

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NOTICE 77 OF 2017

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004
(ACT NO. 10 OF 2004)**PROHIBITION OF THE POWDERING OR SHAVING OF RHINOCEROS HORN, THE DOMESTIC SELLING OR OTHERWISE TRADING IN, GIVING, DONATING, BUYING, RECEIVING, ACCEPTING AS A GIFT OR DONATION, OR IN ANY WAY DISPOSING OR ACQUIRING, OF POWDERED OR SHAVED RHINOCEROS HORN, AND THE EXPORT OF POWDERED OR SHAVED RHINOCEROS HORN**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to prohibit the activities set out in the Schedule hereto, in respect of *Ceratotherium simum*, *Diceros bicornis bicornis*, *Diceros bicornis minor* and *Diceros bicornis michaeli*, under section 57(2) read with section 100 of the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004) as set out in the Schedule.

The intention is to allow the selling or otherwise trading in, giving, donating, buying, receiving, accepting as a gift or donation, or acquiring or disposing of rhinoceros horn within the borders of the Republic of South Africa, or the export of rhinoceros horn from the Republic of South Africa for personal purposes. However, the results of a number of studies conducted indicate that powdered rhinoceros horn, or shavings of rhinoceros, horn is usually used for medicinal purpose in consumer markets. Due to the challenges relating to the detection of powdered rhinoceros horn, or shavings of rhinoceros horn, a realistic and significant risk exists that such powdered rhinoceros horn, or shavings of rhinoceros horn, will be exported from the Republic of South Africa illegally, which will be in contravention of the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

It is relatively simple to identify a whole rhinoceros horn, or a piece of rhinoceros horn that is of sufficient size to be marked in accordance with the current legal provisions (Threatened or Protected Species [TOPS] Regulations, 2007, and the Norms and Standards for the marking of rhinoceros and rhinoceros horn and for the hunting of rhinoceros for trophy hunting purposes, 2012). Once rhinoceros horn has been powdered or shaved, it becomes very difficult to identify and trace, especially since it can be concealed in various ways. Powdered and shaved rhinoceros horn will thus present a significant compliance monitoring and enforcement challenge, both within the Republic of South Africa and at ports of entry and exit. Laundering will be possible and small quantities can be sold or otherwise traded, making it difficult to regulate (if the current moratorium is not in place, a permit is required to trade). The only way that powder or shavings of rhinoceros horn will be identifiable will be through DNA analysis, which is a time-consuming and costly process.

Members of the public are invited to submit within 30 days after the publication of this notice in the *Gazette*, written comments or inputs to the following addresses:

By post to: The Director-General
 Department of Environmental Affairs
 Attention: Ms Magdel Boshoff
 Private Bag X447
 PRETORIA
 0001

By hand at: Environmental House, 473 Steve Biko Street, Arcadia, Pretoria, 0083.

By email: mboshoff@environment.gov.za

Any enquiries in connection with the notice can be directed to Ms Magdel Boshoff at 012 399 9604. Comments received after the closing date may not be considered.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

1. DEFINITIONS

In this Notice, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and—

“genetic profiling” means the use of biotechnology to identify the unique characteristics of a rhinoceros horn for forensic or diagnostic purposes;

“registered” means registered in terms of the TOPS Regulations;

“rhinoceros horn” means the whole horn, or any part or cut piece of the horn, whether polished or unpolished, in any form whatsoever or howsoever changed from its original form, and includes rhinoceros horn in its powdered form or shavings of rhinoceros horn;

“scientific purpose” means for the primary purpose of practicing science or conducting research;

“TOPS Regulations” means the regulations pertaining to listed threatened or protected species and promulgated in terms of section 97 of this Act.

2. PROHIBITIONS

(1) A person may not—

- (a) powder a rhinoceros horn or cause the powdering of a rhinoceros horn;
- (b) form or create slivers, chips, drill bits or any similar derivatives from rhinoceros horn, or cause such slivers, chips, drill bits or similar derivatives to be formed; or
- (c) remove parts or layers of a rhinoceros horn.

(2) The prohibition contemplated in subparagraph (1) does not apply—

- (a) when a person inserts a microchip into a rhinoceros horn;
- (b) when a person dehorn a rhinoceros, or remove part of a rhinoceros horn, as a management intervention or for security purposes;
- (b) when a person collects a sample of rhinoceros horn for genetic profiling in accordance with the Norms and Standards for the marking of rhinoceros and rhinoceros horn and for the hunting of rhinoceros for trophy hunting purposes; or
- (d) if powder, slivers, chips, drill bits or any similar derivatives are formed, or layers of rhinoceros horn are removed, by a—
 - (i) a registered scientific institution for scientific purposes; or
 - (ii) a registered scientific institution or the Forensic Science Laboratory of the South African Police Service for genetic profiling in accordance with the Norms and Standards for the marking of rhinoceros and rhinoceros horn and for the hunting of rhinoceros for trophy hunting purposes, for genetic profiling.

- (3) A person may not sell or otherwise trade in, give, donate or in any way dispose of the powder, layers, slivers, chips, drill bits or any similar derivatives of rhinoceros horn that have been formed in the circumstances contemplated in subparagraph (2) or in any other manner, except donate such powder, slivers, chips, drill bits or any similar derivatives of rhinoceros horn, to the State.
- (4) Powder, layers, slivers, chips, drill bits or any similar derivatives of rhinoceros horn may not be imported into, or exported or re-exported from, the Republic of South Africa by any person, except by the State or a facility contemplated in subparagraph (2)(d)(ii).
- (5) The prohibitions contemplated in subparagraphs (1), (3) and (4) will remain in place for a period of three years, after which it will be assessed and re-considered.