2008]*

[GN R137 / GG 30739 / 20080208]

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**INTERPRETATION AND PURPOSE OF REGULATIONS**

**1. Definitions**

In these Regulations, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates-

“the Act” means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

**“any other kind of research”** means research other than bioprospecting and -

- (a) includes the systematic collection, study or investigation of indigenous biological resources, conducted under the auspices of a bona fide research institute or organisation to generate scientific knowledge; but
- (b) excludes incidental surveys and searches;

**“applicant”** means a person who has submitted, a permit application;

**“benefit-sharing agreement”** means an agreement in the form of Annexure 8, concluded between an applicant for a permit and a stakeholder, which provides for sharing by the stakeholder in any future benefits that may be derived from the bioprospecting to which the application relates;

**“bioprospecting permit”** means a permit, issued in terms of section 88 of the Act, to engage in the discovery phase and/or commercialisation phase of a bioprospecting project;

**“Bioprospecting Trust Fund”** means the Fund established by section 85(1) of the Act;

**“commercialisation”** includes the following activities in relation to indigenous biological resources-

- (a) the filing of any complete intellectual property application, whether in South Africa or elsewhere;
- (b) obtaining or transferring any intellectual property rights or other rights;
- (c) commencing clinical trials and product development, including the conducting of market research and seeking pre-market approval for the sale of resulting products;  
or
- (d) the multiplication of indigenous biological resources through cultivation, propagation, cloning or other means to develop and produce products, such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours and extracts;

**“commercialisation phase of a bioprospecting project”** means any research on, or development or application of, indigenous biological resources where the nature and extent of any actual or potential commercial or industrial exploitation in relation to the project is sufficiently established to begin the process of commercialisation;

**“confidential information”** means information which, if disclosed, may be detrimental to the commercial or financial interests of a party to a benefit-sharing agreement, and-

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(a) includes -

- (i) information about research being or to be carried out including details of species to be collected and areas in which specified species are to be collected;
- (ii) financial commercial, scientific or technical information including trade secrets;
- (iii) indigenous knowledge if the disclosure of that knowledge may be detrimental to the relevant indigenous community; but

(a) excludes information -

- (i) that has already been disclosed through publication in a scientific journal;
- (ii) if the parties consent to its disclosure;

**“discovery phase of a bioprospecting project”** means any research on, or development or application of, indigenous biological resources where the nature and extent of any actual or potential commercial or industrial exploitation in relation to the project is not sufficiently clear or known to begin the process of commercialisation;

**“export permit for research other than bioprospecting”** means a permit, issued in terms of section 88 of the Act, for exporting from the Republic any indigenous biological resources for the purposes of research other than bioprospecting;

**“indigenous community”** means any community of people living or having rights or interests in a distinct geographical area within the Republic of South Africa with a leadership structure and-

- (a) whose traditional uses of the indigenous biological resources to which an application for a permit relates, have initiated or will contribute to or form part of the proposed bioprospecting; or
- (b) whose knowledge of or discoveries about the indigenous biological resources to which an application for a permit relates are to be used for the proposed bioprospecting;

**“indigenous use or knowledge”** includes knowledge of, discoveries about or the traditional use of indigenous biological resources, if that knowledge, discovery or use has initiated or will contribute to or form part of a proposed bio-prospecting or research project to which an application for a permit relates;

**“integrated export and bioprospecting permit”** means a permit, issued in terms of section 88 of the Act to export indigenous biological resources for the purpose of bioprospecting;

**“material transfer agreement”** means an agreement in the form of Annexure 7 between an applicant for a permit and a person, including any organ of state or community, providing or giving access to the indigenous biological resources to which the application relates;

“**NEMA**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998)

“**permit**” means a permit issued in terms of Chapter 7, being a bioprospecting permit; an integrated export and bioprospecting permit; or an export permit for research other than bioprospecting;

“**traditional use or knowledge**” refers to the customary utilisation or knowledge of indigenous biological resources by an indigenous community, in accordance with written or unwritten rules, usages, customs or practices traditionally observed, accepted and recognised by them, and includes discoveries about the relevant indigenous biological resources by that community.

## **2. Purpose of Regulations**

The purpose of these Regulations is to-

- (a) further regulate the permit system set out in Chapter 7 of the Act insofar as that system applies to bioprospecting involving any indigenous biological resources or export from the Republic of any indigenous biological resources for the purpose of bioprospecting or any other kind of research and;
- (b) set out the contents of, the requirements and criteria for benefit-sharing and material transfer agreements.

## **3. Application of Regulations**

(1) These regulations govern-

- (a) the discovery phase and/or commercialisation phase of a bioprospecting project;
- (b) the export from the Republic of any indigenous biological resources for the purpose of bioprospecting; and
- (c) the export from the Republic of any indigenous biological resources for any other kind of research.

# **CHAPTER 1:**

## **CONDITIONS UNDER WHICH BIOPROSPECTING AND RESEARCH OTHER THAN BIOPROSPECTING MAY BE CARRIED OUT**

### **4. Bioprospecting**

- (1) Discovery phase and/or commercialisation phase of a bioprospecting project may only be carried out with a bioprospecting permit issued by the Minister.

- (2) If the applicant for a bioprospecting permit intends exporting the indigenous biological resources to which the application relates, the applicant must apply to the Minister for an integrated export and bioprospecting permit.
- (3) The Minister may only issue a bioprospecting permit or an integrated export and bioprospecting permit after complying with the requirements of Regulations 8(1) and 9(1).

#### **5. Research other than bioprospecting**

- (1) Indigenous biological resources may only be exported for a research purpose other than bioprospecting with an export permit issued by the issuing authority identified in Regulation 6.
- (2) An export permit for research other than bioprospecting may be issued as part of an integrated permit provided the issuing authority complies with section 92 of the Act.
- (3) Before issuing an export permit for research other than bioprospecting, the issuing authority must comply with Regulations 9(1) and 13(1).

### **CHAPTER 2:**

## **PERMIT SYSTEM FOR BIOPROSPECTING AND EXPORTING INDIGENOUS BIOLOGICAL RESOURCES**

### **Part 1: Issuing authorities**

#### **6. Designation of issuing authorities**

- (1) The Minister is the issuing authority for -
  - (a) bioprospecting permits; and
  - (b) integrated export and bioprospecting permits, if the indigenous biological resources are being exported for the purposes of bioprospecting.
- (2) The MEC is designated as the issuing authority for export permits, if the indigenous biological resources are being exported for research purposes other than bioprospecting, and the indigenous biological resources to be exported are collected, gathered or curated in that province.
- (3) Delegation of powers and duties by an issuing authority can only be done in accordance with sections 42 and 42A of the NEMA.

**7. Powers and duties of issuing authorities**

- (1) An issuing authority must process all applications within a reasonable time.
- (2) Before issuing a permit in terms of these Regulations, an issuing authority must satisfy itself that-
  - (a) the impact of the relevant activity on the indigenous biological resources will be negligible or will be minimised and remedied; and
  - (b) the relevant activity will not deplete an indigenous biological resource beyond a level where its integrity is jeopardised.
- (3) After having reached a decision on an application for a permit an issuing authority must-
  - (a) notify the applicant of the decision in writing within 15 working days after making the decision;
  - (b) if the application was approved, issue the permit, amend the permit, or renew the permit, as the case may be, within 15 working days after making the decision;
  - (c) if the application was refused-
    - (i) notify the applicant of the decision in writing within 15 working days after making the decision;
    - (ii) give reasons for the refusal; and
    - (iii) inform the applicant of the applicant's right to appeal against the decision in terms of section 94 of the Act and Regulation 16.
- (4) An issuing authority must monitor all permit holders to ensure compliance with permit conditions.
- (5) On receipt of an application for a permit an issuing authority-
  - (a) must consider the application;
  - (b) may require the applicant or any stakeholders to furnish additional information;
  - (c) may require an applicant to undertake a risk assessment in accordance with section 89 of the Act or in terms of any other regulations promulgated in terms of the Act.

**8. Conditions subject to which issuing authorities may issue permits**

- (1) The Minister may only issue a bioprospecting permit or an integrated export and bioprospecting permit, if the Minister is satisfied that-
  - (a) the relevant stakeholders have been identified in accordance with the principles set out in section 82 of the Act;
  - (b) there has been disclosure of relevant information to all the stakeholders that have been identified;
  - (c) the applicant has obtained the prior consent of any person, including any organ of state or community providing or giving access to the indigenous biological resources to which the application relates, and material transfer agreements and benefit-sharing agreements have been entered into with such stakeholders;
  - (d) the applicant has obtained the prior consent of affected indigenous communities, and benefit-sharing agreements have been entered into with such communities.
- (2) In order to satisfy himself or herself that the requirements of the Act and these Regulations have been met, the Minister may require an applicant for a bioprospecting permit or an integrated export and bioprospecting permit to-
  - (a) show what steps have been taken to identify stakeholders;
  - (b) take further steps to identify stakeholders;
  - (c) provide evidence that relevant information relating to the bioprospecting has been disclosed to the identified stakeholders;
  - (d) provide evidence that the prior consent of identified stakeholders has been obtained.

**Part 2: Application for permits**

**9. Applicant**

- (1) A permit in terms of the Act may only be issued to-
  - (a) a juristic person registered in terms of South African law;
  - (b) a natural person, who is a South African citizen or a permanent resident of South Africa;
  - (c) a juristic person that is not registered in terms of South African law or a natural person who is not a South African citizen or a permanent resident of South Africa, if

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that juristic person or foreign national applies jointly with a juristic or natural person referred to in paragraphs (a) or (b) above.

- (2) An applicant for a permit must-
- (a) disclose if, in respect of the indigenous biological resources to which the application relates-
    - (i) any other application for a permit in terms of the Act or in terms of any other legislation has been submitted to any authority either previously or simultaneously with the current application; and
    - (ii) whether that application was refused or granted or is still pending;
  - (b) if the bioprospecting was preceded by research other than bioprospecting in relation to the indigenous biological resources to which the application relates, disclose the nature of the research and the activities resulting in the application for a bioprospecting permit.

### **10. Application procedure**

- (1) An application for a bioprospecting permit must be submitted to the Minister and must-
- (a) be in the form of Part 1 of Annexure 2 to these Regulations;
  - (b) contain sufficient information to enable the Minister to make the relevant assessment.
- (2) An application for an integrated export and bioprospecting permit must be submitted to the Minister and must-
- (a) be in the form of Parts 1 and 2 of Annexure 2 to these Regulations;
  - (b) contain sufficient information to enable the Minister to make the relevant assessment.
- (3) If material transfer agreements or benefit-sharing agreements are required by the Act, an applicant for a bioprospecting permit or an integrated export and bioprospecting permit must attach to the application for such permit-
- (a) signed material transfer agreements or benefit-sharing agreements if such agreements have been concluded; or
  - (b) if it has not been possible to conclude such agreements, a request for the intervention of the Minister for the purposes of negotiating such agreements, in accordance with section 82(4)(b) of the Act.

- (4) An application for an export permit for research purposes other than bioprospecting must be submitted to the MEC identified in regulation 6(2) and must-
- (a) be in the form of Annexure 3 to these Regulations;
  - (b) contain sufficient information to enable the MEC to make the relevant assessment.

### **Part 3: Issuing of permits and content of permits**

#### **11. Bioprospecting permits**

- (1) A bioprospecting permit may only be issued if-
- (a) the Minister has approved any material transfer agreements or benefit-sharing agreements that are required by the Act and have been submitted to the Minister; and
  - (b) the non-refundable fee specified in Annexure 1 has been paid.
- (2) A bioprospecting permit must-
- (a) be in the form of Annexure 4 to these Regulations;
  - (b) specify the period for which the permit is valid;
  - (c) specify the indigenous biological resources involved;
  - (d) specify the quantity of indigenous biological resources involved;
  - (e) specify the source of the indigenous biological resources;
  - (f) be issued subject to conditions as determined by the Minister, which conditions must include that-
    - (i) all money due to stakeholders in terms of a benefit-sharing agreement must be paid into the Bioprospecting Trust Fund, as required by section 85(1) of the Act;
    - (ii) the permit-holder must, on an annual basis, submit a status report to the Minister in a format determined by the Minister;
    - (iii) the permit-holder will be liable for the costs of mitigating or remedying the impact of the bioprospecting on the environment, in accordance with section 28 of the NEMA; and
    - (iv) the indigenous biological resources to which a permit relates may not be sold, donated or transferred to a third party without the written consent of the Minister.

## **12. Integrated export and bioprospecting permits**

- (1) An integrated export and bioprospecting permit may only be issued if the Minister is satisfied that the export of indigenous biological resources for bioprospecting will be for a purpose that is in the public interest, including-
  - (a) the conservation of biodiversity in South Africa;
  - (b) the economic development of South Africa; or
  - (c) enhancing the scientific knowledge and technical capacity of South African people and institutions.
- (2) An integrated export and bioprospecting permit must-
  - (a) be in the form of Annexure 5 to these Regulations;
  - (b) specify the period for which the permit is valid;
  - (c) specify the indigenous biological resources involved;
  - (d) specify the quantity of indigenous biological resources involved;
  - (e) specify the source of the indigenous biological resources;
  - (f) be issued subject to conditions as determined by the Minister, which conditions must include that-
    - (i) all money due to stakeholders in terms of a benefit-sharing agreement must be paid into the Bioprospecting Trust Fund, as required by section 85(1) of the Act;
    - (ii) the permit-holder must, on an annual basis, submit a status report to the Minister in a format determined by the Minister;
    - (iii) the permit-holder will be liable for the costs of mitigating or remedying the impact of the bioprospecting on the environment, in accordance with section 28 of the NEMA; and
    - (iv) the indigenous biological resources to which a permit relates may not be sold, donated or transferred to a third party without the written consent of the Minister.

## **13. Export permit for research other than bioprospecting**

- (1) An export permit for research other than bioprospecting may only be issued if the issuing authority identified in Regulation 6 is satisfied that the export of the relevant indigenous biological resources will be for a purpose that is in the public interest, including-

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- (a) the conservation of biodiversity in South Africa;
  - (b) the economic development of South Africa; or
  - (c) enhancing the scientific knowledge and technical capacity of South African people and institutions.
- (2) An export permit for the export of indigenous biological resources for research purposes other than bioprospecting-
- (a) must be in the form of Annexure 6 to these Regulations;
  - (b) must indicate the period for which it is valid;
  - (c) must specify the indigenous biological resources involved;
  - (d) must specify the quantity of indigenous biological resources involved;
  - (e) must specify the source of the indigenous biological resources; and
  - (f) must be issued subject to the following conditions-
    - (i) the indigenous biological resources to which the permit relates, may only be used for non-commercial research purposes as specified on the permit;
    - (ii) the indigenous biological resources to which the permit relates may not be used for bioprospecting purposes;
    - (iii) the permit-holder will be liable for the costs of mitigating or remedying the impact of the export on the environment, in accordance with section 28 of the NEMA;
    - (iv) the indigenous biological resources to which the permit relates may not be sold, donated or transferred to a third party without the written consent of the issuing authority, which consent will not be given if the third party intends using the resources for bioprospecting purposes; and
    - (v) the permit-holder must, on an annual basis or on timeframes as determined by the issuing authority, submit a status report to the issuing authority in a format determined by the issuing authority.

### **Part 4: Appeals**

#### **14. Decisions that are subject to appeal**

- (1) An applicant may appeal, in terms of section 94 of the Act, any decision to-

- (a) refuse a permit;
- (b) impose permit conditions that are in addition to mandatory conditions required to be imposed in terms of these Regulations;
- (c) cancel a permit.

**15. Procedure on appeal**

- (1) An appeal must be lodged with the Minister within 30 days of the applicant receiving notification of the decision being appealed against.
- (2) Stakeholders who have an interest in the appeal must be provided with a copy of the appeal and must be notified that they have 15 days from date of notification to lodge submissions in relation to the appeal with the Minister.
- (3) An appeal must-
  - (a) set out the grounds on which the decision is being appealed;
  - (b) identify any stakeholders who have an interest in the appeal and provide proof that a copy of the appeal has been served on all stakeholders; and
  - (c) be accompanied by the non-refundable fee set out in Annexure 1.

**CHAPTER 3:**

**MATERIAL TRANSFER AGREEMENTS, BENEFIT-SHARING AGREEMENTS  
AND THE ADMINISTRATION OF THE BIOPROSPECTING TRUST FUND**

**Part 1: Agreements**

**16. Material transfer agreements**

- (1) Parties to a material transfer agreement are the applicant and the stakeholder as described in paragraphs 82(1)(a) and (b) of the Act who provides or gives access to the indigenous biological resources to which an application relates.
- (2) The Minister must approve all material transfer agreements or any amendment to such agreements, in accordance with section 84(2) of the Act.
- (3) A material transfer agreement must be in the form of Annexure 7 and must contain the information specified in section 84(1)(b) of the Act.

**17. Benefit-sharing agreements**

- (1) Parties to a benefit-sharing agreement are the applicant and the stakeholders referred to in section 82(1)(a) and (b) of the Act.
- (2) A benefit-sharing agreement must be in the form of Annexure 8 and must comply with subsections 83(1) and (2) of the Act;
- (3) Before approving a benefit-sharing agreement or an amendment to such agreement, the Minister-
  - (a) must be satisfied that the agreement is fair and equitable to all parties;
  - (b) may consult any person competent to provide technical advice on the agreement; and
  - (c) may invite public comment on the agreement provided that no confidential information is made public.
- (4) The Minister may refuse to approve a benefit-sharing agreement unless such agreement makes some provision for-
  - (a) enhancing the scientific knowledge and technical capacity of persons, organs of state or indigenous communities to conserve, use and develop indigenous biological resources; or
  - (b) any other activity that promotes the conservation, sustainable use and development of the relevant indigenous biological resources.
- (5) Permit-holders must lodge a copy of all benefit-sharing agreements with the Director-General, within one month of an agreement being concluded or within one month of any amendments to such agreement being concluded.

**18. Duties of Permit-holder**

- (1) The holder of a bioprospecting permit or an integrated export and bioprospecting permit must-
  - (a) notify the Director-General when money due to stakeholders as specified in the benefit-sharing agreement will be transferred or paid into the Bioprospecting Trust Fund;
  - (b) notify stakeholders entitled to a monetary benefit in terms of a benefit-sharing agreement that money was transferred or paid into the Bioprospecting Trust Fund.

