

**NOTICE 79 OF 2014****DEPARTMENT OF ENVIRONMENTAL AFFAIRS****NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 2004 (ACT NO, 10 OF 2004)  
DRAFT ALIEN AND INVASIVE SPECIES REGULATIONS, 2014**

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby publish for public comments, the draft Alien and Invasive Species Regulations published in terms of Section 97(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) as set out in the schedule hereto.

Any person who wishes to submit representations or comments in connection with the draft Regulations is invited to do so within thirty (30) days after the publication of the notice in the *Gazette* and by no later than 16h00 on the last day of comments. Comments received after this time may not be considered. All representations and comments must be submitted in writing to the Deputy Director-General of the Department of Environmental Affairs, Branch Environmental Programmes.

**Hand-deliver to:** The Deputy Director-General  
Environmental Affairs  
Environmental Programmes  
Attention: Dr Guy Preston  
14 Loop Street, Cape Town

**By post to:** The Deputy Director-General  
Environmental Affairs  
Environmental Programmes  
Attention: Dr Guy Preston  
Private Bag X4390.  
Cape Town  
8001

**By e-mail to:** [NSishuba@environment.gov.za](mailto:NSishuba@environment.gov.za)

**Enquiries:** Ms Nomahlubi Sishuba at 021 441 2700



**MRS B E E MOLEWA, MP  
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS**

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## **CHAPTER 1**

### **INTERPRETATION**

#### **1. Definitions**

In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the contents otherwise indicates-

**"biological control"** means the use of specimens of one species for the purpose of preying on, parasitizing on, damaging, killing, suppressing or controlling a specimen of another species,

**"botanical institution"** means an establishment where plants are grown for scientific study and display to the public;

**"Catch and release of a fresh-water animal"** means the catching and release of a live fresh-water animal in the same area in which it was caught;

**"Category 1a Listed Invasive Species"** means invasive species contemplated in Regulation 2;

**"Category 1b Listed Invasive Species"** means invasive species contemplated in Regulation 3;

**"Category 2 Listed Invasive Species"** means invasive species contemplated in Regulation 4;

**"Category 3 Listed Invasive Species"** means invasive species contemplated in Regulation 5;

**"contained"** means actions implemented to prevent the increase in the geographical area and density of the listed invasive species;

**"fish sanctuary areas"** means the fish sanctuary areas demarcated in the National Freshwater Ecosystem Priority Area maps for critically endangered and endangered species published by the Water Research Commission in Report TT500/11 as amended from time to time;

**"inter-basin transfer scheme"** means a man-made conveyance scheme which moves water from one river catchment where it is available, to another catchment where water is less available;

**"invasion"** means the establishment and subsequent spread of a species outside its natural distribution range in a manner or to the extent that it constitutes a threat to biodiversity, ecosystems, habitats, other species, the economy, the environment or human health or well-being;

**"Invasive Species Management Programme"** means a programme contemplated in regulation 7 for the control of a specimen of a Category 1b Listed Invasive Species;

**"Invasive Species Monitoring, Control and Eradication Plan"** means a plan contemplated in section 76 of the Act and regulation 8;

**"Off-shore island"** means the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948), or any other off-shore island in South Africa's exclusive economic zone;

**"pathway"** means the route by which a specimen of an alien or listed invasive species is transported, introduced into, dispersed or spread within the Republic, whether by natural, unnatural, deliberate or inadvertent means or acts of omissions;

**"prohibited alien species"** means an alien species listed by notice by the Minister, in respect of which a permit may not be issued as contemplated in section 67(1) of the Act;

**"Riparian area"** means within 30 metres of the 1:50 year floodline of a water-course, wetland or estuary.

**“risk assessment”** means a scientific evaluation of the threat or potential threat to ecosystems, habitats, other species, the economy, the environment or human health or well-being posed by a restricted activity involving a specimen of an alien or listed invasive species in terms of Chapter 6 of these Regulations;

**“scientific institution”** means—

- (a) an organ of state that is involved in research;
- (b) a registered research unit of a tertiary institution;
- (c) a museum or herbarium;

**“vector”** means any object by, with or on which a specimen of an alien or listed invasive species is inadvertently or deliberately transported, dispersed or spread; and

**“zoological institution”** means a facility in which animals are confined within enclosures, displayed to the public, and in which they may also be bred.

## **CHAPTER 2**

### **CATEGORIES OF LISTED INVASIVE SPECIES**

#### **2. Category 1a Listed Invasive Species**

- (1) Category 1a Listed Invasive Species are those species listed as such by notice in terms of section 70(1)(a) of the Act as species which must be controlled.
- (2) A landowner upon whose land a Category 1a Listed Invasive Species occurs and which species is under the landowner's control must—
  - (a) comply with the provisions of section 73(2) of the Act;
  - (b) immediately take steps to control, and maintain the control of, the listed invasive species in compliance with section 75 (1), (2) and (3) of the Act; and
  - (c) allow an authorised official from the Department to enter onto the land to monitor, assist with or implement the control of the listed invasive species.

