

(29 April 2014 – to date)

## **NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 10 OF 2004**

*(Gazette No. 26436, Notice No. 700. Commencement date: 1 September 2004 – unless otherwise indicated.)*

## **CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES) REGULATIONS, 2010**

*Government Notice R173 in Government Gazette 33002, dated 5 March 2010. Commencement date: 5 March 2010*

### **As amended by:**

*Government Notice R575 in Government Gazette 34452. Commencement date: 11 July 2011.*

*Government Notice R629 in Government Gazette 36770 dated 23 August 2013. Commencement date: 12 June 2013.*

*Government Notice R323 in Government Gazette 37596 dated 29 April 2014. Commencement date: 29 April 2014.*

## **DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

I, Buyelwa Sonjica, Minister of Water and Environmental Affairs has made under section 97(1)(b)(iv) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), the CITES Regulations in the Schedule hereto.

**(Signed)**

**BUYELWA SONJICA**

**MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS**

## **SCHEDULE**

### **PART 1**

### **INTERPRETATION**

#### **1. DEFINITIONS**

Prepared by:

In partnership with:

- (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 regulation 2(a) of Government Notice R323 in Government Gazette 37596 dated 29 April 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 regulation 2(b) of Government Notice R323 in Government Gazette 37596 dated 29 April 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 regulation 2(c) of Government Notice R323 in Government Gazette 37596 dated 29 April 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
  - (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;

*(Definition of "transit" substituted by regulation 2(d) of Government Notice R323 in Government Gazette 37596 dated 29 April 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.

*(Regulation 1(3) substituted by regulation 2(e) of Government Notice R323 in Government Gazette 37596 dated 29 April 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 subregulation (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](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;
  - (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;

*(Regulation 3(2)(c) substituted by regulation 3(a) of Government Notice R323 in Government Gazette 37596 dated 29 April 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;

*(Regulation 3(2)(d) substituted by regulation 3(a) of Government Notice R323 in Government Gazette 37596 dated 29 April 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.

*(Regulation 3(3) substituted by section 2 of the Regulations in Government Notice R575, Gazette No. 34452 dated 11 July 2011)*

*(Regulation 3(3) substituted by regulation 3(b) of Government Notice R323 in Government Gazette 37596 dated 29 April 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.

*(Regulation 3(4) substituted by regulation 3(c) of Government Notice R323 in Government Gazette 37596 dated 29 April 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;
  - (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;

*(Note: Numbering as published in the original Government Gazette)*

- (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.

*(Regulation 5(2A) inserted by regulation 4 of Government Notice R323 in Government Gazette 37596 dated 29 April 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.

*(Regulation 5 substituted by section 3 of the Regulations in Government Notice R575, Gazette No. 34452 dated 11 July 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 anon-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.

*(Regulation 7(3) substituted by section 4(a) of the Regulations in Government Notice R575, Gazette No. 34452 dated 11 July 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.

*(Regulation 7(4) substituted by section 4(b) of the Regulations in Government Notice R575, Gazette No. 34452 dated 11 July 2011)*

*(Regulation 7(4) substituted by regulation 5 of Government Notice R323 in Government Gazette 37596 dated 29 April 2014)*

## 8. Re-export

Prepared by:

In partnership with:

- (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.

*(Regulation 10(3) substituted by section 5(a) of the Regulations in Government Notice R575, Gazette No. 34452 dated 11 July 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.
- (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.

*(Regulation 10(14) substituted by section 5(b) of the Regulations in Government Notice R575, Gazette No. 34452 dated 11 July 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.
- (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 and 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**

Prepared by:

In partnership with:

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.

*(Regulation 14 substituted by regulation 6 of Government Notice R323 in Government Gazette 37596 dated 29 April 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.

*(Regulation 16(1A) inserted by regulation 7(a) of Government Notice R323 in Government Gazette 37596 dated 29 April 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.

*(Regulation 16(2) substituted by regulation 7(b) of Government Notice R323 in Government Gazette 37596 dated 29 April 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.

*(Regulation 19 substituted by section 6 of the Regulations in Government Notice R575, Gazette No. 34452 dated 11 July 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.

## APPENDICES I, II and III

*(Please note that a copy of Appendices I, II and III will be provided upon request. Kindly refer to our website for our contact details.)*

*(Appendices I, II and III substituted by Government Notice R629, Gazette No. 36770 dated 23 August 2013)*

## APPENDIX IIIA

### APPLICATION FORM

*(Please note that a copy of Appendix IIIA will be provided upon request. Kindly refer to our website for our contact details.)*

*(Appendix IIIA inserted by section 7 of the Regulations in Government Notice R575, Gazette No. 34452 dated 11 July 2011)*

## APPENDIX IV

### SAMPLE PERMIT FORMAT AND INSTRUCTIONS

*(Please note that a copy of Appendix IV will be provided upon request. Kindly refer to our website for our contact details.)*

## APPENDIX V

### PERMIT PROCESSING FEES

Regulation	Fee
Import, Export and Re-export Permit application without annexure	R250.00
Import, Export and Re-export Permit application with annexure	R300.00
Annual processing fee for import, export and re-export permits for regular traders (once off fee for all CITES permit applications issued in a calendar year for a specific person/registered business)	R5 000.00
Renewal – permit expired	R100.00
Lost / stolen permit	R150.00

## 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

Prepared by:

In partnership with:

**Airports and Harbours**

Cape Town International Airport

O.R Tambo International Airport

Port Elizabeth International Airport

King Shaka International Airport

Kruger - Mpumalanga International Airport

Cape Town Harbour

Durban Harbour

Port Elizabeth Harbour

*(Appendix VI amended by regulation 8 of Government Notice R323 in Government Gazette 37596 dated 29 April 2014)*