**Part 2: Administration of the Bioprospecting Trust Fund**

**19. The administration of the Bioprospecting Trust Fund**

- (1) In terms of section 85(1) of the Act, all money arising from benefit-sharing agreements and due to stakeholders must be paid into the Bioprospecting Trust Fund.
- (2) The Bioprospecting Trust Fund will be managed in accordance with Treasury Regulations issued in terms of the Public Finance Management Act, 1999 (Act No.1 of 1999).
- (3) For the purposes of adhering to Treasury Regulations -
  - (a) each benefit-sharing agreement must be regarded as the trust instrument that details the specific purpose for which money received by the Bioprospecting Trust Fund may be used;
  - (b) the Director-General is responsible for the safekeeping and proper use of all money received by the Bioprospecting Trust Fund, in accordance with the relevant benefit-sharing agreement;
  - (c) the Director-General may charge a reasonable fee for the administration of money received in terms of a benefit-sharing agreement;
- (4) The Director-General must-
  - (a) notify all issuing authorities of the banking details of the Bioprospecting Trust Fund, which details must be handed to permit-holders on issuance of every permit;
  - (b) advise parties to a benefit-sharing agreement of -
    - (i) any money received in respect of that agreement;
    - (ii) the amount due to each stakeholder in terms of the agreement; and
  - (c) distribute all monies received in accordance with the relevant benefit-sharing agreement.
- (5) The Director-General's obligations in terms of sub-regulation (4) may be discharged annually unless a different time period is-
  - (a) stipulated in the relevant benefit-sharing agreement; or
  - (b) agreed between the Director-General and the parties to a benefit-sharing agreement.
- (6) If for whatever reason, there is surplus money in the Bioprospecting Trust Fund that is not due to any party in terms of a benefit-sharing agreement, the Director-General must use the money for one or more of the following purposes-

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- (a) to conserve the indigenous biological resources;
  - (b) to support further research on indigenous biological resources and indigenous knowledge;
  - (c) to build capacity amongst indigenous communities-
    - (i) as to their rights in terms of the Act; and
    - (ii) to enable them to negotiate benefit-sharing agreements that are fair and equitable;
  - (d) to enhance scientific knowledge and technical capacity to conserve, use and develop indigenous biological resources; or
  - (e) any other activity that promotes the conservation, sustainable use and development of indigenous biological resources for the benefit of South Africa.
- (7) If it is not possible, for whatever reason, to pay any party money due to them in terms of a benefit-sharing agreement, the Director-General must-
- (a) ascertain if there is another person or body to whom the money should legally be paid;
  - (b) if there is no identifiable person or body to whom the money must be paid, consult any other parties to the relevant agreement as to the distribution of that money and thereafter distribute the money fairly and equitably between remaining stakeholders, if any;
  - (c) if there are no other stakeholders, distribute the money in accordance with sub-regulation (6).

## **CHAPTER 4:**

### **GENERAL**

#### **20. Offences**

A person is guilty of an offence if that person-

- (a) without a permit-
  - (i) undertakes bioprospecting involving indigenous biological resources;
  - (ii) exports from the Republic any indigenous biological resources for the purpose of bioprospecting or any other research;

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- (b) performs the activity for which the permit was issued otherwise than in accordance with any conditions subject to which a permit was issued;
- (c) permits or allow any other person to do, or to omit to do anything which is an offence in terms of these regulations;

**21. Penalties**

- (1) A person convicted of an offence in terms of regulation 20 is liable to-
  - (a) imprisonment for a period not exceeding five years;
  - (b) an appropriate fine; or
  - (c) to both a fine and such imprisonment.
- (2) A fine in terms of sub-regulation (1) may not exceed an amount prescribed in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).

**22. Transitional provisions**

- (1) Subject to sub-regulations (2) and (3), any person involved at the commencement of these Regulations in a bioprospecting project, may continue with that project pending the issuing of a bioprospecting permit.
- (2) A person involved in a bioprospecting project that has already commenced must, within six months of these Regulations coming into effect, submit an application for a bioprospecting permit to the Minister in accordance with Chapter 2 of these Regulations.
- (3) If a bioprospecting project that has already commenced involves stakeholder interests that are required to be protected by section 82 of the Act, the applicant for a bioprospecting permit must -
  - (a) negotiate and enter into appropriate benefit-sharing agreements with identified stakeholders;
  - (b) attach to the application for a bioprospecting permit submitted to the Minister in terms of sub-regulation (2)-
    - (i) signed benefit-sharing agreements entered into with stakeholders; or
    - (ii) a written request for the intervention of the Minister for the purposes of negotiating such agreements, in accordance with section 82(4)(b) of the Act, if it has not been possible to conclude benefit-sharing agreements within the six months referred to in sub-regulation (2).

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- (4) A bioprospecting project that has already commenced -
- (a) must be terminated if-
    - (i) an application for a bioprospecting permit is refused; or
    - (ii) a benefit-sharing agreement is not concluded notwithstanding the intervention of the Minister;
  - (b) may continue if a bioprospecting permit is issued, subject to any conditions contained in that permit.

**23. Short Title and commencement**

These Regulations are called Bioprospecting, Access and Benefit-Sharing Regulations, 2008 and will come into operation on a date fixed by the Minister by notice in the *Gazette*.

**PRESCRIBED NON-REFUNDABLE FEES**

**1. Permit fees**

1.1 Bioprospecting permit (Regulation 11)	R 5000
1.2 Integrated export and bioprospecting permit (Regulation 12)	R 5200
1.3 Export permit for the purpose of conducting research other than bioprospecting (Regulation 13)	R 100

**2. Appeal in terms of Regulation 15**

Appeal fee	R 50
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## Annexure 2

### PART 1: APPLICATION FOR A BIOPROSPECTING PERMIT

### PART 2: APPLICATION FOR AN EXPORT PERMIT FOR THE PURPOSES OF BIOPROSPECTING

#### Notes on completing form:

1. If you are applying for a bioprospecting permit and you do not intend to export the relevant indigenous biological resources, you need only to complete part 1 of this form.
2. If you are applying for an integrated export and bioprospecting permit, you must complete parts 1 and 2 of this form.
3. If insufficient space is provided in this form, additional information may be included by way of Annexures.

#### KIND OF PERMIT APPLIED FOR (Tick relevant box)

Bioprospecting permit:

Integrated export and bioprospecting permit:

#### PHASE OF BIOPROSPECTING PROJECT (Tick relevant box)

Discovery phase:

Commercialisation phase:

### PART 1: APPLICATION FOR A BIOPROSPECTING PERMIT

#### APPLICANT

*If applicant is a juristic person complete clauses 1 - 7 below*

1. Full name of institution or body:
2. Is the juristic body registered in South Africa? Y/N
3. If yes, provide the South African registration number of the juristic body:
4. If not, in which country is the juristic body registered and provide the reference number:
5. Provide the contact details of the juristic body (including postal/physical address, phone, fax and e-mail address):

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6. Name of contact person in juristic body (attach a certified copy of ID document):
7. Capacity of contact person:

***If applicant is a natural person complete clauses 8 - 12 below***

8. Name of applicant:
9. Identity number of the applicant (also attach certified copy of the ID):
10. Contact details of applicant (including postal/physical address, phone, fax and e-mail address):
11. Is the applicant affiliated to a juristic body? Y/N
12. If yes, provide the name and contact details of the juristic body (include name of contact person, postal/physical address, phone, fax and e-mail address):

***The rest of this part to be completed by all applicants***

13. Names and contact details (includes postal/physical address, phone, fax and e-mail address) of all other collaborators:
14. Identity number of all other collaborators (also attach certified copy of the ID):
15. Names and contact details (includes postal/physical address, phone, fax and e-mail address) of the individuals who will conduct bioprospecting project:
16. Identity number of the individuals who will conduct bioprospecting project (also attached certified copies of IDs):
17. Are there any international sponsors funding this project? Y/N
18. If yes, provide their names and contact details (includes name of contact person, postal/physical address, phone, fax and e-mail address):
19. Are there any South African sponsors funding this project? Y/N
20. If yes, provide their names and contact details (includes name of contact person, postal/physical address, phone, fax and e-mail address):

**INDIGENOUS BIOLOGICAL RESOURCES**

21. Set out the type of indigenous biological resources for which a permit is sought, the family, genus or species, the part of the organism to be collected, the quantity of the

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resources to be collected or obtained and the specific area or source from which each resource is to be collected or obtained.

Type of organism	Family, genus or species (scientific and common names) (if possible)	Part of organism to be collected	Quantity	Full locality data (GIS readings if possible)
<i>Example:</i> Plant	<i>Aloe ferox</i>	Leaves	6 kg	

**PREVIOUS RESEARCH AND APPLICATIONS FOR PERMITS**

22. In respect of the indigenous biological resources set out above, has any other application for a permit in terms of the Act or in terms of any other legislation been submitted, either previously or simultaneously with this application? Y/N
23. If yes, was the application granted, refused or is it still pending?
24. If the application was granted, provide the following detail and attach a copy of the permit.

Permit number	Issuing authority	Date of issue

25. If the application is still pending, provide the issuing authority's reference number:

**DISCLOSURE OF INFORMATION**

26. Has all material information been disclosed to any person, organ of state or community providing or giving access to the indigenous biological resources and to any identified indigenous communities with traditional knowledge or use of the indigenous biological resources? Y/N
27. Substantiate your answer to the above paragraph by setting out all information disclosed.

**STAKEHOLDERS**

NOTE: If any person, organ of state or community is required to provide or give access to the indigenous biological resources, their consent must be obtained and a material

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transfer agreement (MTA) in the form of Annexure 4 and a benefit-sharing agreement (BSA) in the form of Annexure 5 must be attached to this application.

(Editorial Note: Grammar as per original *Government Gazette*.)

28. Identify the person, organ of state or community whose consent is required and in each instance indicate if a MTA and a BSA have been concluded with them. These agreements must be attached to this application.

Access provider	MTA concluded and attached?	BSA concluded and attached?

NOTE: If any indigenous community/ies have been identified, a benefit-sharing agreement (BSA) in the form of Annexure 5 must be concluded with that/ those community/ies and must be attached to this application.

29. What steps have been taken to identify any indigenous communities whose use or knowledge of the indigenous biological resources to which this application relates, may have initiated or contributed to the proposed bioprospecting?

30. Description/nature of traditional knowledge or use (oral/documental):

31. Describe any indigenous communities identified and in each instance indicate if a BSA has been concluded with them and if that agreement is attached to this application.

Indigenous community	BSA concluded?	BSA attached?

32. Have any agreements been concluded in relation to the indigenous biological resources with collaborating parties that are not stakeholders in terms of the Act? Y/N

33. If yes, have those agreements been disclosed to—

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- 33.1 any person, organ of state or community/ies who is/are providing access to the indigenous biological resources? Y/N
- 33.2 any indigenous community/ies with traditional knowledge or use of the indigenous biological resources? /N
34. Is any assistance required from the issuing authority to conclude the necessary agreements? Y/N
35. If yes, specify the nature of the assistance required and why this assistance is required.

**PROJECT PROPOSAL**

**36.** A detailed project proposal must be attached to this application setting out the following—

- 36.1 the objectives of the bioprospecting project;
- 36.2 the benefits that may result from the project;
- 36.3. the proposed methodology;
- 36.4. the proposed time-frames (i.e. required period of validity of permit);
- 36.5. any relevant environmental considerations including impacts of the collection of the indigenous biological resources and proposed steps to minimise or remedy those impacts;
- 36.6. reporting processes;
- 36.7. desired outcomes of the project; and
- 36.8. what will happen to the discarded/wasted specimens at the end of the study.

**FEES**

37. Has the fee of R5 000 been paid? Please attach copy of invoice. Y/N

**Signature of applicant for bioprospecting permit:**

**Date:**

**Capacity of signatory:**

**Endorsement of juristic body, if applicable:**

**Name of juristic body:**

**Signature of duly authorised officer from the juristic body:**

**Date:**

**PART 2: APPLICATION FOR AN EXPORT PERMIT FOR BIOPROSPECTING PURPOSES**

**An applicant completing this part must also complete and sign Part 1**

**RECIPIENT OF INDIGENOUS BIOLOGICAL RESOURCES BEING EXPORTED (IMPORTER)**

1. Name of recipient/importer:
2. Contact details of recipient/importer (include postal/physical address, phone, fax and e-mail address):

**REQUIREMENTS OF OTHER LEGISLATION**

3. Have you complied, or have you taken steps to comply, with other legislative requirements for the collection and export of the indigenous biological resources? Provide details, including reference numbers and waybill numbers where appropriate:

**PURPOSE OF EXPORT**

4. State the purpose for which the indigenous biological resources are to be exported:
5. Will the intended bioprospecting that is the subject of the permit application, have some benefit for—
  - 5.1 the conservation of biodiversity in South Africa? Y/N
  - 5.2 the economic development of South Africa? Y/N
  - 5.3 any other matter that is in the public interest? Y/N
6. If yes, provide details:

**FEES**

7. Has the fee of R5200 been paid? Please attach a copy of the invoice. Y/N

**Signature of applicant for permit:**

**Date:**

**Capacity of signatory:**

**Endorsement of juristic body, if applicable:**

**Name of juristic body:**

**Signature of duly authorised officer from juristic body:**

**Date:**

### **Annexure 3**

#### **APPLICATION FOR AN EXPORT PERMIT FOR THE PURPOSES OF CONDUCTING RESEARCH OTHER THAN BIOPROSPECTING**

**Notes on completing form:**

If insufficient space is provided in this form, additional information may be included by way of annexures.

#### **APPLICANT**

***If applicant is a juristic person complete clauses 1 - 7 below***

1. Full name of institution or body:
2. Is the juristic body registered in South Africa? Y/N
3. If yes, provide the South African registration number of the juristic body:
4. If not, which country is the juristic body registered in and provide the reference number:
5. Provide the contact details of the juristic body (including postal/physical address, phone, fax and e-mail address):
6. Name of contact person in juristic body (attach a certified copy of ID document):
7. Capacity of contact person:

***If applicant is a natural person complete clauses 8 - 12 below***

8. Name of applicant:

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

9. Identity number of the applicant (also attach certified copy of the ID):
10. Contact details of applicant (including postal/physical address, phone, fax and e-mail address):
11. Is the applicant affiliated to any juristic body? Y/N
12. If yes, provide the name and contact details of the juristic body (include name of contact person, postal/physical address, phone, fax and e-mail address):

***The rest of this part to be completed by all applicants***

13. Names and contact details (includes postal/physical address, phone, fax and e-mail address) of all other collaborators:
14. Identity number of all other collaborators (also attach certified copy of the ID):
15. Names and contact details (includes postal/physical address, phone, fax and e-mail address) of the individuals who will conduct research:
16. Identity number of the individuals who will conduct research (also attached certified copies of IDs):
17. Are there any international sponsors funding this project? Y/N
18. If yes, provide their names of sponsors and contact details(includes name of contact person, postal/physical address, phone, fax and e-mail address):
19. Are there any South African sponsors funding this project? Y/N
20. If yes, provide their names of sponsors and contact details(includes name of contact person, postal/physical address, phone, fax and e-mail address):

**RECIPIENT OF INDIGENOUS BIOLOGICAL RESOURCES BEING EXPORTED (IMPORTER)**

21. Name of recipient/importer:
22. Contact details of recipient/importer (include postal/physical address, phone, fax and e-mail address):

**INDIGENOUS BIOLOGICAL RESOURCES**

23. Set out the type of indigenous biological resources for which a permit is sought, the family, genus and species, the part of the organism to be collected, the quantity of the

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

resources to be collected or obtained and the specific area or source from which each resource is to be collected or obtained.

Type of organism	Family, genus or species (scientific and common names) (if possible)	Part of organism to be collected	Quantity	Full locality data (GIS readings if possible)
<i>Example:</i> Plant	<i>Aloe ferox</i>	Leaves	6 kg	

**PREVIOUS PERMITS**

24. In respect of the indigenous biological resources set out above, has any other application for a permit in terms of the Act or in terms of any other legislation been submitted, either previously or simultaneously with this application? Y/N
25. If yes, was the application granted, refused or is it still pending?
26. If the application was granted, provide the following detail and attach a copy of the permit.

Permit number	Issuing authority	Date of issue

If the application is still pending, provide the issuing authority's reference number:

**REQUIREMENTS OF OTHER LEGISLATION**

27. Have you complied, or have you taken steps to comply, with other legislative requirements for the collection and export of the indigenous biological resources? Provide details, including reference numbers and waybill numbers where appropriate.

**PROJECT PROPOSAL**

28. A detailed project proposal must be attached to this application setting out the following—
- 28.1 the objectives of the research;
  - 28.2 the benefits that may result from the project;

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

- 28.3 the proposed methodology;
- 28.4 the proposed time-frames (i.e. required period of validity of permit);
- 28.5 any relevant environmental considerations including impacts of the collection of the resources and proposed steps to minimise or remedy those impacts;
- 28.6 reporting processes;
- 28.7 desired outcomes of the project; and
- 28.8 what will happen to the discarded/wasted specimens at the end of the study.

**PURPOSE OF EXPORT**

- 29. State the purpose for which the indigenous biological resources are to be exported:
- 30. Will the intended research that is the subject of the permit application, have some benefit for—
  - 30.1 the conservation of biodiversity in South Africa? Y/N
  - 30.2 the economic development of South Africa? Y/N
  - 30.3 any other matter that is in the public interest? Y/N
- 31. If yes, provide details:

**FEES**

- 32. Has the fee of R200 been paid? Please attach a copy of the invoice. Y/N

**Signature of applicant for permit:**

**Date:**

**Capacity of signatory:**

**Endorsement of juristic body, if applicable:**

**Name of juristic body:**

**Signature of duly authorised officer from juristic body:**

**Date:**

## Annexure 4

### BIOPROSPECTING PERMIT

This permit is issued in terms of Regulation 11 of the Regulations on Bioprospecting, Access and Benefit-Sharing

1. Permit-holder's name:
2. Permit-holder's physical/postal address, telephone, fax and e-mail address:
3. Name of person in charge of bioprospecting (if different from permit-holder):
4. Identify number of permit-holder or person in charge of bioprospecting:

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the word "Identify" is intended to be "Identity".)

