
GOVERNMENT NOTICES

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. R. 69

28 January 2008

GENERAL EXPLANATORY NOTE:

[] Words in bold typed in square brackets indicate omissions from existing enactments.

— Words underlined with a solid line indicate insertions in existing enactments.

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004 (ACT 10 OF 2004): THREATENED OR PROTECTED SPECIES: AMENDMENT; REGULATIONS

The Minister of Environmental Affairs and Tourism hereby publishes amendments to the regulations published in Government Gazette No. 29657, Government Notice No. R. 152 of 23 February 2007 as set out in the Schedule below.

SCHEDULE

Definitions

1. In these regulations-

“the Act” means the National Environment Management Act: Biodiversity Act, 2004 (Act. No. 10 of 2004); and

“the Regulations” means the Threatened or Protected Species Regulations, 2007 published in Government Gazette No. 29657, Government Notice No. R 152 of 23 February 2007;

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by:-

(a) the substitution of the definition of “commercial exhibition facility” for the following definition:

‘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;

(b) the amendment of the definition of “culling” by –

(i) the deletion of paragraph (b);

[(b) in relation to a specimen of a listed threatened or protected species which has escaped from a protected area and has become a damage causing animal, means an operation executed by an official of, or a person designated by, the provincial department or the management authority of the protected area to kill the animal as a matter of last resort;]

(ii) and the insertion “or communal land” after “game farm” in paragraph (c):

“(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;”;

(c) the substitution of the definition of “elephant ivory” for the following definition:

“**elephant ivory**” in relation to marking and registration means any piece of elephant tusk which is both 20cm or more in length[, or] and more than 1kg in weight, whether carved or not;”;

- (d) the insertion of after the definition of "elephant ivory" of the following definition:
"environmental assessment practitioner" means the individual responsible for conducting risk assessments in terms of regulation 15;"
- (e) the insertion after "extensive wildlife system" of the following definitions in alphabetical order:
- (i) "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;"
- (ii) "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;"
- (f) the substitution of the definition of "game farm hunting permit" for the following definition:
"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, [and the] including the subsequent transport and possession of the dead specimen of a listed threatened or protected species subsequent to the hunt;"
- (g) the substitution of the definition of 'hunting client' for the following definition:
"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;"

(h) the insertion after the definition of "hunting client" of the following definitions in alphabetical order:

- (i) "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;;
- (ii) "hunting outfitter" means a person who is licensed in terms of provincial legislation as a hunting outfitter;;

(i) the insertion after the definition of "kept in captivity" of the following definition:

"land owner" includes the authorised representative of the land owner or persons in control of the land;;

(j) the substitution of the definition of 'listed large predator' for the following definition:

'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
- [(e) Lion (*Panthera leo*); or]**
- (f) Leopard (*Panthera pardus*);

(k) the substitution of the definition of 'nursery' for the following definition:

"nursery" means a facility where a listed threatened or protected plant species is sold, artificially propagated or multiplied for commercial purposes;;

(l) the substitution of the definition of 'personal effects permit' for the following definition:

“**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;”;

- (m) the substitution of the definition of ‘**possession permit**’ for the following definition:

“**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;”;

- (n) the substitution of the definition of ‘**put and take animal**’ for the following definition:

“**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 [**on a property irrespective of the size of the property**] for the purpose of hunting that animal within a period of twenty four months after its release from a captive environment;”;

- (o) the substitution of the definition of ‘**registered wildlife trader**’ for the following definition:

“**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;”;

- (p) the insertion after the definition “rehabilitation facility” of the following definitions in alphabetical order:

- (i) "rhinoceros horn', in relation to marking and registration, an unprocessed rhinoceros horn or part thereof longer than 10cm in length;";
- (q) the substitution of the definition of '**scientific institution**' for the following definition:

"**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;";
- (r) the insertion after the definition of "standing permit" of the following definitions in alphabetical order:

(i) "**threatened species**' means indigenous species listed as critically endangered, endangered or vulnerable species in terms of section 56(1) of the Biodiversity Act;"

(ii) "**tracking**' means to search for or pursue a specimen of a listed threatened or protected species without killing the specimen;".

Amendment of regulation 3 of the Regulations

3. The following regulation is hereby substituted for regulation 3 of the Regulations:

- "3. (1) All permit applications must be decided upon by an issuing authority.
- (2) The Minister is the issuing authority for permits relating to the carrying out of restricted activities involving any listed threatened or protected species -
- (a) in a [national] protected area or an area managed or under control of an organ of state;

- (b) that are marine species, including listed threatened or protected marine species in marine protected areas;
- (c) by a provincial department on land under its jurisdiction and for the control of damage causing animals originating from protected areas in compliance with regulation 14; or
- (d) by a national department on land under its jurisdiction.

