

(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.)

THREATENED OR PROTECTED SPECIES REGULATIONS, 2007

Government Notice R152 in Government Gazette 29657, dated 23 February 2007. Commencement date: 1 June 2007 [GN R150, Gazette No. 29657]

As amended by:

Threatened or Protected Species Amendment Regulations, 2008 – Government Notice R69 in Government Gazette 30703. Commencement date: 4 February 2008.

Threatened or Protected Species Amendment Regulations, 2009 – Government Notice R209 in Government Gazette 31962. Commencement date: 27 February 2009; and Threatened or Protected Species Second Amendment Regulations, 2009 – Government Notice R210 in Government Gazette 31963. Commencement date: 27 February 2009.

Threatened or Protected Species Amendment Regulations, 2011 – Government Notice R576 in Government Gazette 34453. Commencement date: 11 July 2011.

Amendment to the Threatened or Protected Species Regulations, 2007 – Government Notice R614 in Government Gazette 35565. Commencement date: 2 August 2012.

Amendment to the Threatened or Protected Species Regulations, 2007 - Government Notice R324 in Government Gazette 37596 dated 29 April 2014. Commencement date: 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.

SCHEDULE

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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 section 2(a) of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 2011)

“applicant” means a person who has submitted a permit application or registration application;

“arrow” means a projectile launched by a bow;

"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 section 2(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 -
- (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 section 2(b) of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 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) ...

(Definition of "culling" substituted by the deletion of paragraph (b) by section 2(b)(i) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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;

(Definition of "culling" substituted by the substitution of paragraph (c) by section 2(b)(ii) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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
- (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 section 2(c) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

"**environmental assessment practitioner**" means the individual responsible for conducting risk assessments in terms of regulation 15;

(Definition of "environmental assessment practitioner" inserted by section 2(d) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 section 2(e)(i) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 section 2(e)(ii) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 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 section 2(f) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

"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 section 2(g) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 section 2(h)(i) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

"hunting outfitter" means a person who is licensed in terms of provincial legislation as a hunting outfitter;

(Definition of "hunting outfitter" inserted by section 2(h)(ii) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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;

"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 section 2(i) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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
- (e)
- (f) Leopard (*Pantherapardus*);

(Definition of "listed large predator" substituted by section 2(j) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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
- (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 section 2 of the Regulations in Government Notice R209, Gazette No. 31962 dated 27 February 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 section 2(k) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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;
- (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 section 2(l) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 section 2(m) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 section 2 of the Regulations in Government Notice R614, Gazette No. 35565 dated 2 August 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 the animal within a period of twenty four months after its release from a captive environment;

(Definition of "put and take animal" substituted by section 2(n) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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
- (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 section 2(o) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 section 2(p)(i) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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;

"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 section 2(q) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 species” inserted by section 2(r)(i) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 section 2(r)(ii) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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;
- (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) ...
 - (Regulation 3(2) substituted by section 3(a) of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 2011)*
 - (Regulation 3(2) substituted by section 3(a) of the Regulations in Government Notice R614, Gazette No. 35565 dated 2 August 2012)*
 - (Regulation 3(2) repealed by regulation 3 of Government Notice R324 in Government Gazette 37596 dated 29 April 2014)*
- (3) ...
 - (Regulation 3(3) substituted by section 3(b) of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 2011)*
 - (Regulation 3(3) substituted by section 3(b) of the Regulations in Government Notice R614, Gazette No. 35565 dated 2 August 2012)*
 - (Regulation 3(3) repealed by regulation 3 of Government Notice R324 in Government Gazette 37596 dated 29 April 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.1 07 of 1998).

(Regulation 3 substituted by section 3 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

(Regulation 3 substituted by section 2 of the Regulations in Government Notice R210, Gazette No. 31963 dated 27 February 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.

(Regulation 4(4) inserted by section 4 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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;

(Regulation 5(2)(a) substituted by section 4 of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 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 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 specimen(s) that was hunted, if the registration provisions in Chapter 3 are complied with.

(Regulation 5(3) substituted by section 5(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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.

(Regulation 5(5) substituted by section 5(b) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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.

(Regulation 5(6) substituted by section 5(c) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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.

(Regulation 6(1) substituted by regulation 2(a) of Government Notice R324 in Government Gazette 37596 dated 29 April 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.