5. If the application was a joint application, names of any other applicants:
6. Contact details of all other applicants:
7. **Nature of permit:** This permit authorises the permit holder to use the following indigenous biological resources for the purposes of bioprospecting, in the quantities specified and to collect the indigenous biological resources in the areas set out below:

Type of organism	Family, genus or species (scientific and common names) (if possible)	Part of organism to be collected	Quantity (Indicate if there are limitations on the quantity of samples)	Full locality data (GIS readings if possible)
<i>Example:</i> Plant	Aloe ferox	Leaves	6 kg	

8. **Duration of permit:** This permit is valid until
9. **Benefit-sharing agreements and material transfer agreements:** This permit must be read with the following benefit-sharing agreements and material transfer agreements entered into with stakeholders envisaged in section 82 (1) of the Biodiversity Act.
10. **Conditions:** This permit is issued subject to the following conditions—

## REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

- 10.1 the permit holder may not transfer the indigenous biological resources to which this permit relates to any third party without the prior informed consent in writing of the issuing authority and then only under a written agreement containing terms no less restrictive than those which apply to the permit holder in terms of this permit and any agreements referred to in paragraph 9;
- 10.2 the permit holder must submit a progress report to the issuing authority within one year of the date of this permit and annually thereafter.
- 10.3 if new collaborators join the bioprospecting project for which this permit is being issued, the permit holder must notify the issuing authority in writing.
- 10.4 all money due to stakeholders in terms of a benefit-sharing agreement must be paid into the Bioprospecting Trust Fund, as required by section 85 (1) of the Act; and
- 10.5 the permit-holder will be liable for the costs of mitigating or remedying the impact of the bioprospecting on the environment, in accordance with section 28 of the National Environmental Management Act, 107 of 1998; and
- 10.6 (additional conditions may be inserted here)

**Signed by the Minister of Environmental Affairs and Tourism**

**Signature:**

**Date:**

## **Annexure 5**

### **INTEGRATED EXPORT AND BIOPROSPECTING PERMIT**

**This permit is issued in terms of Regulation 12 of the Regulations on Bioprospecting, Access and Benefit-Sharing**

- 1. Permit-holder's name:**
- 2. Permit-holder's physical/postal address, telephone, fax, and e-mail address:**
- 3. Name of person in charge of bioprospecting (if different from permit-holder):**
- 4. Identify number of permit-holder or person in charge of bioprospecting:**

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the word “Identify” is intended to be “Identity”.)

5. **If the application was a joint application, names of any other applicants:**
6. **Contact details of all other applicants:**
7. **Name and contact details of importer:**
8. **Nature of permit:** This permit authorises the permit holder to use and export the following indigenous biological resources for the purposes of bioprospecting, in the quantities specified and to collect the indigenous biological resources in the areas set out below:

Type of organism	Family, genus or species (scientific and common names) (if possible)	Form in which it will be exported	Quantity (Indicate if there are limitations on the quantity of samples)	Point of export	Point of import	Full locality data (GIS readings if possible)

9. **Duration of permit:** This permit is valid until
10. **Benefit-sharing agreements and material transfer agreements:** This permit must be read with the following benefit-sharing agreements and material transfer agreements entered into with stakeholders envisaged in section 82 (1) of the Biodiversity Act.
11. **Conditions:** This permit is issued subject to the following conditions—
  - 11.1 the permit holder may use the indigenous biological resources for the following purposes only:
  - 11.2 the permit holder must comply with all other legislative requirements for the valid export of the indigenous biological resources;
  - 11.3 the permit holder may not transfer the indigenous biological resources to any third party without the prior informed consent in writing of the issuing authority in respect of this export permit and then only under a written agreement containing terms no less restrictive than those which apply to the permit holder in terms of this permit and any agreements referred to in paragraph 10;
  - 11.4 the permit holder must submit a progress report to the issuing authority within one year of date of issue of this permit and annually thereafter;

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

- 11.5 if new collaborators join the bioprospecting project for which this permit is being issued, the permit holder must notify the issuing authority in writing;
- 11.6 all money due to stakeholders in terms of a benefit-sharing agreement must be paid into the Bioprospecting Trust Fund, as required by section 85 (1) of the Act; and
- 11.7 the permit-holder will be liable for the costs of mitigating or remedying the impact of the bioprospecting on the environment, in accordance with section 28 of the National Environmental Management Act, 107 of 1998; and
- 11.8 additional conditions may be inserted here

**Signed by the Minister of Environmental Affairs and Tourism**

**Signature:**

**Date:**

**Annexure 6**

**EXPORT PERMIT FOR THE PURPOSE OF CONDUCTING RESEARCH OTHER THAN BIOPROSPECTING**

**This permit is issued in terms of Regulation 13 of the Regulations on Bioprospecting, Access and Benefit-Sharing**

1. **Permit holder's name:**
2. **Permit holder's physical/postal address, telephone, fax, and e-mail address:**
3. **Name of person in charge of bioprospecting (if different from permit holder):**
4. **Identify number of permit-holder or person in charge of bioprospecting:**
5. **If the application was a joint application, names of any other applicants:**
6. **Contact details of all other applicants:**
7. **Name and contact details of importer:**
8. **Nature of permit:** This permit authorises the permit holder to export, in the quantities specified, the following indigenous biological resources for the purpose of conducting research other than bioprospecting.

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

Type of organism	Family, genus or species (scientific and common names) (if possible)	Form in which it will be exported	Quantity (Indicate if there are limitations on the quantity of samples)	Point of export	Point of import	Full locality data (GIS readings if possible)

**9. Duration of permit:** This permit is valid until

**10. Conditions:** This permit is issued subject to the following conditions—

- 10.1 the indigenous biological resources to which the permit relates, may only be used for the following non-commercial research purposes:
- 10.2 the permit-holder must comply with all other legislative requirements for the collection and export of the indigenous biological resources;
- 10.3 the indigenous biological resources to which the permit relates may not be used for bioprospecting purposes;
- 10.4 the permit-holder will be liable for the costs of mitigating or remedying the impact of the bioprospecting on the environment, in accordance with section 28 of the National Environmental Management Act, 107 of 1998;
- 10.5 the permit-holder may not transfer the indigenous biological resources to any third party without the prior informed consent in writing of the issuing authority in respect of this export permit and then only under a written agreement containing terms no less restrictive than those which apply to the permit holder in terms of this permit. The issuing authority will not give this consent if the third party intends using the resources for bioprospecting purposes;
- 10.6 the permit-holder must submit a progress report to the issuing authority by or alternatively, within one year of the date of issue of this permit (delete whichever is not applicable). Thereafter, the permit-holder must submit progress reports annually, or alternatively by (delete whichever is not applicable);
- 10.7 if new collaborators join the research project for which this permit has been issued, the permit-holder must notify the issuing authority in writing; and
- 10.8 additional conditions may be inserted here.

**Signed by the Member of the Executive Council responsible for Environmental Affairs**

**Signature:**

**Date:**

## **Annexure 7**

### **MATERIAL TRANSFER AGREEMENT**

**Notes:**

1. This agreement must be entered into by an applicant for a permit and any stakeholders identified in terms of the Regulations who provide or give access to indigenous biological resources.
2. If there is more than one stakeholder a separate agreement must be entered into with each stakeholder.
3. If insufficient space is provided in this form, additional information may be included by way of annexures. Alternatively, parties can elect to use their own forms with sufficient space provided for each Regulation, as long as those forms follow the general format of this form.
4. The parties to this agreement must sign the agreement in the space indicated and must initial every other page of the agreement, including any annexures.

#### **Parties to the agreement**

**1. Recipient of indigenous biological resources, if recipient is a juristic person:**

1.1 Name of institution or body:

1.2 Registration no. of institution or body

1.3 Contact details of institution or body (including postal/physical address, phone, fax and e-mail address):

1.4 Name of contact person in institution or body (attach a certified copy of ID document):

1.5 Capacity of contact person:

**2. Recipient of indigenous biological resources, if recipient is a natural person**

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

2.1 Name of recipient:

2.2 Identity number of recipient:

2.3 Contact details of recipient (including postal/physical address, phone, fax and e-mail address):

**3. Provider of access to indigenous biological resources**

3.1 Name:

3.2 Capacity:

3.3 If entering into agreement in a representative capacity, state name of principal:

3.4 Contact details (includes physical/postal address, telephone, fax and e-mail address):

**4. Indigenous biological resources**

The type, quantity and source of indigenous biological resources to which this agreement relates are—

Type of organism	Family, genus or species (scientific and common names) (if possible)	Part of organism to be collected	Quantity (Indicate if there are limitations on the quantity of samples)	Full locality data (GIS readings if possible)

**5. Current uses of the indigenous biological resources—**

The present potential uses of the indigenous biological resources to be collected are the following—

**6. Purpose of export (if applicable)**

The indigenous biological resources are to be exported for the following purposes—

**7. Third parties**

The recipient may only provide any such indigenous biological resources or their progeny to third parties in terms of the following conditions (fill in detail below)—

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

The recipient agrees to take every reasonable precaution to prevent the identified indigenous biological resources coming into the possession of any unauthorised third party.

**8. Entire Agreement**

This agreement constitutes the entire agreement between the parties in regard to the subject matter of this agreement and no addition to, variation or cancellation of this agreement or waiver of any rights under this agreement will be of any force or effect unless reduced to writing and signed by the parties to this agreement.

**Signature of a applicant for permit:**

**Date:**

**Capacity of signatory:**

**On behalf of:**

**Signature of access provider of resource:**

**Date:**

**Capacity of signatory:**

**On behalf of:**

**Approved by the Minister of Environmental Affairs and Tourism**

**Signature:**

**Date:**

**Annexure 8**

**BENEFIT-SHARING AGREEMENT**

**Notes:**

1. This agreement must be entered into by an applicant for a permit and any stakeholders identified in terms of the Act and the Regulations.
2. If there is more than one stakeholder a separate agreement must be entered into with each stakeholder.

3. If insufficient space is provided in this form, additional information may be included by way of annexures. Alternatively, parties can elect to use their own forms with sufficient space provided for each regulation, as long as those forms follow the general format of this form.
4. The parties to this agreement must sign the agreement in the space indicated and must initial every other page of the agreement, including any annexures.

**1. Applicant for permit if applicant is a juristic body**

1.1 Name of institution or body:

1.2 Registration number of institution or body:

1.3 Contact details of institution or body (including postal/physical address, phone, fax and e-mail address):

1.4 Name of contact person in institution or body:

1.5 Capacity of contact person:

**2. Applicant for a permit if applicant is a natural person**

2.1 Name of applicant:

2.2 Identity number of applicant:

2.3 Contact details of recipient (including postal/physical address, phone, fax and e-mail address):

**3. Provider of access to indigenous biological resources (if applicable)**

3.1 Name:

3.2 Capacity:

3.3 If entering into agreement in a representative capacity, state name of principal:

3.4 Contact details (includes physical/postal address, telephone, fax and e-mail address):

**4. Indigenous community (if applicable)**

4.1 Description of indigenous community:

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

4.2 Name of indigenous community representative who will sign this agreement on behalf of the indigenous community:

4.3 Capacity:

4.4 Contact details (includes physical/postal address, telephone, fax and e-mail address) of the indigenous community representative:

*A resolution adopted by the indigenous community must be attached to this form. The resolution must confirm that the indigenous community representative indicated above has been authorised to enter into this agreement on behalf of the indigenous community; that the indigenous community has full knowledge of the bioprospecting project; and that it consents to entering into this benefit-sharing agreement.*

**5. Type and quantity of indigenous biological resources**

This agreement concerns the following indigenous biological resources—  
(specify below type of resources, quantity of resources and area or source from which the resources are to be collected or obtained)

Type of organism	Family, genus or species (scientific and common names) (if possible) (scientific and common names)	Part of organism to be collected	Quantity (Indicate if there are limitations on the quantity of samples)	Full locality data (GIS readings if possible)

**6. Current uses of indigenous biological resources**

The present potential uses of the indigenous biological resources to be collected are the following—

**7. Intended use of indigenous biological resources**

The manner in which and the extent to which the indigenous biological resources are to be used or exploited for purposes of the bioprospecting are (set out details)—

**8. Traditional use or knowledge (if applicable)**

The indigenous community that is a party to this agreement has the following traditional knowledge of the indigenous biological resources or has traditionally used the indigenous biological resources in the following way—

## 9. Sharing in benefits

Benefits will vary considerably from case to case and in particular, benefits will vary depending on whether the stakeholder is providing access to the indigenous biological resources or is an indigenous community. The lists below provide examples of monetary and non-monetary benefits that may arise from bioprospecting projects. This first list is more relevant if the stakeholder to this agreement is providing or giving access to the indigenous biological resources while the second list is more relevant if the stakeholder to this agreement is an indigenous community. Tick each block that applies to this agreement and identify below who will be the beneficiary of each benefit and the extent of the benefit (provide supporting documentation where necessary).

**To be completed if stakeholder is providing or giving access to the indigenous biological resources**

### Non-monetary, monetary and 'in kind' benefits

Non-monetary, monetary and 'in kind' benefits		
Acknowledgement of parties giving access to resources		Voucher specimens with national institutions
Research results and copies of papers		Participation of South Africans in research
Support for conservation		Access to international collections by South Africans
Species inventories		Recognition and promotion of traditional knowledge/use
Student training and support		Community development projects
Scientific capacity development		Environmental education
Technology transfer		Fees
Joint Research		Royalties
Information		Upfront payments
Equipment and infrastructure		Milestone payments
Other (specify)		Other financial benefits (specify)
Other (specify)		Other (specify)

**To be completed if stakeholder is an indigenous community**

<b>Non-monetary, monetary and 'in kind' benefits</b>			
Ongoing communication of bio-prospecting objectives, methods and findings, translated into local languages		Copies of proposals, reports and publications	
Simplified and popularised posters, manuals, pamphlets and other documents translated into local languages		Recognition and promotion of traditional knowledge/use	
Co-authorship of publications		Lodging of specimens	
Access to research data		Grants for development and environmental education projects	
Copies of photographs and slides		Fees (eg for consultation, assistants, guides, use of facilities and infrastructure)	
Inclusion in the research of local collaborators, assistants, guides and informants		Royalties	
Training of local people as appropriate in relevant scientific, legal and management issues		Upfront payments	
Equipment and infrastructure support		Milestone payments	
Co-ownership of any intellectual property rights		Other financial benefits (specify)	
Other (specify)		Other (specify)	

**10. Payment of benefits**

All money arising out of this agreement and due to any party to this agreement must be paid into the Bioprospecting Trust Fund.

**11. Review of agreement**

This agreement will be reviewed every ..... (**fill in agreed timeframe**), with a view to amending the agreement if necessary. One month prior to every review, the permit holder must disclose any new material information with regard to the bioprospecting to all stakeholders to enable stakeholders to participate in the review from an informed basis.

**12. Other matters**

Any other matters or conditions which the parties to this agreement wish to record may be attached to this agreement as an annexure.

REGULATIONS ON BIO-PROSPECTING, ACCESS AND BENEFIT-SHARING

A copy of this agreement must be lodged with the Director-General of the Department of Environmental Affairs and Tourism within one month of the agreement being concluded.

This agreement constitutes the entire agreement between the parties in regard to the subject matter of this agreement and no addition to, variation or cancellation of this agreement or waiver of any rights under this agreement will be of any force or effect unless reduced to writing and signed by the parties to this agreement.

**Signature of applicant for permit:**

**Date:**

**Capacity of signatory:**

**On behalf of:**

**Endorsement of a juristic body, if applicable:**

**Name of juristic body:**

**Signature of duly authorised officer from the juristic body:**

**Date:**

**Signature of access provider of indigenous biological resource:**

**Date:**

**Capacity of signatory:**

**On behalf of:**

**Signature of indigenous community representative:**

**Date:**

**Capacity of signatory:**

**On behalf of:**

**Approved by the Minister of Environmental Affairs and Tourism**

**Signature:**

**Date:**



**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GNR 149 OF 8 FEBRUARY 2008:**

**NOTICE OF EXEMPTION IN TERMS OF SECTION 86**

**Schedule**

**1. Definitions**

In this Notice, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Biodiversity Act or the Bioprospecting, Access and Benefit Sharing Regulations, has the same meaning, and -

**“Biodiversity Act”** means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

**“bioprospector”** means a natural or juristic person who engages in the commercialisation phase of a bioprospecting project;

**“domestic use”** means using indigenous biological resources for direct consumption or other traditional practices and excludes the development of new products for commercial or industrial exploitation either alone or in partnership with third party;

**“ex situ indigenous biological resources”** means indigenous biological resources that occur in collections outside their natural habitat;

**“wildlife”** includes mammals, birds, reptiles, amphibians, arthropods, fish and plants.

**2. Exemptions**

The following activities relating to indigenous biological resources are exempt from Chapter 6 of the Act -

- 2.1. research other than bioprospecting, provided that the research is conducted within the borders of South Africa and the research is not conducted for the purposes of commercial or industrial exploitation;
- 2.2. the export of ex situ indigenous biological resources for purposes of research other than bioprospecting, provided the exporter has entered into an export agreement and notified the issuing authority thereof;

NOTICE OF EXEMPTION IN TERMS OF SECTION 86

- 2.3. the trade of commercial products purchased from a bioprospector, provided that the bioprospector has complied with the Regulations on Bioprospecting, Access and Benefit-sharing;
- 2.4. the keeping, breeding, cultivation, moving, trading and use of wildlife not directed at the development and production of -
  - 2.4.1. products such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours and extracts; or
  - 2.4.2. new plant varieties and products;
- 2.5. the collection, use, propagation cultivation or trade of indigenous biological resources for domestic use or subsistence purposes;
- 2.6. the artificial propagation, multiplication or cultivation of flora species for the local and international cut flower and existing ornamental plant markets;
- 2.7. aquaculture or mariculture activities involving fresh water and marine species producing specimens for consumption purposes.