#### **3. Category 1b Listed Invasive Species**

- (1) Category 1b Listed Invasive Species are those species listed as such by notice in terms of section 70(1)(a) of the Act as species which must be contained.
- (2) A landowner upon whose land a Category 1b Listed Invasive Species occurs and which species is under the landowner's control must—
  - (a) comply with the provisions of section 73(2) of the Act; and
  - (b) contain the listed invasive species in compliance with section 75 (1), (2) and (3) of the Act;
- (3) If an Invasive Species Management Programme has been developed in terms of regulation 7, a landowner must control the listed invasive species in accordance with such programme.
- (4) A landowner contemplated in sub-regulation (2) must allow an authorised official from the Department to enter onto the land to monitor, assist with or implement the containment of the listed invasive species, or compliance with the Invasive Species Management Programme contemplated in regulation 7.

#### **4. Category 2 Listed Invasive Species**

- (1) Category 2 Listed Invasive Species are those species listed by notice in terms of section 70(1)(a) of the Act as species which require a permit to carry out a restricted activity within an area specified in the Notice, the Fish

Sanctuary Areas, within National Parks Provincial Reserves, Mountain Catchment areas or Forestry Reserves specified in the Protected Areas Act, or in the Permit as the case may be.

- (2) Unless otherwise indicated in the Notice, no person may carry out a restricted activity in respect of a Category 2 Listed Invasive Species without a permit.
- (3) A landowner on whose land a Category 2 Listed Invasive Species occurs must ensure that the specimens of the species do not spread outside of the land or the area specified in the permit.
- (4) Unless otherwise specified in the List, any species listed as a Category 2 Listed Invasive Species that occurs outside the specified area contemplated in subregulation (1), must, for purposes of these Regulations, be considered to be a Category 1b Listed Invasive Species and must be managed according to regulation 3.
- (5) Individual specimens of listed invasive plant species that are declared as National Heritage Trees or National Monuments, in terms of the National Heritage Act 1999, (Act No. 25 of 1999), are Category 2 specimens.

#### **5. Category 3 Listed Invasive Species**

- (1) Category 3 Listed Invasive Species are species that are listed by notice in terms of section 70(1)(a) of the Act, as species which are subject to exemptions in terms of section 71(3) and prohibitions in terms of section 71A of Act, as specified in the notice.
- (2) Any plant species identified as a Category 3 Listed Invasive Species that occurs in riparian areas, must, for the purposes of these Regulations, be considered to be a Category 1b Listed Invasive Species and must be managed according to regulation 3.

### **CHAPTER 3** **RESTRICTED ACTIVITIES**

#### **6. Restricted activities**

In addition to those activities defined in terms of section 1 of the Act as restricted activities, the following activities are hereby prescribed as restricted activities:

- (a) spreading or allowing the spread of any specimen of a listed invasive species;
- (b) releasing any specimen of a listed invasive species;
- (c) the transfer or introduction of specimens of alien and listed invasive fresh-water species from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier;
- (d) release of water through an inter-basin transfer scheme, through which alien and listed invasive species may be transferred;
- (e) discharging of or disposing into any waterway or the ocean water from an aquarium, tank or other receptacle that has been used to keep a prohibited alien species or a listed invasive species;
- (f) the catch and release of fresh-water listed invasive animal species;
- (g) the introduction of any alien or listed invasive species to off-shore islands; and
- (h) the introduction of a listed invasive fish specimen, or listed fresh-water invertebrate specimen, into a river system

**CHAPTER 4**  
**NATIONAL FRAMEWORK DOCUMENTS**

**7. Invasive Species Management Programmes**

- (1) The Minister may develop Invasive Species Management Programmes for Category 1b Listed Invasive Species, and must ensure co-ordination and implementation thereof in terms of Section 75(4) of the Act, in order to assist persons to adhere to their obligations in terms of regulation 3(3)
- (2) An Invasive Species Management Programme contemplated in subregulation (1) must stipulate-
  - (a) the listed invasive species to which it relates;
  - (b) the measures to control the listed invasive species specified in paragraph (a);
  - (c) the areas in which the measures referred to in paragraph (b) are to be applied; and
  - (d) the schemes to fund the measures, if applicable.

**8. Invasive Species Monitoring, Control and Eradication Plans**

- (1) The Minister must-
  - (a) within one year of the date on which these Regulations come into effect, develop guidelines for the development of Invasive Species Monitoring, Control and Eradication Plans for listed invasive species as contemplated in section 76;
  - (b) publish the guidelines contemplated in paragraph (a) on its website; and
  - (c) review, at least every five years and, if necessary, amend the guidelines contemplated in paragraph (a).
- (2) Management authorities of protected areas and organs of state in all spheres of government must submit their Invasive Species Monitoring, Control and Eradication Plans contemplated in section 76 of the Act and based on priorities identified through the guidelines to the Minister and to the Institute within one year of the publication of the guidelines contemplated in subregulation (1).