(Regulation 6(2) substituted by section 5(a) of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 2011)

(Regulation 6(2) substituted by regulation 2(b) of Government Notice R324 in Government Gazette 37596 dated 29 April 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;
 - (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;

(Regulation 6(3)(d) substituted by section 3 of the Regulations in Government Notice R209, Gazette No. 31962 dated 27 February 2009)

- (dA) an approved management plan; and

(Regulation 6(3)(dA) inserted by section 3 of the Regulations in Government Notice R209, Gazette No. 31962 dated 27 February 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.

(Regulation 6(4) inserted by section 5(b) of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 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.

(Regulation 7 substituted by section 6 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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;
 - (iv) the biodiversity management plan for the species concerned (if any);
 - (v) any recommendation by the Scientific Authority in terms of section 61(l)(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)(b) 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;
- (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
 - (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.

(Regulation 13(1)(c) substituted by section 7(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

- (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;
 - (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;
- (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.

(Regulation 13(3)(b) substituted by section 7(b) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

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.

(Regulation 14(1) substituted by section 8(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 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).

*(Regulation 14(2)(c) substituted by section 8(b) of the Regulations in Government Notice R69,
Gazette No. 30703 dated 28 January 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.

*(Regulation 14(4) substituted by section 8(c) of the Regulations in Government Notice R69, Gazette
No. 30703 dated 28 January 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.

(Regulation 14(5) substituted by section 8(d) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

- (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.

(Regulation 14(6) substituted by section 8(e) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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).

(Regulation 14(7) inserted by section 8(f) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 -
 - (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
 - (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 -
 - (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(l)(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;
 - (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 -
 - (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.

(Regulation 20(1) substituted by section 9 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

- (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.

(Regulation 21(1) substituted by section 10(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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.

(Regulation 21(2) substituted by section 10(b) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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 -
 - (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

- (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.

(Regulation 22(2)(b) substituted by section 11 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

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):
 - (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 -
 - (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.

(Regulation 25 substituted by section 12 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

(Regulation 25 substituted by section 4 of the Regulations in Government Notice R209, Gazette No. 31962 dated 27 February 2009)

(Regulation 25 repealed by section 5(a) of the Regulations in Government Notice R614, Gazette No. 35565 dated 2 August 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;
 - (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;

(Regulation 26(1)(b) substituted by section 13(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

- (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.

- (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.

(Regulation 26(4) substituted by section 6(a) of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 2011)

- (4A) A veterinarian must be present when an animal is darted by a person contemplated in subregulation (4).

(Regulation 26(4A) inserted by section 6(b) of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 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;
 - (ii) culling;
 - (iii) controlling damage causing animals; and
- (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.

(Regulation 26(5)(a) substituted by section 13(b) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

- (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.

(Regulation 27(1) substituted by section 14(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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).
- (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
 - (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.

(Regulation 33 substituted by section 15 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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;
 - (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 -
 - (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 -
 - (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
- (d) to correct technical or editorial errors on the permit or registration certificate.

44. Process

Prepared by:

In partnership with:

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.
- (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.
- (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;
- (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;

(Regulation 55(1) substituted by section 16(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

- (2) An appeal must be submitted to the Director-General and must –
- (a) set out the grounds for the appeal; and
 - (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.
- (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(l)(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
 - (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-
 - (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 -
- (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 of Regulation 71 substituted by section 17(a) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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)

(Regulation 71(3) inserted by section 17(b) of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)

(Regulation 71(3) substituted by section 3 of the Regulations in Government Notice R210, Gazette No. 31963 dated 27 February 2009)

(Regulation 71(3) repealed by section 5(b) of the Regulations in Government Notice R614, Gazette No. 35565 dated 2 August 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);

(Regulation 73(1)(aA) inserted by section 5(a) of the Regulations in Government Notice R209, Gazette No. 31962 dated 27 February 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).

(Regulation 73(1)(e) inserted by section 5(b) of the Regulations in Government Notice R209, Gazette No. 31962 dated 27 February 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
 - (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;

(Regulation 73(2)(aA) inserted by section 5(c) of the Regulations in Government Notice R209, Gazette No. 31962 dated 27 February 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.

(Regulation 73(6) inserted by section 5(d) of the Regulations in Government Notice R209, Gazette No. 31962 dated 27 February 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.

(Regulation 74 substituted by section 7 of the Regulations in Government Notice R576, Gazette No. 34453 dated 11 July 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**

**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**

(Please note that a copy of Annexure 1 will be provided upon request. Kindly refer to our website for our contact details.)

(Annexure 1 substituted by section 18 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 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
- 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.
- (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

- 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

- 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**

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 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/Standing permit	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

(Annexure 5 substituted by section 19 of the Regulations in Government Notice R69, Gazette No. 30703 dated 28 January 2008)