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GN 251 OF 29 FEBRUARY 2008:**

**NATIONAL NORMS AND STANDARDS FOR THE MANAGEMENT OF  
ELEPHANTS IN SOUTH AFRICA**

**SCHEDULE**

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**CHAPTER 1**

**INTERPRETATION, PURPOSE AND APPLICATION**

**1. Definitions**

- (1) In these Norms and Standards, unless the context indicates otherwise, a word or expression defined in the Biodiversity Act or Protected Areas Act has the same meaning, and-

“**adaptive management**” means integrated research, planning and monitoring in repeated cycles of learning in order to better define and achieve objectives, and is built on the assumption that natural extensive wildlife systems are complex, our knowledge is imperfect but we can learn from purposeful, documented objectives and actions;

**“applicable legislation”** means-

- (a) the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);
- (b) the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
- (c) legislation and instruments mentioned in section 88(3) of the Biodiversity Act, 2004;
- (d) any regulations issued in terms of section 97 of the Biodiversity Act, 2004, or referred to in section 49 of the Protected Areas Act which apply to the implementation of these norms and standards;
- (e) these Norms and Standards and annexures thereto;
- (f) the Animals Protection Act, 1962 (Act No. 71 of 1962);
- (g) the Performing Animals Protection Act, 1935 (Act No. 24 of 1935);
- (h) the Animal Matters Amendment Act, 1993 (Act No. 42 of 1993);
- (i) the Animal Health Act, 2002 (Act No. 7 of 2002);
- (j) the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
- (k) the Animals Diseases Act, 1984 (Act No. 35 of 1984);
- (l) the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983);
- (m) the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965);
- (n) the Meat Safety Act, 2000 (Act No. 40 of 2000); and
- (o) the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982);
- (p) the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972)
- (q) the Animal Improvement Act, 1998 (Act No. 62 of 1998)

**“Biodiversity Act”** means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

**“biodiversity”** means the variability among living organisms from all sources including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part and also includes diversity within species, between species, and of ecosystems;

**“born in captivity”** means an elephant conceived naturally and born to a captive elephant in a controlled environment;

**“captive elephant”** means an elephant that is kept in captivity in a controlled environment, including elephants kept in captivity for rehabilitation, but excluding wild elephants in temporary captivity for other purposes;

**“captive facility”** means a registered facility in accordance with the provisions of Regulation 27 of the Threatened or Protected Species Regulations, 2007 and paragraph 24 of these Norms and Standards;

**“capture”** includes searching, pursuing, driving, chasing, darting, lying in wait, luring, alluring, discharging a missile, catching, sedating, or exercising physical control by any other means, method or device, with the intent not to kill;

**“controlled environment”** in relation to elephant management means an enclosure designed to hold an elephant in any way that -

- (a) prevents it from escaping; and
- (b) facilitates intensive human intervention in the form of provision of:
  - (i) food or water;
  - (ii) artificial housing; or
  - (iii) veterinary or health care; and is less than 2000 ha;

**“cow-calf group”** means a cohesive group of females and their calves led by the matriarch or another older female, which associate regularly and closely with one another over time;

**“culling”** has the meaning as defined by the Threatened or Protected Species Regulations;

**“damage causing elephant”** has the meaning as defined by the Threatened or Protected Species Regulations;

**“defined herd”** means a cohesive group of elephants that exist in a limited or extensive wildlife system;

**“destroy”** means to intentionally kill an elephant for management purposes;

**“ecologist”** means a person registered as an ecologist under section 20 of the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003);

**“elephant population”** means a group of elephants freely associating in a given environment;

**“escaped elephant”** means-

- (a) a wild elephant that has escaped from a protected area, or an adequately enclosed or suitably fenced property, but has not become a damage causing elephant; or
- (b) a captive elephant that has escaped from captivity;

**“extensive wildlife system”** has the meaning as defined by the Threatened or Protected Species Regulations;

**“genuine orphan calf”** means an elephant calf that-

- (a) is less than 2 years old;
- (b) its mother has clearly died of natural causes or poaching;
- (c) has been rejected by the elephant population of which it forms part; and
- (d) is likely to die if it is not taken into captivity;

**“handler”** means a trained person who is responsible for controlling, caring for, cleaning or managing a captive elephant;

**“hunt”** has the meaning as defined by the Threatened or Protected Species Regulations;

**“institute”** means the South African National Biodiversity Institute (SANBI), established in terms of section 10 of the Biodiversity Act;

**“issuing authority”** has the meaning as defined by the Threatened or Protected Species Regulations;

**“kept in captivity”** or **“captive kept”** has the meaning as defined by the Threatened or Protected Species Regulations, provided that the definition of “controlled environment” given in these norms and standards applies specifically in relation to the management of elephants;

**“limited wildlife system”** in relation to elephant management means-

- (a) an area that is suitable for management of elephant populations of less than 15 animals, with minimal human intervention, except the provision of water and supplementation of food in times of drought;
- (b) is fenced to hold an elephant in a way that prevents it from escaping; and
- (c) is larger than 2000 ha and less than 5000 ha, but excludes fenced land on which self-sustaining wild populations of elephants are managed in an extensive wildlife system;

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“**management authority**” in relation to a protected area, means the organ of state or other institution or person in which the authority to manage the protected area is vested;

“**management plan**” means the management plan referred to in paragraph 6;

“**preferred management density**” means a stocking rate, or an acceptable range of densities within which a population may be allowed to fluctuate naturally;

“**professional hunter**” has the meaning as defined by the Threatened or Protected Species Regulations;

“**Protected Areas Act**” means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

“**protected area**” means an area declared as such in terms of the Protected Areas Act;

“**range manipulation**” means the alteration of the natural range of an elephant population, whether through limitation, extension or expansion by using fires, provision or opening or closure of, watering points, feed, fencing, driving or other human activity;

“**registered game farm**” has the meaning as defined by the Threatened or Protected Species Regulations;

“**responsible person**” means the owner or manager of an elephant, the owner or manager of the land on which an elephant normally ranges or a management authority of a protected area;

“**rehabilitation facility**” has the meaning as defined by the Threatened or Protected Species Regulations;

“**rehabilitation**” means the keeping in captivity for the treatment and recovery of sick or injured elephant, or the rearing of genuine orphan elephants, for the sole purpose of returning them to the wild in a limited or an extensive wildlife system as soon as possible;

“**roaming elephant**” means an elephant from a known or unknown locality for which responsibility can not readily be determined;

“**scheduled substance**” means a medicine or other substance prescribed under section 22A of the Medicines and Related Substances Act, 1965 (Act No.101 of 1965);

“**sanctuary**” has the meaning as defined by the Threatened or Protected Species Regulations;

“**temporary captivity**” means a wild elephant that is kept in a controlled environment for a short period of time for the purpose of-

- (a) translocation, release camps, transfer or transport;
- (b) quarantine;
- (c) veterinary treatment; or
- (d) rehabilitation, in the case of injured or genuine orphan elephants;

**“Threatened or Protected Species Regulations”** means the regulations made by the Minister of Environmental Affairs and Tourism in terms of section 97 of the Biodiversity Act, relating to listed threatened or protected species published under Government Notice No.R.152 in Gazette No.29657 of 23 February 2007, as amended;

**“translocation”** means the removal by human and mechanical means of a wild elephant from its existing location to another area;

**“veterinarian”** means a person registered in terms of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982);

**“wild elephant”** means an elephant that-

- (a) is not a captive elephant or is in temporary captivity, pending release into a limited or an extensive wildlife system; or
  - (b) is in a limited or an extensive wildlife system;
- (2) In these Norms and Standards, a word or expression which is a derivative or other grammatical form of a word or expression defined in subparagraph (1) or in the Biodiversity Act or Protected Areas Act, has a corresponding meaning unless the context indicates that another meaning is intended.

## **2. Purpose and application**

- (1) In terms of Section 9(1) of the Biodiversity Act, the Minister may, by notice in the Gazette-
- (a) issue norms and standards for the achievement of any of the objectives of this Act, including for the -
    - (i) management and conservation of South Africa’s biological diversity and its components;
    - (ii) restriction of activities which impact on biodiversity and its components; and
  - (b) set indicators to measure compliance with those norms and standards.

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- (2) The purpose is to set national norms and standards to ensure that -
- (a) elephants are managed in the Republic in a way that -
    - (i) ensures the long term survival of elephants within the ecosystem in which they occur or may occur in future;
    - (ii) promotes broader biodiversity and socio-economic goals that are ecologically, socially and economically sustainable;
    - (iii) does not disrupt the ecological integrity of the ecosystems in which elephants occur;
    - (iv) enables the achievement of specific management objectives of protected areas, registered game farms, private or communal land;
    - (v) ensures the sustainable use of hair, skin, meat and ivory products; and
    - (vi) is ethical and humane and
    - (vii) recognises their sentient nature, highly organised social structure and ability to communicate,
  - (b) the management of elephants is regulated-
    - (i) in a way that-
      - (aa) is uniform across the Republic; and
      - (bb) takes into account the Republic's international obligations in terms of international agreements on biodiversity management binding on the Republic; and
    - (ii) in accordance with national policies on biodiversity management and sustainable development.
- (3) These norms and standards are informed by the principles contained in paragraph 3.
- (4) The provisions of these norms and standards apply to the management of elephants wherever they occur within the Republic or where a permit to import is applied for.
- (5) The provisions of these Norms and standards must be read with the Threatened and Protected Species Regulations, 2007.

### 3. Guiding Principles

Any person executing a function or exercising a power or carrying out an activity that relates, directly or indirectly, to an elephant must do so with regard to the following further principles:

- (a) elephants are intelligent, have strong family bonds and operate within highly socialised groups and unnecessary disruption of these groups by human intervention should be minimised;
- (b) while it is necessary to recognise the charismatic and iconic status of elephants and the strong local and international support for their protection, proper regard must be given to the impacts of elephants on biodiversity or people living in proximity to elephants;
- (c) elephants are recognised engineers of habitat change and their presence or absence has a critical effect on the way in which ecosystems function;
- (d) the movement of elephants throughout their historical range has been disrupted by the activities of people over the last two centuries;
- (e) careful conservation management has led to the significant growth of elephant populations and human intervention may be necessary to ensure that any future growth occurs in a manner that does not result in the loss of biodiversity, ecosystem function and resilience or human life, or the compromise of key management objectives for protected areas, registered game farms or private or communal land;
- (f) elephants often exist in close proximity to people, with the result that the elephants potentially pose a threat to the well-being of people and management measures must endeavour to limit these threats;
- (g) measures to manage elephants must be informed by the best available scientific information and, where the available scientific information is insufficient, adaptive management forms the cornerstone of the management of elephants and adaptive decision making tools must be adopted;
- (h) management interventions must, wherever practicable, be based on scientific knowledge or management experience regarding elephant populations and must -
  - (i) take into account the social structure of elephants;
  - (ii) be based on measures to avoid stress and disturbance to elephants;
  - (i) where lethal measures are necessary to manage an elephant or group of elephants or to manage the size of elephant populations, these should be undertaken with caution and after all other alternatives have been considered;

- (j) while efforts should be made to ensure that elephants continue to play an important role in an already well established nature-based tourism sector this should not occur in an inappropriate, inhumane or unethical form or manner;
- (k) in the context of objective-based management of complex ecological systems elephants should not be accorded preference over other elements of biodiversity;
- (l) every effort must be made to safeguard elephants from abuse and neglect; and
- (m) elephant population in the wild should be managed in the context of objective-based management of the complex ecosystem in which they occur.

## **CHAPTER 2**

### **GENERAL MANAGEMENT OF ELEPHANTS**

#### **Part 1**

#### **General Provisions**

#### **4. Restricted activities**

No restricted activities in terms of the Biodiversity Act involving an elephant may be undertaken without a permit issued in terms of Regulation 18 of the Threatened or Protected Species Regulations.

#### **5. Keeping of elephants**

- (1) An elephant may not be kept unless- it is:
  - (a) a wild elephant that ranges in a limited or an extensive wildlife system that forms part of -
    - (i) a proclaimed protected area; or
    - (ii) a registered game farm, private or communal land; or
  - (b) a captive elephant kept at a captive facility; or
  - (c) a wild elephant in temporary captivity; or
  - (d) an ill or injured elephant or genuine orphan calf kept in a rehabilitation facility; or
  - (e) a genuine orphaned calf that could not be rehabilitated successfully to a limited or extensive wildlife system, and is therefore kept in a sanctuary; and

- (f) kept in terms of an approved management plan.
- (2) In the case of a limited and extensive wildlife system, the owner or person in control of elephants is responsible to provide for an ongoing assessment of the impact of the elephant on the habitat and ecological function of the area.
- (3) A captive elephant may not be kept or handled without-
  - (a) the elephant being fitted with two permanent internal microchips or transponders inserted one at the base of the tail and one in front of the left shoulder, the responsible person must submit the serial numbers of the transponders (microchips) to the issuing authority;
  - (b) the responsible person creating and maintaining a system of identikits of each elephant as changes in tusks or ears occur, preferably by a set of photographs and forward these to the issuing authority for incorporation in the national register; and
  - (c) there being a minimum of two trained elephant handlers permanently and exclusively allocated to the care of the elephant
- (4) A permit to keep a captive elephant shall only be issued for a period of 36 months pursuant to which application must be made for the renewal in terms of regulation 38 of the Threatened of Protected Species Regulations.

## **6. Management plans**

- (1) The responsible person in relation to a protected area, registered game farm, private or communal land or in relation to a captive facility in which elephants are kept, is responsible-
  - (a) to prepare a management plan; and
  - (b) to submit the management plan to the issuing authority for approval.
- (2) A management plan must-
  - (a) comply with the following:
    - (i) the process prescribed in the Protected Areas Act and the requirements in Annexure I for a wild elephant occurring on land that is declared as a protected area;
    - (ii) for a wild elephant occurring on a registered game farm, private or communal land the requirements specified in Annexure I; or
    - (iii) for a captive elephant, the requirements specified in Annexure II;

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- (b) take into consideration the principles contained in paragraph 3;
  - (c) be consistent with any biodiversity management plan developed in terms of section 43 of the Biodiversity Act;
  - (d) include a contingency plan that deals with the fate of the elephant in the event of the death, insolvency or any other event that impairs the ability of the owner or the responsible person to care for the elephant;
  - (e) contain an initial assessment as described in paragraph 7 and provide for the ongoing assessment of the impact of the elephant on the vegetation structure and ecological function of-
    - (i) the area of enclosure; or
    - (ii) any area from which the elephant is deliberately excluded;
  - (f) identify the potential for conflict between people and elephants in or on the borders of the area of enclosure and provide for emergency plans in the event of the escape of an elephant, including measures to deal with such an emergency;
  - (g) identify interventions likely to be made and management measures likely to be adopted, based on the principle of adaptive management; and
  - (h) include a culling plan, if and when culling is identified as an intervention in terms of paragraph 15(1) and set out the conditions under which culling would take place.
- (3) the management plan referred to in subparagraph (1) may be incorporated in one of the following plans:
- (a) in relation to a protected area, the plan that has been prepared by the management authority in terms of section 39(2) of the Protected Areas Act and the requirements for a management plan as described in Annexure I and approved by the Minister or the MEC as the case may be; or
  - (b) a biodiversity management plan that has been developed in terms of section 43 of the Biodiversity Act.
- (4) When preparing a management plan and/or a culling plan for a protected area, registered game farm, private or communal land the responsible persons must develop their management plan according to Annexure I and II of these norms and standards.

## **7. Initial assessment**

An assessment in terms of paragraph 6(2)(e) must-

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- (a) consider the potential impact of the elephants on the biodiversity of the area and structure of the habitat into which the population is to be introduced;
- (b) take into account-
  - (i) the availability of adequate food plants;
  - (ii) the availability of adequate shelter;
  - (iii) the availability of adequate water for drinking and bathing; and
  - (iv) the size of the land available to the population;
- (c) be based on the following population parameters:
  - (i) a cow-calf group;
  - (ii) the possibility that two adult bulls may need to be introduced if juvenile males become troublesome; and
  - (iii) an initial stocking density for the population that must equal or be less than 50% of the future maximum preferred elephant density for the land;
- (d) determine if the responsible person can provide for the physical, physiological, social and natural behavioural needs of the elephant; and
- (e) determine if the responsible person will meet and be capable of meeting the long-term financial commitments of owning or managing elephants.

### **8. Duty of care**

The responsible person is obliged to-

- (a) provide responsible veterinary care;
- (b) remain abreast with new monitoring and research information on the management of elephants, especially captive elephants;
- (c) submit to the Institute all information that may be relevant to the development of properly planned monitoring and research programmes, a national and international database on elephant management and the development of best practises;
- (d) share information and experiences with other responsible persons;
- (e) provide for the safety of people, including guests and staff, interacting with the elephants in accordance with the requirements of Annexure III; and

- (f) not neglect or allow any neglect or abuse of the elephant.

**9. Adequate enclosure**

- (1) An elephant should be kept in an area that is adequately enclosed.
- (2) An area will be deemed to be adequately enclosed in terms of sub-paragraph (1) if it is-
  - (a) a new protected area, newly registered game farm, private or communal land and a perimeter fence has been erected; or
  - (b) a limited or an extensive wildlife system around which a perimeter fence has been erected.
- (3) The minimum standard for a perimeter fence is-
  - (a) a minimum height of 1.8m; and
  - (b) electrified on the side occupied by the elephant in accordance with the requirements of Annexure V.
- (4) The perimeter fence must be properly maintained.
- (5) The provisions of sub-paragraph (1) shall not apply to-
  - (a) an elephant in the process of translocation; and
  - (b) that portion of a boundary that extends beyond an international border of the Republic.

**10. Administering of scheduled substances and sedation**

- (1) The administering of scheduled substances to an elephant must be in accordance with the Medicines and Related Substances Act, 1965 (Act No.101 of 1965).
- (2) An elephant may-
  - (a) only be sedated as an extraordinary measure;
  - (b) not be sedated repeatedly; and
  - (c) only be sedated for the purpose of temporarily immobilising or tranquillising it -
    - (i) to carry out a disease control procedure, scientific research or for management purposes;

- (ii) for treatment by a veterinarian; or
  - (iii) to translocate or transport the animal.
- (3) Sedation, or any administration of scheduled substances or veterinary procedures in terms of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982) in terms of subparagraph (2) may only be carried out by a veterinarian and may be carried out from a motorised vehicle or aircraft.