(3) The MEC is designated as an issuing authority for permits relating to the carrying out of restricted activities involving specimens of listed threatened or protected species in the province, excluding permits relating to –

- (a) activities referred to in subregulation (2)(a) involving listed threatened or protected species in protected areas;
- (b) listed threatened or protected marine species;
- (c) listed threatened or protected species where the restricted activity will be carried out by the provincial department on land under its jurisdiction or where control of damage causing animals originating from protected areas will take place in compliance with regulation 14; and
- (d) listed threatened or protected species where the restricted activity will be carried out by a national department on land under its jurisdiction.

(4) The MEC must enter into an agreement with a management authority in relation to the control of damage causing animals originating from national parks.

(5) An official of the Department or a provincial department 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)."

Amendment of regulation 4 of the Regulations

4. Regulation 4 of the Regulations is hereby amended by the addition for subregulation (4) of the following subregulation:

"(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."

Amendments of regulation 5 of the Regulations

5. (1) Regulation 5 of the Regulations is hereby amended by –

- (a) by the substitution for subregulation (3) of the following subregulation:

"(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 specimen(s) that was hunted, if the registration provisions in Chapter 3 are complied with.";

- (b) by the substitution for subregulation (5) of the following subregulation:

"(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.";

- (c) by the substitution for subregulation (6) of the following subregulation:

"(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.”.

Substitution of regulation 7 of the Regulations

6. The following regulation is hereby substituted for regulation 7 of the Regulations:

“7. (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.”.

Amendment of regulation 13 of the Regulations

7. Regulation 13 of the Regulations is hereby amended by –

(a) the substitution of paragraph (c) in subregulation (1) for the following paragraph:

“(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”;

(b) the substitution of paragraph (b) in subregulation (3) for the following paragraph:

“(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;”.

Amendment of regulation 14 of the Regulations

8. Regulation 14 of the Regulations is hereby amended by –

(a) the substitution subregulation (1) for the following subregulation:

“(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.”;

(b) the substitution of paragraph (c) in subregulation (2) for the following paragraph:

“(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 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).”.

(c) the substitution subregulation (4) for the following subregulation:

“(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.”;
- (d) the substitution subregulation (5) for the following subregulation:
“(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.”;
- (e) the substitution subregulation (6) for the following subregulation:
“(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 or aircraft and flood or spotlights.”;
- (f) the insertion of a new subregulation (7):
“(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).”.

Amendment of regulation 20 of the Regulations

9. Regulation 20 of the Regulations is hereby amended by the substitution of subregulation (1) for the following subsection:

“(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.”

Substitution of regulation 21 of the Regulations

10. Regulation 21 of the Regulations is hereby amended by –

- (a) the substitution of subregulation (1) for the following subregulation:

“(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.”;

- (b) the substitution of subregulation (2) for the following subregulation:

"(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 **[the]** a 12 month period **[of validity]** to the issuing authority; and
- (b) must submit a list of [return] any unused permit**[s]** numbers to the issuing authority."

Amendment of regulation 22 of the Regulations

11. Regulation 22 of the Regulations is hereby amended by the substitution of paragraph (b) in subregulation (2) for the following paragraph:

"(b) a possession permit referred to in regulation 5(5) which may be issued for a period of **[54 months]** 50 years if the permit holder is keeping the specimen in his or her possession without carrying out any other restricted activity; or"

Substitution of regulation 25 of the Regulations

12. The following regulation is hereby substituted for regulation 25 of the Regulations:

"25. The following are prohibited activities involving listed threatened or protected *Encephalartos* species:

- (a) **[The gathering, collecting, plucking, uprooting, damaging, cutting, chopping off, removing or destroying of]** Any restricted activity involving wild specimens of listed threatened or protected *Encephalartos* species, except where provided for in a Biodiversity Management Plan approved by the Minister in terms of section 43 of the Act;

- (b) [all] trade in artificially propagated specimens of critically endangered or endangered *Encephalartos* species, except where provided for in a Biodiversity Management Plan approved by the Minister in terms of section 43 of the Act;
- (c) [all trade in wild specimens and] export or re-export of artificially propagated specimens of listed vulnerable or protected *Encephalartos* species with a stem diameter of more than 15 cm, except the following species which cannot be exported or re-exported if the stem diameter is more than 7 cm: *E. caffer*, *E. humilis*, *E. umbeluziensis* and *E. ngoyanus*.”.

Amendment of regulation 26 of the Regulations

13. Regulation 26 of the Regulations is hereby amended by –

(a) the substitution of paragraph (b) in subregulation (2) for the following paragraph:

“(b) listed threatened or protected species may not be hunted by luring it, by means of

-
- (i) bait, except in the case of -
 - (aa) 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;”.

(b) the substitution of paragraph (a) in subregulation (5) for the following paragraph:

“(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;
 - (ii) culling;

(iii) controlling damage causing animals; and".

Amendment of regulation 27 of the Regulations

14. Regulation 27 of the Regulations is hereby amended by –
(a) the substitution of subregulation (1) for the following subregulation:

"(1) No person may ~~[conduct]~~ 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."

Substitution of regulation 33 of the Regulations

15. The following regulation is hereby substituted for regulation 33 of the Regulations:

"33. [(1)] 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.