**9. National Register of Alien and Listed Invasive Species**

- (1) The Minister must establish and maintain a national register of-
  - (a) all and listed invasive species in relation to which a permit has been issued and the conditions subject to which the permit has been issued;
  - (b) all Invasive Species Monitoring, Control and Eradication Plans submitted to the Minister in terms of regulation 8(2);
  - (c) all Invasive Species Management Programmes developed in terms of regulation 7(1); and
  - (d) all research findings and biological control being carried out relating to any aspect of the invasiveness of an alien or listed invasive species or the prevention, eradication or control of these species.
- (2) The Minister must make the national register available for publication on the Department's website.

**10. Invasive species research**

- (1) A proposal on any research and biological control relating to any aspect of the invasiveness or potential invasiveness of an alien species or a listed invasive species or the prevention, eradication or control of such invasive or potentially invasive species must be lodged with the Institute or a body designated by the Institute, by-
  - (a) any organ of state or organisation conducting or funding such research;

- (b) any person in the Republic conducting such research where the research is wholly or partially funded by an organ of state; or
  - (c) any person to whom a permit is issued in terms of section 65(1) or 71(1) of the Act to carry out restricted activities for the purpose of research involving an alien or listed invasive species.
- (2) A proposal in terms of subregulation (1) must-
  - (a) be lodged prior to commencing the research;
  - (b) be lodged in writing;
  - (c) contain the following information;
    - (i) The name of the researcher, his or her institution and contact details;
    - (ii) the species, pathway or vector being researched;
    - (iii) the hypothesis being tested;
    - (iv) the source of funding for the research; and
    - (v) the anticipated period of the research.
- (3) Any information provided in terms of subregulation (2)(c)(ii)(iii) or (iv) is confidential.
- (4) A copy of any findings of research referred to in subregulation (1) must, upon completion, be lodged with the Institute.

#### 11. National Status Reports

- (1) The Institute or a body designated by the Institute must, for the purpose of reporting as contemplated in section 11(1)(a)(iii) of the Act, submit a report on the status of listed invasive species to the Minister within three years of the date on which these Regulations came into effect, and at least every three years thereafter.
- (2) A National Status Report contemplated in subregulation (1) must contain a summary and assessment of-
  - (a) the status of listed invasive species and other species that have been subject to risk assessment; and
  - (b) the effectiveness of Regulations and control measures based on *inter alia* information from-
    - (i) notifications received from owners of land regarding listed invasive species occurring on that land;
    - (ii) permits issued for listed invasive species;
    - (iii) Invasive Species Monitoring, Control and Eradication Plans received from organs of state and management authorities of protected areas; and
    - (iv) emergency interventions and directives involving listed invasive species issued by the Minister.
- (3) In preparing a report contemplated in subregulation (1), the Institute must carry out the research and monitoring necessary to identify the matters contemplated in subregulation (2).



**CHAPTER 5****REGISTERS AND NOTIFICATION****12. Register of permits**

- (1) The issuing authority must-
- (a) establish and maintain a register of-
    - (i) all permits, including integrated permits, issued by that issuing authority;
    - (ii) all permits that were refused;
    - (iii) all permits issued by that issuing authority that were subsequently cancelled; and
    - (iv) all risk assessments that have been carried out in terms of sections 65(2) and 71(2) of the Act;
  - (b) record in the register contemplated in paragraph (a)-
    - (i) in the case of applications that were granted, the distinct number assigned to each permit;
    - (ii) the scientific and common name of the species for which the permit was issued, refused or cancelled;
    - (iii) whether the species was subjected to a risk assessment;
    - (iv) the restricted activity for which the permit was issued;
    - (v) any conditions under which the permit was issued;
    - (vi) the date on which the permit was issued;
    - (vii) the period of validity of the permit; and
    - (viii) the location where the restricted activity is to be carried out; and
  - (c) provide the Institute with a copy of the register.

**13. Register of notifications and directives**

- (1) A competent authority must-
- (a) establish and maintain a register of-
    - (i) All notifications received in terms of section 73(2)(a) of the Act;
    - (ii) the directives issued in terms of section 69(2) or 73(3) of the Act; and
    - (iii) all Invasive Species Monitoring, Control and Eradication Plans contemplated in regulation 8(2) .
  - (b) provide the Department and the Institute with a copy of the register.

**CHAPTER 6****RISK ASSESSMENT****14. Risk Assessment Framework**

- (1) A risk assessment must consider-
- (a) information regarding the relevant species, including-