## **11. Capture of elephants**

- (1) A wild elephant may only be captured under the following conditions:
- (i) The capture is for the purposes of temporary captivity;
  - (i) The capture must comply with all relevant permitting requirements and conditions;
  - (ii) The capture must be effected in accordance with the provisions of the Biodiversity Act; and
  - (iv) The capture must take place in compliance with the relevant provisions of the Animal Protection Act, 1962 (Act No. 71 of 1962), and the Translocation of Certain Wild Herbivore (SABS Protocol SABS 0331), as amended.
- (2) A wild elephant may be captured for introduction into a rehabilitation facility only if-
- (a) in the case of a sick or injured elephant, it is for treatment and recovery purposes and subsequent release into a limited or extensive wildlife system; or
  - (b) it is a genuine orphan calf captured or to be captured on private or communal land for the purposes of rearing and subsequent release into a limited or extensive wildlife system; and
  - (c) a permit authorising the removal of the elephant from the wild has first been obtained from the issuing authority in terms of the Threatened or Protected Species Regulations.
- (3) A wild elephant may be captured to be kept in captivity with the approval of the Minister, only in exceptional circumstances, including but not limited to:
- (i) international agreements; or
  - (ii) Scientific or research purposes.

## **12. Translocation, import and export of elephants**

- (1) An elephant may not be translocated if it is-
  - (a) a wild elephant that is intended to be kept in captivity in controlled environment, other than in terms of paragraph 11;
  - (b) a wild elephant with a history of crop raiding, fence breaking, damaging property or aggression towards humans or livestock unless it is to be translocated to an area where there is no risk of damage from similar behaviour;
  - (c) a wild elephant that has been previously translocated, except under extraordinary conditions; or
  - (d) a wild or captive elephant from another country that is intended to be kept in captivity in the Republic.
- (2) An elephant may only be translocated if it is-
  - (a) part of a cow-calf group, and -
    - (i) the entire cow-calf group is translocated; and
    - (ii) the calves are more than 2 months old;
  - (b) a bull to be introduced to an area where there is a cow-calf group and the cow-calf group has successfully established a natural range for a period of three months; or
  - (c) for purposes of temporary captivity.
- (3) An elephant may only be translocated on the following conditions:
  - (a) the translocation must comply with all relevant permitting requirements;
  - (b) the translocation must be effected in accordance with the provisions of the Biodiversity Act;
  - (c) the translocation must comply with the relevant provisions of the Animal Protection Act, 1962 (Act No. 71 of 1962), and the Translocation of Certain Wild Herbivore (SABS Protocol SABS 0331), as amended;
  - (d) if elephants are captured within a protected area for the purpose of translocation, the capture must be in accordance with an approved management plan for the protected area within which the elephant occurs;

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- (e) if the elephants are to be introduced into a protected area, the introduction must be in accordance with an approved management plan for the protected area to which the elephant is to be introduced;
  - (f) at the point of destination, the elephant must initially be released into a release camp constructed in accordance with the provisions of Annexure IV;
  - (g) immediately prior to offloading into a release camp, the matriarch, other adults and juveniles must, if necessary, be tranquilized with short or long-acting tranquilisers; and
  - (h) when there is an agreement or exchange programmes between state institutions for exhibition or scientific purposes.
- (4) No wild or captive elephant may be-
- (a) imported into the Republic; or
  - (b) exported from the Republic, for the purposes of keeping it in captivity in a controlled environment, except in terms of paragraph 11 (3) or 12(5).
- (5) Captive elephants which are part of a bona fide circus may be temporarily imported or exported for a limited, specified period, not exceeding the period of performance, for the sole purpose of use in the circus.

### **13. Release camps**

- (1) A release camp must conform to the requirements of Annexure IV.
- (2) Except for the required management actions and in an emergency, there must be no interaction between a human and an elephant whilst the elephant is in a release camp.
- (3) An elephant may not be kept in a release camp for a period exceeding 6 months except for veterinary treatment.
- (4) Elephants are highly social animals and, other than in extraordinary circumstances, should not be housed separately from all of the other members of their immediate family.
- (5) Subparagraph (3) does not apply in the case of an elephant in quarantine or as prescribed by a veterinarian.

## **Part 2**

### **Management of Elephants in the Wild**

#### **14. Composition of wild elephant populations**

- (1) An elephant population in the wild must be managed with proper regard for-

- (a) the highly social nature of elephants;
  - (b) the organised matriarchal system in which they normally operate;
  - (c) the division of the population into different herds;
  - (d) the division of a herd into cow-calf groups each under a matriarch;
  - (e) the existence of adult bulls in a herd outside of the cow-calf groups; and
  - (f) the role of adult bulls in dominating and controlling juvenile males.
- (2) Bull elephants, between twenty-five and thirty-five years old must be introduced into areas where the only male elephants present are juvenile bulls.

**15. Control of wild elephant population sizes and distribution**

- (1) Should it become necessary, within the objectives of the management plan of the area concerned to manage the size, or the composition or the rate of growth of a wild elephant population it must-
- (a) take place in terms of the management plan applicable to the area in which the population occurs and to the population;
  - (b) use one or a combination of the following management options:
    - (i) Contraception in terms of paragraph 17;
    - (ii) Range manipulation in terms of paragraph 18;
    - (iii) Translocation in terms of paragraph 12(2) and (3);
    - (iv) Introduction of elephants in terms of paragraph 16 or 12(1);
    - (v) Hunting in terms of paragraph 20 and 21; or
    - (vi) Culling in terms of these Norms and Standards as well as the Threatened or Protected Species Regulations.
- (2) Should it become necessary, within the objectives of the management plan of the area concerned to manage the spatial distribution of a wild elephant population within the boundaries of the area, it must-
- (a) take place in terms of the management plan applicable to the area in which the population occurs and to the population;

- (b) use one or a combination of the following management options:
- (i) Contraception in terms of paragraph 17;
  - (ii) Range manipulation in terms of 18;
  - (iii) Translocation in terms of sub-paragraphs 12(2) and (3); or
  - (iv) Introduction of elephants in terms of paragraph 12(1) or 16(1)(b).
- (3) The flow diagram in Annexure VI may be used as a guideline to determine the appropriate option.

**16. Establishment of new populations of wild elephants**

- (1) A new population of wild elephants may be established by-
- (a) translocation of elephants from an existing population of wild elephants; or
  - (b) introduction of captive elephants into a limited or an extensive wildlife system only after the issuing authority is satisfied that the elephants have been fully rehabilitated.
- (2) A new population of wild elephants may be established subject to the following conditions:
- (a) The prior approval of a management plan for the population;
  - (b) The prior assessment of the suitability of the land to which the population is to be translocated in terms of paragraph 12;
  - (c) Adequate enclosure in terms of paragraph 9;
  - (d) Stipulation of the initial population structures taking into account-
    - (i) the matriarchal society of the animals;
    - (ii) the initial population should not be less than 6 suitable animals, and should consist of a cow-calf group; and
    - (iii) that adult bulls may only be introduced once the cow-calf group has successfully established a natural range;
  - (e) Identification of the long term population structure in view of the management objectives of the population;

(f) Written notification of the intended establishment to adjacent landowners, communities and any other person who may be directly affected by the intended establishment and requesting written comments within a period of thirty days; and

(g) The issuing of a permit by the issuing authority.

## **17. Contraception**

(1) The responsible person undertaking a programme to control the size of an elephant population by reducing the rate of reproduction of the elephant population using contraceptives must take into account that-

(a) contraception is-

(i) undesirable if it requires regular sedation of an elephant;

(ii) difficult to implement in a large population;

(iii) most appropriate in a small elephant population of 20 or less and has an uncertain or limited ability to reduce the number of elephants within a large population; or

(iv) not effective in providing immediate control of an elephant population or dealing with the immediate need to reduce the size of an elephant population;

(b) the use of vasectomy procedures in elephants are currently complex and until scientific knowledge improves, should only be considered in small populations; and

(c) in publicly and privately owned protected areas, contraception should only be used in the context of approved research projects that are adequately designed to ensure meaningful conclusions regarding the efficacy of the techniques.

(2) Contraceptives must be-

(a) administered by a registered veterinarian; and

(b) applied in accordance with the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965).

(3) A monitoring programme must be implemented to evaluate the effects of a contraception programme on the elephants.

(4) Vasectomy procedures must be -

(a) undertaken by a veterinarian; and

- (b) applied in accordance with the Veterinary and Para-Veterinary Professions Act, 19 of 1982 and the Medicines and Related Substances Act, 1965 (Act No.101 of 1965).

### **18. Range manipulation**

The movement of an elephant in the area in which it normally ranges may be altered by using one or a combination of the following methods, without compromising biodiversity objectives:

- (a) Management of the water supply of the elephants;
- (b) Management of the feed supply of the elephants;
- (c) The controlled use of fire in appropriate situations;
- (d) Preventing the elephants from entering or leaving a particular area of the land by:
  - (i) erecting of enclosure fences; or
  - (ii) erection of exclosure fences;
- (e) The creation of corridors of movement between different areas; or
- (f) The expansion of the range by acquisition of additional land.

### **19. Culling**

Culling may be used to reduce the size of an elephant population subject to the following conditions:

- (a) Culling may be undertaken only in terms of a culling plan prepared by the responsible person with the assistance of an ecologist who is a recognised elephant management specialist and approved by the relevant issuing authority that sets out the conditions under which culling would take place and the manner in which the cull would be implemented;
- (b) The culling plan must provide the issuing authority with the following information relating to the culling operation:
  - (i) evidence that the actual or projected elephant numbers at a specific location are incompatible with the agreed land use objectives spelt out in the management plan and that a reduction in population numbers is therefore necessary;
  - (ii) evidence that all other population management options, referred to in paragraph 15 have been rejected by the ecologist referred to in 19 (a) after appropriate consideration and evaluation;

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- (iii) proposed number of elephants to be culled;
  - (iv) proposed method of animal selection;
  - (v) proposed time frames;
  - (vi) proposed culling methods; and
  - (vii) intended use of products;
- (c) An elephant may not be culled if it is-
- (i) part of a cow-calf group unless the entire cow-calf group, including the matriarch and juvenile bulls, is culled; or
  - (ii) part of a group comprising only juvenile elephants, unless the entire group is culled;
- (d) Culling must be done with-
- (i) quick and humane methods;
  - (ii) a rifle with a minimum calibre of .375 inches; and
  - (iii) a bullet of a full metal jacket monolithic construction with a minimum weight of 300 grains and shall not include bullets of soft-nosed construction; and
- (e) The use of suxamethonium (Scoline) in culling is prohibited.

### **Part 3**

#### **Hunting**

##### **20. Hunting of elephants**

- (1) Only the following elephants may be hunted:
- (a) Solitary males;
  - (b) Females, in terms of regulation 14(2)(b) of the Threatened or Protected Species Regulations and paragraph 25 of these Norms and Standards; and
  - (c) Females on private or communal land according to the management plan.
- (2) Subject to the exceptions in subparagraph (1) no elephant may be hunted in the immediate proximity of any female/calf group.

- (3) A professional hunter registered with the issuing authority must be present for the full duration and supervise each hunt, when the hunter is a non South African citizen.
- (4) A hunt must be carried out in compliance with the provisions of the Threatened or Protected Species Regulations and paragraphs 20 and 21 of these Norms and Standards.

## **21. Hunting methods**

In addition to those methods regulated in terms of Regulation 26 of Threatened or Protected Species Regulations; the following methods of hunting elephants are prohibited:

- (a) driving an elephant by any means;
- (b) hunting within 500 metres of a water hole or watering point;
- (c) using a pitfall; or
- (d) hunting with-
  - (i) a rifle with a calibre of less than .375 H&H; and
  - (ii) a bullet with a full metal jacket or monolithic construction with a weight of not less than 286 grains or heavier bullet of monolithic or full metal jacket construction.

## **Part 4**

### **Captive elephants**

#### **22. Provisions for captive elephants**

- (1) The provisions of the Animals Protection Act, 1962 (Act No. 71 of 1962), the Performing Animals Act, 1935 (Act No. 24 of 1935) and these Norms and Standards will apply to the general management of captive elephants as prescribed.
- (2) The Minister shall within 12 months of these Norms and Standards coming into effect, publish an Annexure VII that provides Minimum Standards for the management of captive elephants, and compliance with these Minimum Standards shall be a requirement of the Management Plan and a condition of permits for keeping of elephants in captivity.

#### **23. Keeping elephants in captivity**

An elephant may only be kept in captivity if -

- (a) it was already permitted to be kept in captivity on the date that these Norms and Standards came into effect; or

- (b) it was conceived naturally and born in captivity in a controlled environment to captive elephants as per the approved management plan.

#### **24. Registration of captive facilities for elephants**

The owner of captive elephants is responsible to -

- (a) apply to register the facility in terms of regulation 27 of the Threatened and Protected Species Regulations, 2007 and keep a register / stud book of each captive elephant at the facility;
- (b) submit to the issuing authority a management plan complying with the requirements as set out in Annexure II; and
- (c) comply with any other relevant policy, procedure or framework that provides guidance for the management of elephants and that is approved by the Minister.

### **Part 5**

#### **Escaped or Roaming Elephants**

#### **25. Escaped or roaming elephants**

- (1) The obligation to control an elephant that has escaped from a protected area or an adequately enclosed area lies with the responsible person and issuing authority.
- (2) The issuing authority is responsible to act as facilitator between the responsible person and the owner of or manager or other person in control of the property onto which the elephant has escaped to identify appropriate steps that may be taken to deal with the escaped elephant and the consequences of its escape.
- (3) The responsible person is responsible to apply to the issuing authority for permission to:
  - (a) capture the escaped elephant and return it to its normal range; or
  - (b) subject to the written approval of the owner of or manager or other person in control of the property onto which the elephant has escaped-
    - (i) hunt or arrange for the escaped elephant to be hunted; or
    - (ii) destroy the escaped elephant or arrange for the escaped elephant to be destroyed.
- (4) Should the responsible person fail to take steps in terms of sub-paragraph (5), the owner of the property onto which the elephant has escaped may-

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- (a) apply for a permit in terms of the Threatened and Protected Species Regulations, 2007 to-
  - (i) capture and-
    - (aa) return the elephant to its normal range; or
    - (bb) keep the elephant; or
  - (ii) hunt or arrange for the escaped elephant to be hunted; or
  - (iii) destroy or have the elephant destroyed; and (b) recover the cost incurred in terms of sub-paragraph (a)(i) or
    - (iii) from the responsible person.
- (5) An application in terms of subparagraph (4) must be accompanied with proof that the responsible person has been notified that the elephant has escaped from its normal range and the area in which it is currently ranging.
- (6) The obligation to control a roaming elephant whose origin can not readily be determined lies with the issuing authority or the owner of or manager or other person in control of the property onto which the elephant has roamed, in consultation with the issuing authority.
- (7) The responsible person, the owner of or manager or other person in control of the property onto which the elephant has roamed, must report such an incident to the issuing authority within a period not exceeding 24 hours after the incident has occurred.
- (8) In the case where the origin of the elephant can not readily be determined, the owner of the property onto which the elephant has roamed may -
  - (a) in terms of the Threatened and Protected Species Regulations, 2007 apply to the issuing authority for a permit to-
    - (i) capture and keep the elephant;
    - (ii) hunt or arrange for the roaming elephant to be hunted; or
    - (iii) have the elephant destroyed at his own cost and for his own account; or
  - (b) request that the issuing authority take responsibility for the elephant.
- (9) The issuing authority is responsible to immediately take such steps as it deems appropriate to deal with the escaped or roaming elephant if-

NATIONAL NORMS AND STANDARDS FOR THE MANAGEMENT OF ELEPHANTS IN SOUTH AFRICA

- (a) notwithstanding the provisions of sub-paragraphs (3), (4) or (5), it is of the view that the elephant poses an immediate threat to people or may become damage causing;
- (b) the responsible person fails to expeditiously take steps pursuant to a permission granted in terms of sub-paragraph (6)(a); or
- (c) the owner of or manager or other person in control of the property onto which the elephant has escaped or roamed fails to expeditiously take steps pursuant to a permission granted in terms of sub-paragraph (6)(b).

**Part 6**

**General**

**26. Short title and commencement**

These norms and standards are called the National Norms and Standards for the Management of Elephants in South Africa, 2008, and take effect on 1 May 2008.

**ANNEXURE I**

**MANAGEMENT PLANS FOR WILD ELEPHANTS**

A management plan for a wild elephant shall contain at least all the following information:

**Section A.**

**General information and inventory**

**1. General**

- 1.1 Names of owner and manager.
- 1.2 Postal address.
- 1.3 Telephone and fax numbers.
- 1.4 Farm name (including all registered farm names, numbers and portion numbers in the fenced area).
- 1.5 Precise extent of the property and the specific enclosure where the elephants will be kept.
- 1.6 Description of the land uses and activities on all neighbouring properties. Description of land uses must be specific such as irrigation farming.

## NATIONAL NORMS AND STANDARDS FOR THE MANAGEMENT OF ELEPHANTS IN SOUTH AFRICA

- 1.7 Name, contact details and qualifications of an ecologist or compiler of the plan or person who did the survey.
- 1.8 Proximity to settlements, rural communities and tribal land.
- 1.9 Information as to whether there is potential for enlarging the property.
- 1.10 Specifications of the perimeter fence.

### **2. Ecological**

- 2.1 General climatic and hydrological data (e.g. rainfall, temperatures).
- 2.2 General description of the geology.
- 2.3 General description of the soils.
- 2.4 Detailed description of the vegetation.
- 2.5 Preferred management density of elephants.
- 2.6 Game species and numbers present on property.
- 2.7 Sensitive habitats and species.
- 2.8 Disturbed or degraded areas such as bush encroachment and soil erosion.
- 2.9 Description of all available water bodies and distribution thereof described.
- 2.10 Maps:
  - (a) Location map.
  - (b) Topographic map of property (boundary of farm(s) and camp(s), roads, water points, infrastructure, etc.).
  - (c) Vegetation communities.

Ecological information should be collected and analysed by an ecologist. Methods used should be scientific and described in detail. The scale of the maps should be at least 1 :50 000.

### **Section B.**

#### **Management goals and objectives**

### **3. Habitat**

- 3.1 Veld condition monitoring methods and time schedules.

3.2 Rehabilitation programme for degraded areas.

3.3 Fire management plan.

3.4 Water provision.

3.5 Population management of other wildlife species.

3.6 Preferred management density.

#### **4. Information pertaining to elephants**

4.1 Purpose of introduced elephant.

4.2 Public participation reports, where there is contractual arrangements between the management authority of a protected area and a private land owner(s).