[(2)] A standing permit issued in terms of chapter 2, shall be deemed to be a registration certificate for the purpose of this chapter.]".

Amendment of regulation 55 of the Regulations

16. (1) Regulation 55 of the Regulations is hereby amended by –
(a) the substitution of subregulation (1) for the following subregulation:

“(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;”.

Amendment of regulation 71 of the Regulations

17. Regulation 71 of the Regulations is hereby amended by –

(a) the substitution of the title for the following title:

“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”:

(b) the addition of subregulation (3):

“(3) Any person who, immediately before the date of commencement of these Regulations, legally conducted a restricted activity involving wild specimens of listed specimens of a threatened or protected species of *Encephalartos* or trade in artificially propagated specimens of critically endangered and endangered species of *Encephalartos*, referred to in regulation 25(1) and (2), may continue with the activity for a period of 12 months after that date, but must submit a biodiversity management plan to the Minister for approval in terms of section 43 of the Act, at least three month before the expiry of the 12 month period.”.

Substitution of Annexure 1 of the Regulations

18. The following annexure is hereby substituted for annexure 1 of the Regulations:

“ANNEXURE 1**APPLICATION FORM**

**APPLICATION FOR PERMIT/S IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT:
BIODIVERSITY ACT (ACT 10 OF 2004) AUTHORISING RESTRICTED ACTIVITY/-IES INVOLVING
LISTED THREATENED OR PROTECTED SPECIES**

A. APPLICANT DETAILS:

NAME:	
IDENTITY OR PASSPORT NO:	
TEL NO:	
FAX NO:	
E-MAIL:	
POSTAL ADDRESS:	PHYSICAL ADDRESS:

B. KIND OF PERMIT APPLIED FOR (Tick off):

ORDINARY	STANDING	POSSESSION
GAME FARM HUNTING PERMIT	NURSERY PERMIT	POSSESSION PERSONAL EFFECTS PERMIT
RENEWAL	AMENDMENT	

C. IF THE APPLICATION APPLIES TO A STANDING PERMIT (Tick off):

CAPTIVE BREEDING OPERATION	SCIENTIFIC INSTITUTION	
SANCTUARY	REHABILITATION FACILITY	
COMMERCIAL EXHIBITION FACILITY	NURSERY	

WILDLIFE TRADER	GAME CAPTURER
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D. KIND OF RESTRICTED ACTIVITY APPLIED FOR (see section G in the case of a hunt):

E. PROPERTY WHERE RESTRICTED ACTIVITY WILL TAKE PLACE

Possession / Hunt / Catch / Capture / Gather / Growing / Breeding/ Other applicable restricted activity:

PHYSICAL ADDRESS:	POSTAL ADDRESS

F. Transport / Convey / Export / Import / Buy / Sell / Other applicable restricted activity:

FROM:	TO:
PHYSICAL ADDRESS:	PHYSICAL ADDRESS:

G. SPECIES INVOLVED:

SCIENTIFIC NAME	COMMON NAME	QUANTITY	PARTICULARS OF SPECIMEN (such as sex, size, age, markings, derivatives etc.)

H. ADDITIONAL INFORMATION FOR HUNT:

(i) **HUNTING CLIENT AND APPLICANT DETAILS (if applicable):**

HUNTING CLIENT NAME:
PASSPORT NUMBER:
PHYSICAL ADDRESS:

(ii) **HUNTING OUTFITTER AND PROFESSIONAL HUNTER DETAILS (if applicable):**

HUNTING OUTFITTER	PROFESSIONAL HUNTER
NAME:	NAME:
TEL NO:	TEL NO:

(iii) **DURATION OF HUNTING TRIP:**

ARRIVAL DATE: (dd/mm/year)	DEPARTURE DATE: (dd/mm/year)

(iv) **WEAPON AND METHOD OF HUNT:**

WEAPON	METHOD

I. ADDITIONAL INFORMATION FOR STANDING PERMITS:

REGISTRATION NUMBER:	
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J. OFFICIAL USE

NAME OF INSPECTION OFFICIAL	SIGNATURE OF INSPECTION OFFICIAL	DATE:	APPROVED / REFUSED
REASONS FOR REFUSAL:			

K. PERIOD OF VALIDITY OF PERMIT

FROM: (dd/mm/year)	TO: (dd/mm/year)
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NAME OF PERMIT OFFICIAL	SIGNATURE OF PERMIT OFFICIAL	DATE:	AMOUNT PAID	RECEIPT NR	APPROVED / REFUSED
REASON FOR REFUSAL:					

Substitution of Annexure 5 of the Regulations

19. The following annexure is hereby substituted for annexure 5 of the Regulations:

"ANNEXURE 5 PROCESSING FEES

Regulation	Fee
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 <u>Standing permit – R1 000.00</u> 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

Short title and commencement

20. These regulations are called the Threatened or Protected Species Amendment Regulations, 2008, and shall take effect on 4 February 2008.