- (i) the taxonomy of the species, including its class, order, family, scientific name (if known), genus, scientific synonyms and common names of the species;
    - (ii) the originating environment of the species, including climate, extent of geographic range and trends;
    - (iii) persistence attributes of the species, including reproductive potential, mode of reproduction, dispersal mechanisms and undesirable traits;
    - (iv) invasive tendencies of the species elsewhere and taxonomic predisposition;
    - (v) the history of domestic propagation or cultivation of the species, introductions and the extent of naturalization;
    - (vi) nutritional or dietary requirements of the species and, where applicable, whether it has a specialist or generalist diet;
    - (vii) the ability of the species to create significant change in the ecosystem; and
    - (viii) the potential to hybridize with other species and to produce fertile hybrids; and
  - (b) information regarding the restricted activity in respect of which the permit is sought, including-
    - (i) the nature of the restricted activity;
    - (ii) the reason for the restricted activity;
    - (iii) the location where the restricted activity is to be carried out;
    - (iv) the number and, where applicable, the gender of the specimens of the species involved; and
    - (v) the intended destination of the specimens, if they are to be translocated; and
  - (c) information regarding the receiving environment, including-
    - (i) climate match;
    - (ii) habitat;
    - (iii) the presence of natural enemies, predators and competitors; and
    - (iv) the presence of potentially reproductive compatible species.
- (2) A risk assessment carried out in terms of subregulation (1) must identify-
- (a) the probability that the species will naturalize in the area in which the restricted activity is to be carried out or in any other area elsewhere in the Republic;
  - (b) the possible impact of the species on the biodiversity and sustainable use of natural resources of-
    - (i) the area in which the restricted activity is to be carried out; and
    - (ii) in any other area elsewhere in the Republic;
  - (c) the risks and potential impacts on biodiversity by the species to which the application relates;
  - (d) the risks of the specimen serving as a vector through which specimens of other alien species may be introduced;
  - (e) the risks of the method by which a specimen is to be introduced or the restricted activity carried out serving as a pathway through which specimens of other alien species may be introduced; and

- (f) any measures proposed in order to manage the risks.
- (3) Based on the information in subregulations (1) and 2), a risk assessment must consider-
  - (a) the likelihood of the risks being realized;
  - (b) the severity of the risks and consequences of the realization of the risks for other species, habitats and ecosystems;
  - (c) the potential costs associated with the control of the species to minimize harm to biodiversity;
  - (d) options for minimizing the potential risks; and
  - (e) management of the potential risks.
- (4) Notwithstanding the provisions of subregulation (2), an assessment of the risks and potential impacts on biodiversity of the importation into the Republic or the introduction into a province of a specimen of an alien species or listed invasive species introduced into the Republic more than five years prior to the date upon which these Regulations come into effect, need only consider the matters contemplated in subregulations (2)(d), (e) and (f) and (3).
- (5) Notwithstanding the provisions of subregulation (1), (2) and (3), the issuing authority can determine the information to be considered in the risk assessment
- (6) Notwithstanding the provisions of subregulation (1), (2) and (3), issuing authority the can request the applicant to provide additional information.

#### 15. Risk assessment facilitator

- (1) A risk assessment contemplated in sections 65(2) and 71(1) of the Act must be undertaken by an environmental assessment practitioner.
- (2) Notwithstanding subregulation (1), the Institute or the issuing authority may undertake the risk assessment.
- (3) An environmental assessment practitioner contemplated in subregulation (1) must-
  - (a) be independent;
  - (b) have knowledge of the Act, these Regulations and any guidelines that have relevance to the proposed application;
  - (c) have expertise in biodiversity matters;
  - (d) have expertise in conducting risk assessments;
  - (e) consult at least one relevant expert; and
  - (f) comply with the provisions of the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003).
- (4) The applicant must take all reasonable steps to verify whether the environmental assessment practitioner complies with subregulation (3).

#### 16. Risk assessment procedure

- (1) A risk assessment must be undertaken in accordance with the provisions of regulation 14.
- (2) The applicant must provide the person undertaking the assessment of risks with access to all information at the disposal of the applicant regarding the application, whether or not such information is favourable to the applicant
- (3) The risk assessment report must be submitted, with the application, to the issuing authority.

**17. Risk Assessment Report**

- (1) A risk assessment report must contain the following details:
  - (a) The personal details and qualifications of the risk assessment practitioner carrying out the risk assessment;
  - (b) the personal details and qualifications of the expert consulted as required in regulation 15(3)(d);
  - (c) the risk of invasion as a result of the issuing of the permit;
  - (d) key economic, social and ecological considerations that will guide a decision on whether to issue a permit;
  - (e) any risk management measures that must be applied;
  - (f) a recommendation on whether or not a permit should be issued; and
  - (g) any conditions or control measures that should apply if a permit is to be issued.
- (2) A risk assessment report prepared in terms of subregulation (1) may be submitted by the issuing authority to the Institute for scientific review.
- (3) The applicant will be responsible for the cost associated with the review.

**18. Alien species with invasive potential**

- (1) The Institute or the issuing authority may from time to time identify any alien species that is already in the Republic and that has or may become invasive.
- (2) The institute must subject the species identified in terms of subregulation (1) to an initial risk assessment
- (3) The initial risk assessment contemplated in subregulation (2) must determine whether that species has-
  - (a) a known tendency to invade in other parts of the world with similar geophysical conditions to parts of the Republic;
  - (b) a scientific record of invasive tendencies in the Republic; or
  - (c) any other property that may make the species invasive.
- (4) Should the initial risk assessment indicate that the species has invasive potential, the Institute must undertake a comprehensive assessment to determine whether the species should be listed as a prohibited alien or listed invasive species in terms of the Act, and advise the Minister accordingly.

**CHAPTER 7****ISSUING, AMENDMENT AND CANCELLATION OF PERMITS****19. Nature of a permit**

- (1) A permit to authorize the carrying out of restricted activities, may be issued for-
  - (a) multiple restricted activities;
  - (b) multiple specimens of a species;
  - (c) multiple species; or
  - (d) multiple instances of the same restricted activity.