4.3 Specifications for the release camp.

4.4 Control of elephant population size.

4.5 If and how sex and age ratios will be manipulated.

4.6 Measures to prevent poaching.

4.7 Provision for adequate insurance.

4.8 Contingency plans to deal with elephant problems (including contact details of responsible manager, veterinary practitioner and capture operator/s)-

(a) in the case of the fence being unable to contain the elephants.

(b) in the case of the alteration of the habitat beyond acceptable limits.

4.9 Feeding scheme in case of a natural food supply shortfall.

4.10 Threat analysis and security plan.

### **Section C**

#### **Information to be provided after approval for the introduction of elephants, but before a permit may be issued**

#### **5. Details of the elephants**

5.1 The complete translocation history of each individual:

## NATIONAL NORMS AND STANDARDS FOR THE MANAGEMENT OF ELEPHANTS IN SOUTH AFRICA

- (a) Origin of the elephants (e.g. location, habitat, fencing and size of reserve/farm); and
  - (b) The age of elephants and selection of elephants to be translocated (e.g. exposure to tourists, fences and boma).
- 5.2 Serial numbers of transponders (microchips) to be inserted where appropriate.
- 5.3 The management of the capture, transport and keeping in boma (including sedation) of elephants, as well as the name of the acting veterinary practitioner.

Two hard copies of the management plan must be handed in at the provincial authority. The applicant will be informed in writing if the plan has been accepted/rejected or if the plan has to be amended.

## ANNEXURE II

### MANAGEMENT PLANS FOR CAPTIVE ELEPHANTS

A management plan for captive elephants shall contain at least all of the following information:

#### **Section A.**

##### **General information and inventory**

- 1.1 Names of owner and manager.
- 1.2 Postal address.
- 1.3 Telephone and fax numbers.
- 1.4 Farm name (including all registered farm names, numbers and portion numbers in the fenced area).
- 1.5 Precise extent of the property and the specific enclosure details where the elephants will be kept.
- 1.6 Description of the land uses and activities on all neighbouring properties. Description of land uses must be specific such as irrigation farming.
- 1.7 Name, contact details and qualifications of an ecologist, should one have been consulted, who did the survey.
- 1.8 Proximity to settlements, rural communities and tribal land.

1.9 Information as to whether there is potential for enlarging the property.

1.10 Specifications of the perimeter fence and / or adequate enclosure.

## **Section B.**

### **Specific information relating to elephants**

2.1 Purpose of keeping captive elephants and proposed uses of the elephant.

2.2 Projected elephant numbers for next 5,10 and 20 years.

2.3 Control of elephant population sizes - management options to be used if required.

2.4 Proof of notification of neighbours.

2.5 Measures to prevent poaching, unnecessary and/or deliberate disturbances and harassing.

2.6 Provision for adequate insurance.

2.7 Contingency plans to deal with elephant problems (including contact details of responsible manager, veterinary practitioner and capture operator/s)-

(a) in the case of the fence being unable to contain the elephants.

(b) in the case of the alteration of the habitat beyond acceptable limits.

2.6 Description of housing facilities.

2.7 Description of activities, training methods and tools used.

2.8 Identification characteristics of individual elephants to be provided to the issuing authority within 30 days after approval.

2.9 Serial numbers of transponders (microchips or any other current form of tracking for elephants more than two (2) years old) to be inserted, to be provided to the issuing authority within 30 days after approval.

2.10 Description of provisions to minimise stress and trauma to the elephants.

2.11 Description of provisions to cater for the social structure of the elephants.

2.12 Description of projected growth patterns and measures for population management.

2.13 Description of provisions relating to veterinary care.

2.14 The complete history of each individual:

- (a) Origin of the elephants (e.g. location, habitat, fencing and size of reserve/farm).
- (b) The age of elephants.

2.15 Emergency procedures describing the following:

- (a) Reactive and preventative procedures for elephants out of control, injured or sick elephants;
- (b) Personnel emergency procedures including reactive and preventative procedures aimed at stabilizing elephants out of control and managing injured staff, guests or elephants; and
- (c) Guest emergency procedures.

Two hard copies of the management plan must be handed in at the provincial authority. The applicant will be informed in writing if the plan has been accepted/ rejected or if the plan has to be amended.

### **ANNEXURE III**

#### **SECURITY-WHEN DEALING WITH WILD ELEPHANTS**

- 1. Elephants are wild animals and can be very dangerous if not treated with respect and caution.**
- 2. The responsibility of safe encounters with elephant lies entirely in the hands of the field guides and land owners.**
- 3. High standards of guest and staff safety should be maintained at all times.**
- 4. Guides should be adequately qualified and experienced to protect the guests.**
- 5. The following are recommended specifically:**
  - 5.1 All tourist facilities and amenities should be ring fenced with an electric fence, so should staff villages;
  - 5.2 Where river frontage occurs an electrified cabled fence must be erected to keep elephant out of tourist camps; and

5.3 Fencing of sewage ponds and rubbish pits with electrified fence.

**6. Regarding vehicles, the following is recommended:**

6.1 Expanded mesh should be attached to vehicles to at least cover the height of the legs of guests and doors must be present in the cab to protect the driver and his passenger;

6.2 All vehicles must be reliable and in a good running mechanical condition and be fitted with adequate spare wheels and repair kits;

6.3 Functional radios are essential;

6.4 Well-prepared emergency action plan;

6.5 When guests drive on their own the following should be supplied:

6.5.1 Information on the potential dangers of elephants (i.e. cows with calves);

6.5.2 Information on how to identify, approach and behave near bulls in must; and

6.5.3 Strict regulations of how to behave near wild elephants:

(a) Not to drive off road;

(b) Not to follow the elephants;

(c) To respect the elephants at all times;

(d) To always allow them the right of way;

(e) To drive off slowly if they get too near;

(f) Not to cut off their path especially when more than one vehicle present;

(g) Not unnecessarily increase the noise emitted by the motor vehicle engine; and

(h) Not to leave the vehicle.

## **ANNEXURE IV**

### **REQUIREMENTS FOR RELEASE CAMPS**

The purpose of the release camps is to teach the elephants to respect electricity; and to enable the group to re-bond following the disruption of translocation.

**1. The release camp must-**

- 1.1 be prepared well ahead of time;
- 1.2 be inspected and approved beforehand by the issuing authority;
- 1.3 be easily accessible by large, low-bed transport trucks with access roads able to adequately carry such vehicles, due consideration be given to all bridges and culverts and large trees;
- 1.4 be located adjacent to the centre of the protected area or registered game farm;
- 1.5 have access and use of a water source;
- 1.6 be a minimum width of 100 metres;
- 1.7 be a minimum area of two hectares for every six elephants;
- 1.8 have adequate clean drinking water;
- 1.9 include a possibility for mud-wallowing with a solid cement or rock floor and supplied with water to prevent small calves from becoming trapped; and
- 1.10 is sufficiently vegetated to provide security and shade for the elephants.

**2. The fence of the release camp must-**

- 2.1 have a minimum height of 2,4 metres;
- 2.2 be constructed using steel railway tracks lines or steel poles filled with concrete as uprights set in concrete ten metres apart;
- 2.3 have a minimum of five strands of steel cables, each having a minimum diameter of 16mm, one placed at ground level and thereafter at minimum intervals of 500mm. The cable must be strung on the inside of the poles except at the corners, where it must go around the outside of the corner post;
- 2.4 have a galvanised veldspan fence erected from ground level to the top of the fence with steel droppers, each having a minimum top width of 100mm, placed at intervals of one metre apart;
- 2.5 be electrified in the following manner:
  - (i) five strands of wire;

- (ii) the offsets must be to the inside;
- (iii) a voltage of 6000 - 9000 V should be maintained;
- (iv) the bottom strand must be 300mm above ground level. The second strand must be 1,0m above ground level and the remaining strands are to be spaced approximately 500mm apart. The top strand must be placed at the top of the fence with an additional earth strand. Double offset brackets should be used for all strands, especially when bulls are introduced;
- (v) the offsets must be five metres apart to prevent the elephants from causing a short when they push against the fence; and
- (vi) if elephants are ranging on the property outside the release camp, it is essential that the paddock is also electrified with three strands on the outside.

2.6 where adult bulls are to be introduced, be reinforced with the following:

- (i) additional earthing that can be obtained by wetting the area directly inside the fence prior to the animals arriving;
- (ii) a second inner electric fence erected two metres inside the perimeter of the paddock fence using Y metal standards or using good quality offset brackets;
- (iii) spanning electrified strands across the corners of the release camp. It is advisable to construct a paddock of 2 hectares, so as to ensure that the elephants do not run through the fence in panic, and so that they have sufficient food during their stay.

Additional re-enforcement of the gate can be achieved by using horizontal steel poles; and

2.7 not be near large trees that the elephants may push onto the fence and cause a short.

### **3. The offloading ramp must-**

3.1 be placed outside the fence;

3.2 be at least 2,4m wide and 1 m high;

3.3 have containing walls that are-

- (i) three metres high;
- (ii) reinforced;

- (iii) constructed with steel poles that are concreted into the ramp; and
- (iv) are sufficiently strong to prevent the elephants from pushing them over when off-loaded; and

3.4 have a gate that-

- (i) separates the offloading ramp from the release camp;
- (ii) is constructed of heavy steel;
- (iii) is electrified when closed;
- (iv) is reinforced by thick horizontal poles pushed through steel brackets after the elephants have been offloaded;
- (v) is additionally reinforced if bulls are to be introduced; and
- (vi) is six metres wide;
- (vii) is of a sliding design; and
- (viii) can be opened remotely with a cable or rope, if necessary.

## ANNEXURE V

### ELECTRIFICATION OF PERIMETER FENCES

A perimeter fence to an area in which an elephant population is kept must be electrified in accordance with the following requirements:

**1. The fence must have at least three strands of electrical wires that are structured in the following manner:**

- 1.1 each strand must have a minimum diameter of 2.24mm;
- 1.2 a minimum of two electrified strands, one at 1.0 - 1.5 m and the other at the top. In situations where electrification cannot be relied on, the fence must be strong enough to contain elephants without electrification;
- 1.3 the second strand must be 1.5m above ground level with 225mm or 450mm double offset brackets;
- 1.4 the top strand must be on the top of fence with 450mm double offset brackets; and

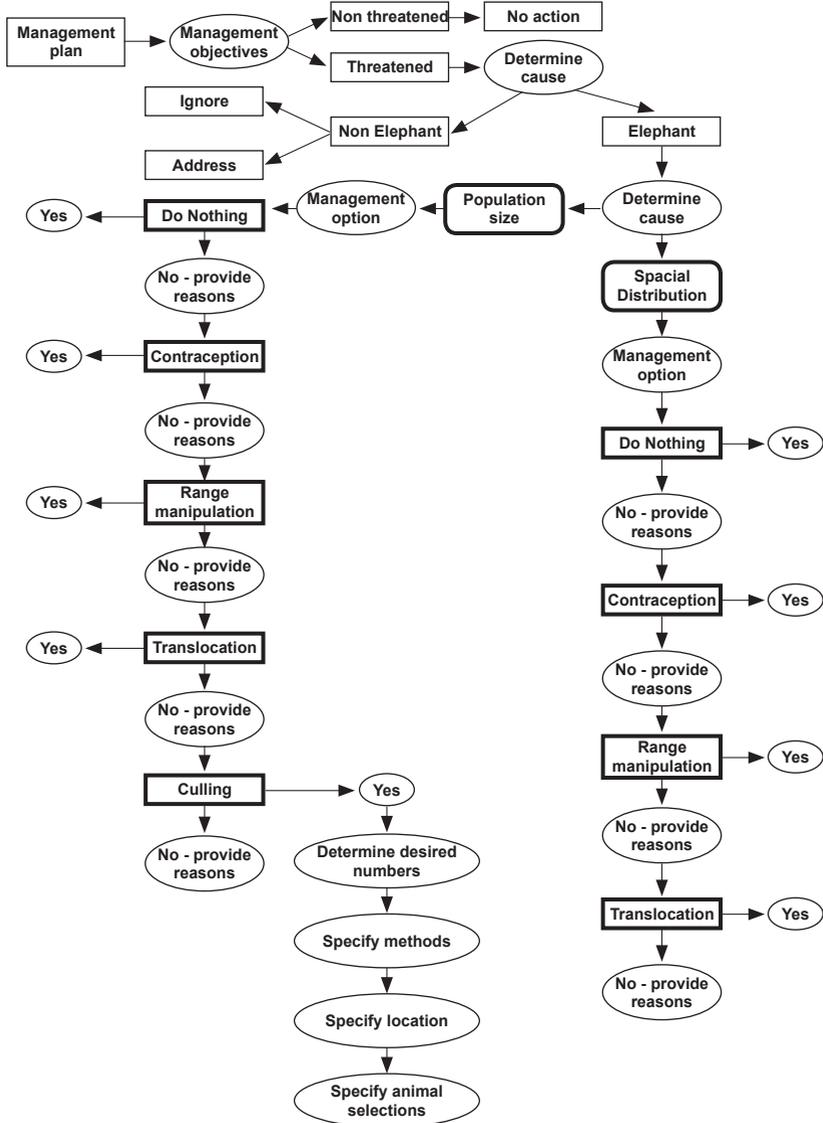
NATIONAL NORMS AND STANDARDS FOR THE MANAGEMENT OF ELEPHANTS IN SOUTH AFRICA

1.5 an earth strand must be affixed to the double offset brackets 10cm on the inside of each live wire strand; ideally earth pegs should be every 100 to 200 metres apart to achieve minimum voltage.

- 2. A minimum voltage of 6000 V must be maintained on the whole perimeter.**
- 3. Energisers must be large enough to maintain at least 6000 V over a distance of 8km and should not release less than 6 Joules.**
- 4. Danger signs indicating electrified fencing and elephants must be erected on the fence at regular intervals and all likely points of human contact.**

**ANNEXURE VI**

**FLOW DIAGRAM RELATING TO MANAGEMENT OPTIONS**





**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GNR 173 OF 5 MARCH 2010**

**CITES REGULATIONS, 2010**

Amended by:

<b>GN R575</b>	<b>GG 34452</b>	<b>11/7/2011</b>	
<b>GN R629</b>	<b>GG 36770</b>	<b>23/8/2013</b>	(w.e.f. 12/6/2013)
<b>GN R323</b>	<b>GG 37596</b>	<b>29/4/2014</b>	

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**PART 1**

## INTERPRETATION

### 1. Definitions

(1) In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), has the same meaning, and-

**“artificially propagated”** means plants grown under controlled conditions from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules that either are exempt or have been derived from cultivated parental stock;

**“bred in captivity”** means the offspring, including eggs, born or otherwise produced in a controlled environment of parents that mated or otherwise transmitted their gametes in a controlled environment, as described in Resolutions Conference 10.16 (Rev.);

**“certificate of origin”** means the documents allowing the export of specimens of species listed in Appendix III when the specimens originated in a non-listing country;

**“CITES”** means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, concluded in Washington, D.C. on 3 March 1973, as amended in Bonn on 22 June 1979;

**“CITES Secretariat”** means the Secretariat of CITES as referred to in Article XII of CITES;

**“Conference of the Parties”** the Conference of the Parties as referred to in Article XI of CITES;

**“controlled environment”** means an enclosure designed to hold CITES listed species in a way that-

- (a) prevents them from escaping;
- (b) facilitates intensive human intervention or manipulation in the form of the provision of-
  - (i) food or water;
  - (ii) artificial housing;
  - (iii) health care; or
- (c) facilitates the intensive breeding or propagation of a CITES listed species but excludes fenced land on which self-sustaining wildlife populations of that species are managed in an extensive wildlife system;

**“country of origin”** means the country in which a specimen has been taken in the wild or born or bred in captivity or artificially propagated, or introduced from the sea;

**“cultivated parental stock”** means the ensemble of plants grown under controlled conditions that are used for reproduction;

**“customs”** means the South African Customs Administration of the South African Revenue Service;

**“customs officer”** means a person employed on any duty relating to customs and excise by order or with the concurrence of the Commissioner in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964);

**“customs legislation”** means the Customs and Excise Act, 1964 (Act No. 91 of 1964), its Schedules, rules and notices published under the Act, as amended from time to time;

[Definition of “customs legislation” substituted by GN R323/2014]

**“derivative”** in relation to a CITES listed animal, plant or other organism, means any part, tissue or extract, of an animal, plant or other organism, whether fresh, preserved or processed, and includes any chemical compound derived from such part, tissue or extract;

**“enforcement officer”** means a member of the South African Police Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995), a customs officer, or a person appointed in terms of section 31B or 31C of the National Environmental Management Act, 1998 (Act No. 107 of 1998) for the purposes of enforcing these Regulations;

**“enforcement authority”** means organs of state which are responsible for the enforcement and compliance of these Regulations under the National Environmental Management Act, 1998 (Act No. 107 of 1998);

**“export”** in relation to the Republic, means to take out or transfer, or attempt to take out or transfer, from a place within the Republic to another country or to international waters;

**“hunting trophy”** means any horn, ivory, tooth, tusk, claw, hoof, hide, skin, hair, feather, egg or readily recognizable part or derivative of an animal, whether processed or not, and which is kept as a memento of the hunt;

**“IATA live animals regulations”** means the Live Animals Regulations from the International Air Transport Association which is amended and published regularly;

**“import”** in relation to the Republic means to land on, bring into or introduce into the Republic, or attempt to land on, bring into or introduce into the Republic, and includes to bring into the Republic for re-export to a place outside the Republic;

**“introduction from the sea”** means transportation into the Republic of specimens of any species which were taken from the marine environment not under the jurisdiction of any State, including the air space above the sea and the sea-bed and subsoil beneath the sea;

**“international trade”** means any export, re-export, or import covered by the customs regulations and introduction from the sea;

**“label”** means a piece of paper, card, or other material bearing the acronym ‘CITES’ and approved by the National Management Authority for the identification of contents as herbarium specimens, preserved, dried or embedded museum specimens or live plant material for scientific study;

**“Management Authority”** means the national or provincial management authority referred to in regulation 3 of these regulations;

**“NEMBA”** means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

**“non-detriment finding”** means a finding by the Scientific Authority advising that a proposed export or introduction from the sea of Appendix I or II specimens will not be detrimental to the survival of the species and that a proposed import of an Appendix I specimen is not for purposes that would be detrimental to the survival of the species;