- (2) Notwithstanding the provision of subregulation (1)(d), a permit for the import into the Republic, including introduction from the sea, of an alien or listed invasive species is valid for one consignment unless otherwise specified in the permit.

## 20. Form and content of application for permit

- (1) An application for a permit contemplated in section 65(1) or 71(1) of the Act must be made on a form that corresponds substantially with Annexure C.
- (2) An application referred to in subregulation (1) must-
- (a) be submitted by the person to whom the permit must be issued or by such person's duly authorized representative;
  - (b) be accompanied by the applicable application fee specified in Annexure D;
  - (c) be accompanied by the details of the risk assessment facilitator;
  - (d) be accompanied by the risk assessment report contemplated in regulation 17;
  - (e) include any other additional information as may be required by the issuing authority; and
  - (f) be lodged-
    - (i) with the issuing authority together with such additional copies as may be required by the issuing authority;
    - (ii) in a manner as required by the issuing authority; and
    - (iii) with the original or certified documentation in support of the application, if required by the issuing authority.
- (3) Notwithstanding the provisions of subregulation (2)(b)-
- (a) payment of the applicable application fee as set out in Annexure D to these Regulations does not apply to organs of state;
  - (b) payment of the applicable application fee as set out in Annexure D to these Regulations may be waived for scientific institutions

## 21. Consideration of application

The issuing authority must, upon receipt of an application for a permit-

- (a) request, within 30 working days of receipt of the application and the risk assessment report, such further information as the issuing authority may require;
- (b) notify any province that may be adversely affected by the proposed activity, of the application;
- (c) have regard to the contents of the risk assessment report accompanying the application;
- (d) consider the application and any objections that have been lodged with regard thereto by an MEC for Environmental Affairs;
- (e) conduct such inspections as may be appropriate, and
- (f) reach a decision in accordance with regulation 22.

**22. Decision**

- (1) A decision on an application for a permit must be made within 60 working days of receiving the risk assessment report or, where further information has been requested in terms of regulation 20(2)(e) or 21(a), within 30 working days of receiving such information.
- (2) The issuing authority must-
  - (a) notify the applicant and any objectors to the application of the decision in writing; and
  - (b) if the application has been approved, issue a permit in the name of the person authorised to carry out the restricted activity.
- (3) The notification contemplated in subregulation (2)(a) must stipulate-
  - (a) the alien species or listed invasive species to which the application relates;
  - (b) whether the decision relates to a single specimen or to multiple specimens of the same alien species or listed invasive species;
  - (c) the restricted activities involving the alien species or listed invasive species to which the application relates;
- (4) A permit may not be issued with retrospective effect.

**23. Permit conditions**

- (1) In addition to any permit conditions imposed in terms of section 88(2)(c) of the Act, the following conditions apply to all permits:
  - (a) The permit may not be transferred to any other person;
  - (b) the holder of the permit must take all the necessary steps to prevent the escape and spread of the species, including the growth or spread of seeds or any other specimens of the species, outside the area for which the permit is issued, and must take all necessary steps to control any specimen that escapes or spreads.
- (2) The issuing authority may issue a permit to carry out a restricted activity involving a specimen of an alien or listed invasive species subject to conditions, including but not limited to, control methods determined by the issuing authority, including the use of sterile varieties or the concurrent introduction of biological control agents.

**24. Special provisions for research, biological control, display purposes, and inter-basin transfer**

- (1) Despite anything to the contrary in these Regulations, a permit may be issued subject to permit conditions to a scientific institution to carry out a restricted activity involving a specimen of any alien or listed invasive species, and must be issued under the following conditions-
  - (a) The specimen must-
    - (i) be kept for identification or research purposes only;
    - (ii) form part of a preliminary study into biological control methods; or
    - (ii) form part of an effective biological control programme; and
- (2) When issuing a permit for the specimens contemplated in subregulation (1)(b), the issuing authority must determine-
  - (a) restrictions and conditions, including quarantine conditions and conditions for the prevention of escape, for the importation or the carrying out of other restricted activities involving the specimen;

- (b) mechanisms for ensuring compliance with conditions determined in terms of paragraph (a);
  - (c) procedures to be followed in the event of a specimen contemplated in paragraph 1(a) escaping or failure to comply with the conditions determined in terms of paragraph 2(a); and
  - (d) restrictions and conditions for the release of the specimen into the wild.
- (3) Despite anything to the contrary in these Regulations, a permit may be issued, subject to permit conditions, to a zoological or botanical institution to carry out a restricted activity involving a specimen of any alien or listed invasive species, including for display purposes.
- (4) A permit may not be issued as contemplated in subregulation (3) unless the relevant institute is able to demonstrate that an alien or listed invasive species cannot escape from the facility.
- (5) Despite anything to the contrary in these Regulations, a permit may be issued, subject to permit conditions, for the carrying out of a restricted activity involving transfer of a specimen of any alien or listed invasive species from one fresh-water system in which it occurs to another fresh-water system in which it does not occur through a state inter-basin transfer scheme.

## 25. Form and content of permits

- (1) A permit contemplated in regulation 22(2)(b) must be in a form that corresponds substantially with Annexure E.
- (2) A permit contemplated in subregulation (1) must-
- (a) contain a sequential unique permit number;
  - (b) specify-
    - (i) the name and identity number of the permit holder;
    - (ii) the species to which the restricted activities relate;
    - (iii) the restricted activities for which the permit is issued;
    - (iv) the period for which the permit remains valid;
    - (v) the conditions subject to which the permit is issued; and
  - (c) contain the signature of the issuing authority which must be endorsed by means of an official stamp.

## 26. Period of validity of permits

- (1) A permit issued in terms of these Regulations shall be valid for a period not exceeding five years from the date of its issue or renewal thereof, as the case may be.
- (2) Notwithstanding the provisions of subregulation (1), a permit may be valid for a period exceeding the period contemplated in that subregulation, if it is issued-
- (a) for a restricted activity that will be carried out by a scientific institution; or
  - (b) in terms of an integrated permit and the other law to which the permit relates provides for a longer period.
- (3) Notwithstanding the provisions of subregulation (1), the issuing authority may specify a period of validity that exceeds the period contemplated in that subregulation, based on the recommendations in the risk assessment report.

**27. Amendment of permits**

- (1) A permit may be amended by-
  - (a) adding or removing a condition;
  - (b) amending a condition;
  - (c) amending any detail on the permit; or
  - (d) correcting a technical or editorial error on the permit.
- (2) An issuing authority which issued a permit may amend the permit condition stipulated therein if information is obtained by the issuing authority indicating that the species or the restricted activity for which the permit was issued is likely to have a detrimental impact on biodiversity.
- (3) The issuing authority must, before amending a permit, notify the permit holder in writing of its intention to do so and provide the permit holder with an opportunity to make representations as to why the permit should not be amended.
- (4) The issuing authority must, if it decides to amend the conditions of the permit, after consideration of any representations made in terms of subregulation (3), notify the permit holder in writing—
  - (a) that the conditions of the permit have been amended; and
  - (b) of the date upon which the amendment becomes effective.

**28. Return of cancelled permits**

A permit that has been cancelled in terms of section 93 of the Act must be returned to the issuing authority within 30 days of the date of cancellation.

**29. Renewal of permits**

- (1) A permit holder may apply for the renewal of a permit to the issuing authority who issued the permit
- (2) An application contemplated in subregulation (1) must be-
  - (a) made at least 60 days before the expiry of the period for which the permit was issued;
  - (b) made on a form that corresponds substantially with Annexure C; and
  - (c) accompanied by-
    - (i) a written motivation setting out the reasons for the application; and
    - (ii) the applicable renewal fee specified in Annexure D.
- (3) The provisions of regulation 23 apply *mutatis mutandis* to an application for the renewal of a permit.
- (4) If a permit-holder sells a specimen of an alien or listed invasive species, or sells the property on which a specimen of an alien or listed invasive species is under the permit-holder's control, the new owner of such specimen or such property must apply for a permit in terms of Chapter 7 of the Act.
- (5) The new permit-holder contemplated in subregulation (4) will be subject to the same conditions as the permit-holder who has sold the specimen of an alien or listed invasive species, or the property on which a specimen of an alien or listed invasive species occurs, unless specific circumstances require all such permit conditions to be revised.



**CHAPTER 8****EMERGENCY SUSPENSION****30. Emergency suspension of permits**

- (1) An issuing authority may suspend the operation of a permit if-
  - (a) it is necessary in order to control or eradicate a particular alien or listed invasive species;
  - (b) the carrying out of the restricted activity permitted in terms thereof will have a significant harmful impact on the environment or ecosystems; or
  - (c) the species pose an immediate threat to the environment or ecosystems.
- (2) Notice of the suspension of a permit must be in writing and must be served on-
  - (a) the permit holder; or
  - (b) any other person acting on behalf of the permit holder.
- (3) A suspension will be effective immediately upon notification, unless otherwise stated in the notice.
- (4) An issuing authority must, within 21 days of suspending a permit, initiate proceedings in terms of regulation 27 to amend the permit in order to address the cause of the emergency.
- (5) A suspension will remain in force until the finalization of proceedings in terms of regulation 27.

**CHAPTER 9****COMPLIANCE AND ENFORCEMENT****31. Prohibited alien and listed invasive species directives**

- (1) A directive contemplated in section 69(2) or section 73(3) of the Act must be in a form that corresponds substantially with Annexure F.
- (2) A directive contemplated in subregulation (1) may be served by-
  - (a) delivering it by hand to the person or group of persons or to their authorised representative;
  - (b) in the case of a juristic person, delivering it to the registered office of the juristic person; or
  - (c) forwarding it by registered post to the person or group of persons.
- (3) A competent authority must-
  - (a) maintain a record of all directives issued;
  - (b) retain a copy of the directive issued for record purposes; and
  - (c) provide the relevant issuing authority with a copy of the directive issued.

**32. Requests for directives**

- (1) A request to issue a directive in terms of section 74(1) of the Act must be on a form that corresponds substantially with Annexure G.
- (2) A competent authority may waive any of the information required in Annexure G.