**“offering for sale”** means the offering for sale or any action that may reasonably be interpreted as such, including advertising or causing to be advertised for sale and invitation to negotiate;

**“organ of state”** has the same meaning assigned to it in section 239 of the Constitution of the Republic of South Africa, 1996;

**“permit or certificate”** means the official document used to authorize import, export, re-export, or introduction from the sea of specimens of species listed in any of the Appendices of these regulations;

**“personal or household effects”** means dead specimens, parts and derivatives that are the belongings of a private individual and that form or are intended to form part of his normal possessions read with Article VII paragraph 3 of the CITES;

[Definition of “personal or household effects” substituted by GN R323/2014]

**“pre-convention specimen”** means a specimen acquired before the date from which the provision of the Convention applied to that specimen being the date on which the specimen concerned was first included in the Appendices;

**“pre-convention Certificate”** means a permit or certificate issued for a pre-convention specimen;

“**primarily commercial purposes**” means all purposes whose non-commercial aspects do not clearly predominate;

“**provincial department**” means the provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;  
[Definition of “provincial department” inserted by GN R323/2014]

“**quota**” means the prescribed number or quantity of specimens that can be harvested, exported or otherwise used over a specific period of time and is a total national quota;

“**readily recognizable part or derivative**” includes any specimen which appears from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be a part or derivative of an animal or plant of a species included in the Appendices to these regulations, unless such part or derivative is specifically exempted from the provisions of the Convention;

“**re-export**” means the export of any specimen that has previously been imported;

“**repeated offender**” means a person who has been convicted of an offence in terms of these regulations on three or more occasions;

“**rescue Centre**” means a centre as defined in Article VIII, paragraph 5, of CITES;

“**sale**” means any form of sale, hire, barter or exchange;

“**scientific authority**” means the national scientific authority established in terms of regulation 59 of the Threatened or Protected Species Regulations, 2007 published by Notice No. R. 152 in *Gazette* No. 29657 of 23 February 2007 as amended;

“**secretariat**” means the CITES Secretariat;

“**species**” means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any sub-species, cultivar, variety, geographic race, strain, hybrid or geographically separate population;

“**specimen**” means-

- (a) any living or dead animal, plant or other organism;
- (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;
- (c) any derivative of any animal, plant or other organism; or
- (d) any goods which-

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- (i) contain a derivative of an animal, plant or other organism and upon inspection contained such a derivative of an animal, plant or other organism; or
- (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;

**“tags”** means a piece of material for the identification of raw, tanned, and/or finished skins entering international trade from the countries of origin;

**“transit”** means the conveying or transporting a specimen of a species included in the Appendices of CITES from a destination outside the Republic, through the Republic, to a destination outside the Republic, without removing the specimen from the control of Customs and Excise while so conveying or transporting; and

[Definition of “transit” substituted by GN R323/2014]

**“transshipment”** means the transshipment procedures as defined by the customs legislation of the Republic;

**“under controlled conditions”** means in a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production, which may include, but are not limited to tillage, fertilization, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather.

- (2) The export, re-export, import, introduction from the sea, transit and transshipment of specimens of species listed in the appendices to these regulations, other than in accordance with the provisions of CITES and these regulations is prohibited.
- (3) Recommendations included in Resolutions, as amended from time to time, and Decisions of the Conference of Parties to CITES can serve as a source of interpretation of the provisions of these regulations.

[Subs. (3) substituted by GN 323/2014]

- (4) The burden of proof of the legal possession of any specimen of a species included in the Appendices attached to these Regulations lies with the possessor of that specimen.

## **PART 2**

### **GENERAL**

#### **2. Application**

- (1) These regulations apply to all plants and animal species listed on Schedules I, II and III thereof.

- (2) The following Schedules are attached to these Regulations:
  - (a) Appendix I, which lists all species included in Appendix I of CITES;
  - (b) Appendix II which lists all species included in Appendix II of CITES;
  - (c) Appendix III, which lists all species included in Appendix III of CITES.
- (3) The Appendices to these Regulations are automatically amended when amendments to Appendices I, II or III of CITES enter into force as amendments to the CITES Appendices and are binding to the Republic.
- (4) The amendments referred to in sub-regulation (3) must be published for information in the *Gazette* as soon as they are available after their adoption by the Conference of the Parties.
- (5) The official website of the Convention (<http://www.cites.org>) is the official reference for the Appendices.
- (6) The provisions of these regulations must be read with the National Environmental Management Act, 1998 (Act No. 107 of 1998), the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), the Threatened or Protected Species Regulations, 2007, the text of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and all amendments thereto.

## **PART 3**

### **AUTHORITIES**

#### **3. Management Authority**

- (1) The national Minister responsible for environmental affairs is the National Management Authority for CITES related activities.
- (2) The specific duties of the National Management Authority include, but are not limited to the following:
  - (a) to consider and grant permits and certificates in accordance with the provisions of CITES and to attach to any permit or certificate any condition that it may deem necessary;
  - (b) to communicate with the Secretariat and the Management and Enforcement Authorities of other CITES Parties on scientific, administrative, enforcement and other issues related to implementation of the Convention;

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- (c) to maintain records of international trade in specimens and prepare an annual report concerning such trade, and submit this report to the CITES Secretariat by the deadline stipulated in the relevant Resolution;

[Para. (c) substituted by GN R323/2014]

- (d) to prepare a biannual report on legislative, regulatory and administrative measures taken to enforce the Convention, and to submit this report to the CITES Secretariat by the deadline stipulated in the relevant Resolution;

[Para. (d) substituted by GN R323/2014]

- (e) to coordinate national implementation and enforcement of the Convention and these Regulations and to co-operate with other relevant authorities in this regard;
  - (f) to consult with the Scientific Authority on the issuance and acceptance of CITES documents, the nature and level of trade in CITES-listed species, the setting and management of quotas, the registration of traders and production operations, the establishment of Rescue Centres and the preparation of proposals to amend the CITES Appendices;
  - (g) to represent the Republic at national and international meetings related to CITES;
  - (h) to provide awareness-raising, training, education and information related to the Convention;
  - (i) to designate one or more Rescue Centres for seized and confiscated living specimens;
  - (j) to intervene in litigation before a court in any matter under these regulations; and
  - (k) to coordinate requirements and allocate annual quotas to provinces.
- (3) The National Minister responsible for environmental affairs is the authority responsible for the issuing of permits or certificates relating to import, export, re-export and introduction from the sea of any species listed in Appendices I, II and III as specified in section 87A(1)(b) of the National Environmental Management: Biodiversity Act, 2004.

[Subreg. (3) substituted by GN R575/2011 and GN R323/2014]

- (4) The MEC of the provincial department responsible for nature conservation in a Province, is the Provincial Management Authority responsible for the issuing of permits or certificates relating to import, export, re-export and introduction from the sea of any species listed in Appendices I, II and III as specified in section 87A(2) of the National Environmental Management: Biodiversity Act, 2004.

[Subreg. (4) substituted by GN R575/2011 and GN R323/2014]

- (5) The specific duties of the Provincial Management Authority include, but are not limited to the following:
- (a) consider and grant permits and certificates for CITES related species that are not included in paragraphs (a) to (d) in subregulation (3), in accordance with the provisions of CITES and to attach to any permit or certificate any condition that it may deem necessary;
  - (b) consult with the provincial member of the National Scientific Authority on the issuance and acceptance of CITES documents, the nature and level of trade in CITES-listed species, the setting and management of quotas, the registration of traders and production operations, the establishment of Rescue Centres and the preparation of proposals to amend the CITES Appendices;
  - (c) manage the utilisation of allocated CITES quotas;
  - (d) mark, tag and register CITES specimens in accordance with the Convention;
  - (e) coordinate and submit reports for the registration of individuals, institutions and facilities to the National Management Authority, in accordance with the Convention;
  - (f) prepare and submit provincial inputs to the National CITES Management Authority on CITES related matters on request;
  - (g) disseminate official information on CITES within the province;
  - (h) promote an interest and understanding of CITES within the province;
  - (i) optimize participation of state departments and agencies in the province in CITES related matters;
  - (j) maintain records of international trade in specimens and prepare and submit the provincial CITES annual report to the National Management Authority before 31 July of the year following the year to which the report refers;
  - (k) liaise with stakeholders within the province;
  - (l) represent the Republic as part of the South African delegation on national and international meetings related to CITES;
  - (m) intervene in litigation before a court in any matter under these regulations.
- (6) The MEC of the provincial department responsible for nature conservation is the authority responsible for the issuance of permits or certificates relating to import, export and re-export of any species listed in Appendices I, II and III, excluding permits or certificates referred to in subregulation (3).

- (7) An official of the Department or an organ of State may exercise a power or duty of a Management Authority and for the issuance of a permit or certificate in terms of these regulations to the extent that the power or duty has been delegated or sub-delegated to that official in terms of section 42 or 42A of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

#### **4. Scientific Authority**

- (1) For the purposes of these regulations the specific duties of the Scientific Authority include, but are not limited to-
- (a) advise the Management Authority on whether or not a proposed export of a specimen of species listed in Appendix I or II will be detrimental to the survival of the species involved;
  - (b) in the case of a proposed import of a specimen of a species in Appendix 1, advise the Management Authority on whether or not the purposes of the import are detrimental to the survival of the species involved;
  - (c) in the case of a proposed import of a live specimen of a species listed in Appendix I, advise the Management Authority whether or not it is satisfied that the proposed recipient of the specimen is suitably equipped to house and care for it;
  - (d) monitor the export permits granted for specimens of species listed in Appendix II, as well as the actual exports of such specimens through monitoring of reports, and advise the Management Authority of suitable measures to be taken to limit the issue of export permits when the population status of a species so requires;
  - (e) advise the Management Authority on the disposal of confiscated or forfeited specimens when required;
  - (f) advise the Management Authority on any matter the Scientific Authority considers relevant in the sphere of species protection;
  - (g) perform any tasks foreseen in the Resolutions or Decisions of the Conference of the Parties to CITES for the Scientific Authority.
- (2) For the purposes of these regulations the specific duties of the Scientific Authority in terms of the NEMBA include;
- (a) advise the Minister on-
    - (i) the registration of ranching operations, nurseries, captive breeding operations and other facilities;

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- (ii) whether an operation or facility meets the criteria for producing species considered to be bred in captivity or artificially propagated;
  - (iii) the choice of a rescue centre or other facility for the disposal of forfeited specimens;
  - (v) the nomenclature of species; or
  - (vi) any other matter of a specialized nature;
- (b) assist the Minister or an environmental management inspector in the identification of specimens for the purpose of enforcing the provisions of this Act when required;
  - (c) issue certificates in which the identification of a specimen is verified as being taxonomically accurate upon written request;
  - (d) perform any other function that may be prescribed or delegated to it by the Minister; and
  - (e) deal with any other matter necessary for, or reasonably incidental to, its powers and duties.
- (3) In performing its duties, the Scientific Authority must-
- (a) base its findings, recommendations and advice on a scientific and professional review of available information;
  - (b) consult, when necessary, organs of state, the private sector, non-governmental organisations, local communities and other stakeholders before making any findings or recommendations or giving any advice; and
  - (c) ensure that provincial representatives on the Scientific Authority co-operate with their respective scientific units in order for functions described in this section to be coordinated, executed and implemented on provincial level.

## **PART 4**

### **CONDITIONS FOR INTERNATIONAL TRADE**

#### **5. General**

- (1) The Management Authority and enforcement authorities must as far as possible ensure that specimens of CITES-listed species pass through any formalities required for trade with a minimum of delay.

(2) The ports in Appendix VI are the only ports of exit and entry through which CITES listed species can be imported, exported or re-exported.

(2A) Notwithstanding sub-regulation (2), the National Management Authority may in exceptional circumstances grant written permission, based on the evaluation of a motivation provided by the applicant, for an alternative port to be used for the import, export or re-export of live specimens of CITES listed species where the survival of these specimens may be at risk if the ports in Appendix VI are used.

[Subreg. (2A) inserted by GN R323/2014]

(3) The Management Authority must ensure that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.

Applications for a permit or a certificate for the import, export, re-export or introduction from the sea of any specimen included in Appendix I, II or III, must be in the format set out in Appendix IIIA.

[Subregulation , without number, inserted after subreg. (3) by GN R575/2011]

## **6. Export**

(1) The export of any specimen of species included in Appendices I and II requires the prior grant and presentation of an export permit.

(2) The export of any specimen of species included in Appendix III requires the prior grant and presentation of an export permit or a certificate of origin.

(3) An export permit may only be granted if the following conditions are met:

(a) The Management Authority must be satisfied that the specimen concerned has been legally acquired;

(b) The Management Authority is satisfied that any living specimen will be prepared and shipped in accordance with the most recent edition of the Live Animals Regulations of the International Air Transport Association, regardless of the mode of transport, so as to minimize the risk of injury, damage to health or cruel treatment;

(c) In the case of a specimen of a species listed in Appendix I or II, the Scientific Authority has made a non-detriment finding and advised the Management Authority accordingly; and

(d) In the case of specimens of species listed in Appendix I, an import permit has been granted by the competent authority of the country of destination.

## **7. Import**

- (1) The import of any specimen of species included in Appendix I requires the prior grant and presentation of an import permit issued by the country of destination and either an export permit or a re-export certificate issued by the country of export.
- (2) An import permit may only be granted if the following conditions are met:
  - (a) The Scientific Authority has advised that the import will be for purposes which are not detrimental to the survival of the species and is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it;
  - (b) In case of the import of Appendix I specimens, the Management Authority is satisfied that the specimen concerned is not to be used primarily for commercial purposes;
- (3) The import of any specimen of species included in Appendix II requires the prior presentation of either an export permit or a re-export certificate and an import permit.

[Subreg. (3) substituted by GN R575/2011]

- (4) The import of any specimen of species included in Appendix III requires the prior presentation of an import permit, a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.

[Subreg. (4) substituted by GN R575/2011 and GN R323/2014]

## **8. Re-export**

- (1) The re-export of any specimen of species included in Appendices I, II and III requires the prior grant and presentation of a re-export certificate.
- (2) A re-export certificate may only be granted when the following conditions are met:
  - (a) The Management Authority is satisfied that any specimen to be re-exported was imported in accordance with the provisions of these Regulations and of CITES;
  - (b) The Management Authority is satisfied that any living specimen will be prepared and shipped in conformity with the most recent edition of the Live Animals Regulations of the International Air Transport Association, regardless of the mode of transport, so as to minimize the risk of injury, damage to health or cruel treatment;
  - (c) In the case of any living specimen of species listed in Appendix I, the Management Authority is satisfied that an import permit has been granted.

## **9. Introduction from the sea**

- (1) The introduction from the sea of a specimen of a species included in Appendices I and II requires the prior grant and presentation of a permit or a certificate of introduction from the sea.
- (2) A permit or a certificate of introduction from the sea may only be granted when the following conditions have been met;
  - (a) the Scientific Authority advises that the introduction of any specimen will not be detrimental to the survival of the species;
  - (b) the National Management Authority is satisfied that any specimen of a species listed in Appendix I is not to be used for primarily commercial purposes and that the proposed recipient of any living specimen is suitably equipped to house and care for it;
  - (c) the National Management Authority is satisfied that any living specimen of a species listed in Appendix II will be so handled as to minimize the risk of injury, damage to health or cruel treatment.

## **10. Permits and certificates**

- (1) To be valid, all permits and certificates must be in a form prescribed in Appendix 4.
- (2) Export permits and re-export certificates should be valid for a period not exceeding six months from their date of issue.
- (3) Import permits for specimens of species included in Appendix I, II and III should be valid for a period of not exceeding twelve months from their date of issue.

[Subreg. (3) substituted by GN R575/2011]

- (4) A separate permit or certificate is required for each consignment of specimens as a permit or certificate is valid for one consignment only.
- (5) An enforcement officer must cancel and retain used export permits and re-export permits/certificates issued by authorities of foreign States and any corresponding import permits at the point of entry into the country.
- (6) It is the onus of the permit holder to ensure that the permit for export, re-export or import is cancelled by an official of the Management Authority or Customs.
- (7) Failure to have the permit cancelled in terms of sub-regulation (5) shall be considered an offence in terms of these Regulations.

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- (8) An Enforcement officer must endorse a CITES export or re-export permit before the export takes place.
- (9) It is the onus of the permit holder to ensure that the export or re-export permit for is endorsed.
- (10) Failure to have the export or re-export permit endorsed in terms of sub-regulation (8) shall be considered an offence in terms of these Regulations.
- (11) Permits and certificates may not be transferred to a person other than the one named on the document.
- (12) The Management Authority may require applicants for permits or certificates to provide any additional information that it may need to decide whether to issue a permit or certificate.
- (13) The Management Authority may, at its discretion, grant or refuse to grant a permit or certificate, or grant a permit or certificate subject to certain conditions.
- (14) The Management Authority may amend or revoke a permit or a certificate issued, but must revoke a permit or a certificate if it was issued as the result of false or misleading statements by the applicant.

[Subreg. (14) substituted by GN R575/2011]

- (15) Only valid export permits, re-export certificates and certificates of origin from exporting countries shall be accepted to authorize the import of specimens of species included in Appendices I, II and III.
- (16) A permit or a certificate issued in violation of the law of a foreign country or in violation of the Convention is invalid.
- (17) If any condition attached to a permit or certificate has not been complied with, it may be cancelled by the Management Authority.
- (18) If a permit is issued in terms of these Regulations for a threatened or protected species, this permit must include the requirements of the Threatened or Protected Species Regulations, 2007 as amended, to form a single integrated permit, which shall be valid for both these Regulations and the Threatened or Protected Species Regulations, 2007

## **PART 5**

### **REGISTRATION AND MARKING**

#### **11. Registration and Markings**

- (1) All persons wishing to internationally trade specimens of any species listed in Appendix I must be registered with the Management Authority.