**33. Withdrawal of directives**

A directive issued under section 69(2) or section 73(3) of the Act may be withdrawn in writing by the competent authority if the circumstances giving rise to the issue of the directive no longer exist.

**34. Limitations of liability**

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

(a) the exercise of any power or the performance of any duty in terms of these Regulations; or

(b) the failure to exercise any power or perform any duty in terms of these Regulations,

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

**35. Offences and penalties**

Sections 102 (1), (2A) and (3) of the Act applies to a contravention of these Regulations.

**CHAPTER 10****TRANSITIONAL ARRANGEMENTS AND SHORT TITLE****36. Transitional arrangements**

Any permit issued for an alien or listed invasive fish or mammal species under a provincial ordinance shall be deemed to be a permit issued in terms of these Regulations and shall remain valid for a period of two years from the commencement of these Regulations, despite the termination date of such permit, unless revoked, cancelled or amended, within which time the permit holder must apply for a new permit in terms of these regulations.

**37. Short title and commencement**

These Regulations are called the Alien and Invasive Species Regulations, 2014 and take effect within 30 days of publication in the *Gazette*.

## ANNEXURE A

**environmental affairs**

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

## PERMIT APPLICATION FORM

**PLEASE READ** before completing form

1. Please attach a copy of the CURRENT permit when requesting a renewal or amendment.
2. The permit renewal process will invalidate your existing permit.
3. Permit issued in terms of Chapter 7 of the National Environmental Management: Biodiversity Act, 2004

**Purpose of application** (Please select one option only)

I am applying for:

- ☐ A new permit to import
- ☐ A renewal of an existing permit<sup>1</sup>
- ☐ An amendment to an existing permit (includes ALL minor amendments, e.g. importer details)

**CURRENT PERMIT NUMBER** \_\_\_\_\_

*1 Renewal of an existing permit - if there are no changes or amendments to any section of the permit, please complete importer and payment details only.*

*2 Amendments - if you are amending importer details please tick the (highlighted) box below. If you are amending/adding products to import, please list ONLY these items in the 'description of' section. If you are deleting items please highlight the items you would like deleted from your permit.*

**Importer Personal details** (person to whom the permit will be issued)

Name of applicant .....

Identity number.....

Physical address.....

Postal address.....

Telephone Number.....  
 Fax Number.....  
 Cellular Number.....  
 E-mail address.....

### Species details

**IMPORTANT** Please read the following instructions carefully before completing product details

#### PRODUCT NAME

State the scientific and/or common name of listed invasive species for which a permit is being applied for. Continue on a separate sheet if necessary.

#### DESCRIPTION

Describe the invasive alien species concerned (e.g. flowers, fish, etc). Describe how the species will be packaged for transport and in what state (e.g. canned, cartons, plastic wrapped, fresh/frozen). State intended quantity to be imported.

#### END USE

Restricted activity for which permit is sought, for example trading, growing, moving, etc. Also state whether it is consumer ready (i.e. packaged for direct retail sale).

#### COUNTRY OF ORIGIN

Please state the country of origin for each ingredient

Product Name	Description	End Use	Country of Origin

**Exporter details**

Name .....

Physical address.....

.....

Postal address.....

.....

Telephone Number.....

Fax Number.....

Cellular Number.....

E-mail address.....

**Payment details (Please note: this application will not be processed if payment details are unsigned)****Permit Fee:**

Fee is payable for new permits, amendment requests, and renewals. This fee is associated with the processing of a permit application, regardless of issue status and is payable on demand.

**My preferred payment option is:**☐ EFT☐ Direct bank deposit☐ Cheque

Payable to: Minister of Environmental Affairs (Please note: Permit will only be issued once the cheque has been cleared at the Bank)

☐ Credit card

Credit Card number: Visa or MasterCard ONLY

Expiry  
Date

Name of cardholder:Signature:

**Importer declaration (Please note: this application will not be processed if form is submitted unsigned)**

I/We:

Declare that the information provided in this application is true and accurate to the best of my/our knowledge,

Agree to pay the permit fee, regardless of issue status, and all costs associated with the importation of the species listed on this application,

Agree to indemnify the Department against all costs, whether commission, legal fees or otherwise incurred by the Department or the Department's duly authorised agents relating to the recovery of any monies, goods or services owed by me/us to the Department,

Signature:

Name:

Date:

**Where to send this application (E-mail preferred)**

**Mail:** The Issuing Authority, Department of Environmental Affairs, Private Bag x 4390, Cape Town 8000

**Physical address:** 14 Loop Street, Cape Town 8000

**E-mail:**

**Fax:**

**How long it will take to process your application?**

It takes about **60 working days** to process a complete an import application once all the correct documentation is received. Failure to complete all relevant parts of this application will result in delays in processing time.

Following approval of the application, your Permit to Import will be emailed directly to you (as per the information provided under Importer Details). If you are an agent applying on behalf of a customer, please include a second email address under Importer Details.

**Checklist (please complete this section)**

- ☐ Please check that, where applicable, you have:
  - ☐ Attached an existing permit,
  - ☐ Attached the required documentation,
  - ☐ Completed and signed payment details, or attached a cheque,
  - ☐ Signed and dated the application

**ANNEXURE B****FEES**

**Fees in connection with the application for alien and listed invasive alien species permits in terms of the  
National Environmental Management: Biodiversity Act, 2004**

**Explanatory Note:**

*In terms of section 97(1)(f)(ii) and (xvi) of the Act the Minister may prescribe the fees to be paid in connection with the lodging and consideration of applications for permits and appeals*

	Activity	Fee
Alien & Listed Invasive Species	<b>Import into the Republic</b>	<b>R200.00</b>
	<b>All restricted activities</b>	<b>R100.00</b>
	<b>Renewal of permit</b>	<b>R50.00</b>
	<b>Appeal</b>	<b>R50.00</b>

**ANNEXURE C****Permit**

**This permit is issued in terms of Chapter 7 of the National Environmental Management: Biodiversity Act, 2004.**

Permit number: Date Issued: Valid until:

**Address of Issuing Authority:**

**Permit Holder Details:**

Name:

Address:

**Exporter/Purchaser/Seller/Trader details:**

**Premises where restricted activity will be carried out:**

Name:

Address:

Address:

**Restricted activity for which permit is issued: (Encircle relevant activity)**

Import into the Republic  
Possession  
Growing / Breeding / Propagating  
Conveying / Moving / Translocating

Selling / Trading / Buying  
Receiving / Giving / Donating  
Disposal / Acquisition

**Species details**

**Scientific Name**

**Common Name**

**Description of the specimens**

**Quantity**

This permit issued by: Place:

Official stamp



**ANNEXURE D****Directive in terms of section 69(2) or 73(3) of the National Environmental Management: Biodiversity Act, 2004.****Duty of care relating to alien species and listed invasive species****Explanatory Notes:**

- (i) *In terms of section 69(2) of the Act, the Minister may, in writing, direct any person who has failed to comply with permit requirements and conditions to take such steps as may be necessary to remedy any harm to biodiversity caused by the actions of that person as may be specified in the directive.*
- (ii) *In terms of section 73(3) of the Act, the Minister may, in writing, direct any person who has failed to comply with permit requirement and conditions and/or notification requirements to take such steps as may be necessary to remedy any harm to biodiversity caused by the actions of that person as may be specified in the directive.*

**For official use:**

Directive number:Date:

**1.DIRECTIVE ISSUED TO:**

Full name	
Identity number	
Physical address	Code
Postal address	Code
Telephone number	(+27) ( )
Fax number	(+27) ( )
Cellular number	(+27) ( )

<b>E-mail address</b>	
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**2.SITE AND SPECIES DETAILS**

Details of affected land (name, province, district, erf number)	
Details of listed invasive species (scientific or common name). Attach list if space is not sufficient	
Permit number	
Permit conditions (Attach an Annex if space is not sufficient)	

**3.DIRECTIVE SPECIFICATIONS**

Remedial actions to be taken by responsible person (Attach Annex if space is insufficient):

.....  
.....

.....  
.....  
.....  
.....

**ISSUED BY: RECEIVED BY:**

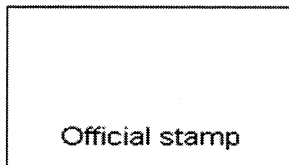
Name:

Name:

Signature:Signature:

Date:

Date:



**ANNEXURE E****Request to issue a Directive in terms of section 74(1) of the National Environmental Management:  
Biodiversity Act for a listed invasive species****Explanatory Note:**

*In terms of section 74(1) of the Act, any person may request the Minister, in writing, to issue a directive in terms of section 73(3) of the Act.*

**For official use:**

Reference number:Date:

**1.DIRECTIVE REQUESTED BY:**

Full name	
Identity number	
Physical address	Code
Postal address	Code
Telephone number	(+27) ( )
Fax number	(+27) ( )
Cellular number	(+27) ( )
E-mail address	

**2.DIRECTIVE TO BE ISSUED TO**

Name: .....

**2.1SITE AND SPECIES DETAILS**

2.1.1Name (if applicable), province/magisterial district, erf number or physical address:

.....  
.....  
.....

2.1.2Listed invasive species involved (Attach list if space is insufficient):

Scientific name: .....

Common name: .....

**2.2REASONS FOR REQUEST** (Choose whichever is applicable)

2.2.1 Contravention of permit requirements in terms of section 71(1) of the Act and/or associated permit conditions?

If yes, substantiate:

Yes	No
-----	----

.....  
.....

2.2.2Contravention of notification requirements in terms of section 73(2)(a) of the Act?

If yes, substantiate:

Yes	No
-----	----

.....  
.....

2.2.3 Contravention of measure to prevent spreading / control / eradicate in terms of section 73(2)(b) of the Act?

If yes, substantiate:

Yes	No
-----	----

.....  
.....

2.2.4 Previous directives not implemented?

If yes, substantiate:

Yes
-----

No
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.....

.....

I, the undersigned, [FULL NAME:] .....

confirm that the above information is correct and complete to the best of my knowledge.

SIGNED: ..... DATE: .....

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