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- (2) All persons wishing to produce captive bred animals and artificially propagated plants for commercial international trade purposes of any species listed in Appendix I must be registered with the Management Authority and where required with the Secretariat in the case of captive bred animals. If these species are also listed in terms of section 56 of NEMBA and are already registered under the applicants name as Threatened or Protected Species, an integrated registration certificate may be issued.
- (3) All persons registered with the Management Authority for captive breeding of animals or artificial propagation of plants must keep records of their parental stock and of captive bred offspring for future trading purposes. Records of any transactions must be kept for a period of five years. The Management Authority may inspect the premises and records of persons registered with the Management Authority at any time.
- (4) The-
  - (a) format of the application for registration in subregulation (1);
  - (b) conditions that shall be met in order to be registered;
  - (c) format and contents of the registers that contain the records,must comply, when required, with Resolution 12.10 an its amendments as adopted by the Conference of the Parties.
- (5) If the conditions for registration are not complied with, the Management Authority must withdraw the registration.
- (6) Specimens of animal species listed in Appendix I that have been bred in captivity may not be traded unless they originate from a breeding operation registered by the Management Authority, and have been individually and permanently marked in a manner so as to render alteration or modification by unauthorized persons as difficult as possible.
- (7) The conditions for registration are determined by the Management Authority.
- (8) The markings on or tagging of specimens must be done in accordance with the relevant Resolutions adopted by the Conference of Parties as amended from time to time.

## PART 6

### EXEMPTIONS AND SPECIAL PROCEDURES

#### 12. Transit and transshipment

- (1) Where a specimen is in transit or transshipment through the Republic, no additional CITES permits and certificates shall be required.

- (2) In all cases, the transit or transshipment must be in accordance with the conditions of transport laid down in these Regulations, the custom laws and any other applicable laws of the Republic.
- (3) Enforcement authorities have the power to inspect a specimen in transit or transshipment to ensure that it is accompanied by the appropriate CITES documents and is compliant with the conditions and to seize such a specimen if that is not the case.

### **13. Pre-Convention**

- (1) Where the Management Authority is satisfied that a specimen of a CITES-listed species was acquired before the provisions of the Convention became applicable to that species, it shall issue a pre-Convention permit or certificate upon request.
- (2) In the event that a pre-Convention permit or certificate is issued, no other CITES document is required to trade in the specimen.

### **14. Personal effects**

Provisions foreseen in Part 4 shall not apply to dead specimens, parts and derivatives of species listed in [Appendix I](#), [II](#) and [III](#), which are personal effects being introduced into the Republic, or exported or re-exported there from for a period not exceeding three months or for personal effects exempted in terms of the related Resolution Conference of Parties to CITES, provided that it is done in compliance with Article VII of the CITES.

[Reg. 14 substituted by GN R323/2014]

### **15. Scientific exchange**

- (1) The documents referred in Part 4 of these Regulations are not required in the case of-
  - (a) non-commercial loans;
  - (b) donations and exchanges between scientific institutions, registered by the Management Authority;
  - (c) herbarium specimens;
  - (d) other preserved, dried or embedded museum specimens; or
  - (e) live plant material, which carry a label issued or approved by the National Management Authority.
- (2) The label referred to in subparagraph (1)(e) must include the name and address of the sending institution and the codes of the exporting and importing institutions over the signature of a responsible officer of that registered scientific institution.

**PART 7**

**OFFENCES AND PENALTIES**

**16. Offences and Penalties**

- (1) No person may-
- (a) import, export, re-export, or introduce from the sea, or attempt to import, export, re-export or introduce from the sea, any specimen of a species listed in the Schedules without a valid permit or certificate issued in terms of these regulations or in violation of any condition of that permit or certificate except in the case of personal effects exempted in terms of regulation 14;
  - (b) have in his or her possession or under his or her control, or to offer or expose for sale or display to the public, any specimen of a species listed in the Appendices which was not legally acquired;
  - (c) make or attempt to make either oral or written false or misleading statements in, or in connection with, an application for a permit or certificate or registration;
  - (d) alter, deface or erase a mark used by the Management Authority to individually and permanently identify specimens;
  - (e) obstruct or otherwise hinder an Enforcement Officer in the performance of his or her duties; or
  - (f) withhold information that is relevant to a case where these Regulations have been contravened.
  - (g) fraudulently alters any permit or certificate;
  - (h) fabricates or forges any document for the purpose of passing it as a permit or certificate;
  - (i) passes, uses, alters or has in his or her possession any altered or false document purporting to be a permit or certificate; or
  - (j) knowingly makes any false statement or report for the purpose of obtaining a permit or certificate.
- (1A) Failure by the permit holder-
- (a) to have a CITES import permit cancelled in terms of Regulation 10(7); or

- (b) to have a CITES export or re-export permit endorsed in terms of Regulation 10(8) before the export or re-export takes place, is an offence in terms of these Regulations.

[Subreg. (1A) inserted by GN R323/2014]

- (2) A person contravening sub-regulation (1) or (1A) is guilty of the offence and shall be liable on conviction to-

(a) a fine not exceeding five million rand or imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years; or

(b) in both instances referred to in paragraph (a), both such fine or imprisonment; or

(c) in the case of repeated offenders, a fine or imprisonment or both a fine and imprisonment as referred to in (a) above and being banned from ever applying for a permit to trade in CITES listed species again.

[Subreg. (2) substituted by GN R323/2014]

#### **17. Disposal of confiscated specimens**

The National Management Authority, in consultation with the Scientific Authority and the Provincial Management Authority, may decide on the disposal of a confiscated specimen in accordance with the appropriate Resolution of the Conference of the Parties.

#### **18. Enforcement Co-ordinating Body**

The National Management Authority shall coordinate the enforcement of these regulations which will be enforced by an enforcement officer.

### **PART 8**

#### **FINANCIAL PROVISIONS**

#### **19. Fees**

(1) A person applying for a permit or certificate in terms of these regulations must pay the fees referred to in Appendix V, to the applicable Management Authority.

(2) Notwithstanding the provisions in subregulation (1) organs of state are not required to pay the fees referred to in Appendix V.

[Reg. 19 substituted by GN R575/2011]

**PART 9**

**GENERAL**

**20. Short title and Commencement**

These regulations are called the CITES Regulations, 2010, and takes effect on the date of publication thereof in the *Gazette*.

**APPENDIX I**

- (1) Schedule 1 lists all animal and plant species listed in Appendix I of CITES.
- (2) Schedule I includes species threatened with extinction.

[Note: Appendix I was not published in these regulations]

**APPENDIX II**

- (1) Schedule 2 lists all animal and plant species listed in Appendix II of CITES.
- (2) Schedule 2 includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival.

[Note: Appendix II was not published in these regulations]

**APPENDIX III**

- (1) This Schedule contains all animal and plant species listed in Appendix III of CITES.
- (2) This Schedule contains species that are protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade.

[Note: Appendix III was not published in these regulations]

**APPENDIX I, II AND III**

[Amended CITES appendices I, II and III added by GN R629/2013]

**APPENDIX IIIA : APPLICATION FORM**

[Appendix IIIA inserted by GN R575/2011]

**APPENDIX IV**

**SAMPLE PERMIT FORMAT AND INSTRUCTIONS**

**APPENDIX V**

**PERMIT PROCESSING FEES**

**APPENDIX VI**

**LIST OF DESIGNATED PORTS OF ENTRY AND EXIT FOR IMPORT, EXPORT AND RE-EXPORT OF CITES LISTED SPECIES**

**Land Ports**

Beit Bridge Border Post

Lebombo Border Post

Jeppes Reef Border Post

Golela Border Post

Ramatlabama Border Post

NaKop Border Post

Vioolsdrift Border Post

Maseru Border Post

**Airports and Harbours**

Cape Town International Airport

King Shaka International Airport

O.R Tambo International Airport

Port Elizabeth International Airport

Kruger - Mpumalanga International Airport

Cape Town Harbour

Durban Harbour

Port Elizabeth Harbour

[Appendix VI amended by GN R323/2014]

**NATIONAL ENVIRONMENTAL MANAGEMENT:  
BIODIVERSITY ACT 10 OF 2004**

**GN 304 OF 10 APRIL 2012**

**NORMS AND STANDARDS FOR THE MARKING OF RHINOCEROS AND  
RHINOCEROS HORN, AND FOR THE HUNTING OF RHINOCEROS FOR  
TROPHY HUNTING PURPOSES**

**TABLE OF CONTENTS**

1. Definitions
2. Marking of live rhinoceros and any rhinoceros horn
3. Management of the hunting of rhinoceros
4. Collection of samples for DNA profiling
5. Application of these norms and standards
6. Transitional provision

**SCHEDULE**

**1. Definitions**

In this Schedule, unless the context indicates otherwise, a word or expression defined in the National Environmental Management: Biodiversity Act 2004 (Act No. 10 of 2004) has the same meaning, and-

**“conservation legislation”** means national or provincial legislation that regulates the conservation and sustainable utilization of biodiversity;

**“duly authorized person”** means a person authorised by means of a permit issued in terms of the Act, but excludes the hunting client;

**“hunting client”** means a natural person who-

(a) is not resident in the Republic; and

(b) pays or rewards a hunting outfitter, or a professional hunter or any other person, whether directly or indirectly for, or in connection with, the hunting of a white rhinoceros;

**“hunting trophy”** means any horn, tooth, hide, skin, hair, or readily recognizable part or derivative of a rhinoceros, whether processed or not, and which is kept as a memento of the hunt;

NORMS AND STANDARDS FOR THE MARKING OF RHINOCEROS AND RHINOCEROS HORN, AND FOR THE HUNTING OF RHINOCEROS FOR TROPHY HUNTING PURPOSES

**“micro-chip”** means the marking of a rhinoceros or rhinoceros horn with or by means of a device that assigns a unique identification code to the rhinoceros or rhinoceros horn;

**“similar facility”** means any facility that is authorised in terms of conservation legislation to prepare or process rhinoceros horn for export purposes;

**“TRAFFIC database”** means a database developed by the organisation responsible for trade record analysis for fauna and flora in commerce, and used by an issuing authority for the recording of information relating to rhinoceros horn stock piles.

## **2. Marking of live rhinoceros and any rhinoceros horn**

- (1) All live rhinoceros sold and transported after the commencement of these norms and standards that have not been micro-chipped before, or where an inserted micro-chip is no longer detectable, must be micro-chipped with one micro-chip in front of the left shoulder and one micro-chip in each of the horns.
- (2) Rhinoceros mortalities must be reported to the issuing authority immediately after the death of the animal has been discovered.
- (3) The owner of a live rhinoceros who acquires rhinoceros horn from a legal dehorning procedure, or the natural mortality of the rhinoceros, or where the rhinoceros has lost its horn in any other natural manner, where the rhinoceros horn has not been micro-chipped before or where an inserted micro-. chip is no longer detectable, must apply to the issuing authority to have the rhinoceros horn micro-chipped, within 5 working days of acquiring such rhinoceros horn.
- (4) When an application for the possession and/ or marking of any detached rhinoceros horn is submitted to the issuing authority, information on the base circumference, inner length (anterior) and outer length (posterior) of each individual horn, as well as the weight thereof, must be provided by the applicant. In addition to this information the applicant must submit a photograph of good quality, for easy identification, of each horn.
- (5) Before a possession permit is issued by the issuing authority, an official of the issuing authority must conduct an inspection of the horn and verify the information supplied by the applicant.
- (6) An official of the issuing authority must micro-chip the rhinoceros horn contemplated in subparagraphs (3) or (4). The official must also mark the rhinoceros horn with indelible ink or by means of punch die, using the formula: ZA/serial number/year/weight, if the rhinoceros horn or part thereof is 5cm or more in length. The owner of the rhinoceros horn is responsible for the costs incurred by the issuing authority to purchase the micro-chips.
- (7) The provincial issuing authorities must keep the above information on the TRAFFIC database and any changes resulting from, among others, translocation, export from

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a province, natural mortalities, or hunting must be reflected on such database. The Department must consolidate the information kept by the provincial issuing authorities, on the national TRAFFIC database.

**3. Management of the hunting of rhinoceros**

- (1) Trade in individual rhinoceros horns and any derivatives or products of the horns are prohibited in terms of a national moratorium which has been published under Government Notice No. 148 in Gazette No. 31899 of 13 February 2009. If horns are exported as a personal hunting trophy, they may only be exported if accompanied by the necessary export permits relating to threatened or protected species and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, issued in terms of Chapter 7 of the Act.
- (2) All rhinoceros hunts must be strictly controlled by means of an individual hunting permit issued by the issuing authority in terms of the Act, in the name of the hunting client, to ensure that all rhinoceros horns can be traced to the property where the hunt took place. The hunting of rhinoceros may therefore not be authorized in terms of a game farm hunting permit.
- (3) In addition to the application for a hunting permit, the following supporting information with regards to the hunting client must be submitted to the issuing authority;
  - (a) proof of membership of a hunting association in the country of usual residence of the hunting client. The hunting association must be recognised by the government of the country of residence of the hunting client; or
  - (b) a *curriculum vitae*, indicating his/ her hunting experience in his/her country of usual residence; or
  - (c) proof of previous experience in the hunting of any African species; and
  - (d) a copy of the hunting client's passport.
- (4) All applications for the hunting of rhinoceros received by the issuing authorities must be referred to Department for recommendation within the time frame as prescribed in the Threatened or Protected Species Regulations, 2007, published under Government Notice No. R.152 in Gazette No. 29657 of 23 February 2007. This will enable the Department to compile a database for hunting clients and ensure that a hunting client does not hunt more than one rhinoceros in the country within a 12-month period.
- (5) When issuing the hunting permit, the issuing authority must consider whether the country of usual residence of the hunting client, where the rhinoceros horns and the rest of the hunting trophy will be imported to, has adequate legislation to ensure that the rhinoceros horns and the rest of the hunting trophy will be used for the purpose as indicated on the CITES export permit.

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- (6) A hunting client may hunt only one white rhinoceros for trophy purposes within a 12-month period.
- (7) The permit authorising the hunt must be signed by the hunting client before commencement of the hunt.
- (8) Rhinoceros hunts must take place in the presence of an official of the issuing authority who is authorised in terms of conservation legislation to conduct compliance inspections, but preferably an environmental management inspector from the province concerned, and at the cost of the issuing authority. Such official or environmental management inspector, whose contact details must be provided by the issuing authority, must be informed by the hunting outfitter, who organized the hunt, of the date and place of the hunt, at least 48 hours before it takes place.
- (9) If not already micro-chipped, the horns must be micro-chipped on the property where the hunt took place within 24 hours after completion of the hunt. Only an official from the issuing authority may micro-chip the horns of the hunting trophy.
- (10) The owner or the manager of the game farm, as well as the official or environmental management inspector who attended the hunt, must sign off the hunting permit after completion of the hunt, to confirm the success of the hunt. The official or environmental management inspector must immediately after completion of the hunt provide the Department with information relating to the hunt, the relevant micro-chip numbers, as well as proof that the sample(s) contemplated in paragraph 4(2) have been sent to the Veterinary Genetics Laboratory contemplated in paragraph 4(4).
- (11) The professional hunting register must be completed by the professional hunter who accompanied the hunting client during the hunt, immediately after completion of the hunt. The official or environmental management inspector who attended the hunt must indicate the micro-chip numbers with which the horns have been marked, on the professional hunting register.
- (12) The horns, together with the rest of the trophy, must be transported by a duly authorized person from the address where the hunt took place, directly to the taxidermy or similar facility to be processed and prepared for exportation. The transport of the horns as part of the hunting trophy may only be authorised in terms of an individual permit issued by the issuing authority, and may not be authorised in terms of a standing permit or in combination with the hunting permit
- (13) The permit authorizing the hunt and a copy of the professional hunting register must accompany the rhinoceros products (including the horns), which form part of the hunting trophy, when being transported between destinations.
- (14) The taxidermist or owner of a similar facility must upon receipt of the rhinoceros horns report the following information to the Department:

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- (a) date of receipt of the rhinoceros horns;
  - (b) weight of the rhinoceros horns;
  - (c) micro-chip numbers of the rhinoceros horns; and
  - (d) numbers of the hunting permit, transport permit and professional hunting register.
- (15) The taxidermist or owner of a similar facility must keep a register that contains as a minimum the information contemplated in subparagraph (14). The register must be made available to the issuing authority for inspection, upon request by the issuing authority.
- (16) The horns of a rhinoceros that was hunted as a trophy, may not be exported in hand or personal baggage.
- (17) The CITES export permit for the rhinoceros hunting trophy and a copy of both pages of the signed-off hunting permit must be presented to an environmental management inspector, for inspection prior to the export of the trophy. The CITES export permit must be endorsed by the environmental management inspector.

**4. Collection of samples for dna profiling**

- (1) When live rhinoceros are darted for translocation, treatment or any other management purpose, samples of the horns and blood must be collected by using the DNA kits as provided by the Veterinary Genetics Laboratory contemplated in subparagraph (4).
- (2) When detached horns contemplated in paragraphs 2(3), 2(4) or 3(9) are micro-chipped, samples of the horns must also be collected at the same time.
- (3) Samples contemplated in subparagraphs (1) and (2) may be collected by the following persons:
  - (a) A registered veterinarian responsible for the darting of a live rhinoceros;
  - (b) An official from the issuing authority contemplated in paragraph 2(7), who has been adequately trained in the collection of samples; or
  - (c) The official or environmental management inspector who attended the hunt contemplated in paragraph 3(8), and who has been adequately trained in the collection of samples.
- (4) The samples contemplated in subparagraphs (1) and (2) must be sent to the Veterinary Genetics Laboratory of the Faculty of Veterinary Science of the University of Pretoria at Onderstepoort, as soon as possible after it has been collected, for analysis for the purpose of DNA profiling.

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**5. Application of these norms and standards**

- (1) The provisions of these norms and standards must be read in conjunction with the provisions of the Threatened or Protected Species Regulations, 2007, published in Government Notice No. R. 152 in Gazette No. 29657 of 23 February 2007, as amended, or any subsequent regulations amending or repealing the said regulations.
- (2) The provisions of these norms and standards as far as it relates to the marking of live rhinoceros and rhinoceros horn, apply to all live rhinoceros contemplated in paragraph 2(1), and all individual detached rhinoceros horns, whether in private or state possession.
- (3) The provisions of these norms and standards as far as it relates to the hunting of rhinoceros, apply whether the hunt takes place on privately owned land or state land.

**6. Transitional provision**

Anything done in terms of the withdrawn norms and standards for the marking of rhinoceros horn and hunting of white rhinoceros for trophy hunting purpose published in Government Notice No. 756, *Gazette* No. 32426 of 20 July 2009, and which can be done in terms of these norms and standards, must be regarded as having been done under these norms and standards.