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## GENERAL NOTICES

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### NOTICE 255 OF 2015

#### DEPARTMENT OF ENVIRONMENTAL AFFAIRS

#### NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004 (ACT NO. 10 OF 2004)

#### THREATENED OR PROTECTED SPECIES REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention, under section 97 (1)(b)(ii); (iii); (v); (viii); (ix); (f); (g) and (h), read with section 100 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), to make regulations relating to listed threatened or protected species, set out in the Schedule hereto.

Members of the public are invited to submit to the Minister, within 30 (thirty) 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: Mr Thomas Mbedzi  
Private Bag X447  
**PRETORIA**  
0001

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

By e-mail: [nmbedzi@environment.gov.za](mailto:nmbedzi@environment.gov.za)

Any enquiries in connection with the notice can be directed to Mr Thomas Mbedzi at 012 – 399 9605.

Comments received after the closing date may not be considered.



**BOMO EDITH EDNA MOLEWA**  
MINISTER OF ENVIRONMENTAL AFFAIRS

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**SECTION A**  
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FRESHWATER FISH SPECIES AND MARINE SPECIES**

**CHAPTER 1**  
**INTERPRETATION AND PURPOSE OF THESE REGULATIONS**

**General definitions applicable to listed threatened or protected terrestrial species, fresh water fish species and marine species**

1. (1) In these Regulations, unless the context indicates otherwise, a word or expression or any derivative or other grammatical form of such word or expression to which a meaning has been assigned in subregulation (1) or in the Biodiversity Act, has the corresponding meaning, unless the context indicates otherwise, and—

**“air gun”** means—

- a) a device designed to discharge a projectile or pellet by means of compressed gas, and not a burning propellant; and
- b) which is used for the purpose of hunting a specimen of a listed threatened or protected species;

**“angling”** means the catching of a specimen of a listed threatened or protected fish species in an aquatic system by means of a line and hook, whether or not any rod, bait or fishing lure is used, or by means of a set line, and includes any such attempt or assistance, but excludes the catching of such specimen by jigging or snatching it;

**“applicable provincial legislation”** means legislation in terms of which biodiversity matters are regulated in a province;

**“applicable legal requirements”** mean—

- (a) any legal requirement or instrument contemplated in the Biodiversity Act; and
- (b) any legal requirement contemplated in applicable provincial legislation;

**“applicant”** means a person who has applied for a permit or for registration in accordance with the provisions of these Regulations;

**“aquatic system”** means any area associated with rivers, streams, vleis, sponges, creeks, lakes, pans, or any other natural or man-made water impoundment;

**“arrow”** means a projectile launched by a bow of any description or by any other device capable of discharging such projectile;

**“artificially propagated”** means a listed threatened or protected plant species that is grown under controlled conditions, from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules that have been derived from cultivated parental stocks;

**“bait”** means any natural or artificial bait, excluding a fishing lure used to catch fish;

“**Biodiversity Act**” means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), including any amendment thereof;

“**bow**” means an instrument consisting of a body and string designed to launch and propel an arrow;

“**bred in captivity**” means a specimen that was bred and born in a controlled environment;

“**business**” means an enterprise, whether registered as a company or closed corporation or not, that is conducted by a person as the primary source of income;

“**cage trap**” means a cage with a trap door or doors, and may have a trigger that causes the door to shut, which is used to capture and restrain a live specimen of a listed threatened or protected animals species in order to prevent it from escaping;

“**captive breeding facility**” means a facility where a specimen of a listed threatened or protected animal species is bred and born in a controlled environment;

“**CAS number**” means the number allocated to a case docket when a criminal investigation is registered with the South African Police Services;

“**catch or capture**” means to employ any means, method or device to—

- a) take, gain control over, or to secure possession of;
- b) attempt to take, gain control over, or to secure possession of; or
- c) search for, pursue, drive, lie in wait for, lure or allure, discharging a missile or injuring with the intent to catch;

irrespective of whether such control or possession is intended to be temporary or permanent, and irrespective of whether such control or possession is with the intent to kill such specimen or not, but excludes angling;

“**certificate of adequate enclosure**” means a document issued in terms of applicable provincial legislation in relation to land that has been fenced in such a manner that such fence would readily prevent specimens of listed threatened or protected species listed in such document, from escaping from such land;

“**CITES**” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

“**CITES Regulations**” mean the Convention on International Trade in Endangered Species of Wild Fauna and Flora Regulations, developed in terms of section 97 of the Biodiversity Act;

“**commercial exhibition facility**” means a facility, including but not limited to, a circus, zoological garden, aquarium and travelling exhibition, that keeps specimens of listed threatened or protected species for display or performance purposes, or for the purpose of facilitating any kind of interaction between humans and live specimens of such listed species for commercial purposes;

“**commercial purposes**” mean carrying out a restricted activity with the primary purpose of obtaining economic benefit, including profit in cash or in kind, and is directed towards exchange for economic use or benefit, or any other form of economic use or benefit;

“**conservation purposes**” mean carrying out a restricted activity, including the collection of such specimen from the wild, with the primary purpose of ensuring the survival of such specimen in the wild, in accordance with a—

- a) conservation strategy or research program approved by the issuing authority; or
- b) Biodiversity Management Plan;

“**controlled conditions**” mean the conditions in an artificial or a non-natural environment that is intensively manipulated through human intervention for the purpose of growing or producing a specimen of a listed threatened or protected plant species;

“**controlled environment**” means an enclosure that is of insufficient size for the management of self-sustaining populations of listed threatened or protected species, and designed to hold the specimens in such population in a manner that—

- (a) prevents them from escaping; and
- (b) facilitates intensive human intervention or manipulation in the form of the provision of—
  - (i) food or water, or both;
  - (ii) artificial housing; or
  - (iii) health care;

and may facilitate the intensive breeding or propagation of specimens of a listed threatened or protected species;

“**coup-de-grâce**” means a final shot, or a shot of mercy, given to kill a specimen of a listed threatened or protected animal species that has been wounded during a hunt;

“**culling**” means the killing of a specific number of specimens of a listed threatened or protected species within a protected area, extensive wildlife system, semi-extensive wildlife system or on communal land as part of a controlled operation, in order to manage such specimens within the protected area, extensive wildlife system, semi-extensive wildlife system or on communal land in accordance with the management plan of such protected area, extensive wildlife system, semi-extensive wildlife system or communal land;

**“cultivated parental stock”** means listed threatened or protected plant species legally obtained and grown under controlled conditions and used for reproduction, multiplication or propagation;

**“damage-causing animal”** means an individual specimen or group of specimens, as the case may be, of a listed threatened or protected animal species that, when in conflict with human activities, there is proof that it—

- (a) causes excessive loss to stock or to wild animals;
- (b) causes damage that has a substantial detrimental effect on cultivated trees, crops or other property; or
- (c) presents an imminent threat to human life;

**“darting”** means to shoot a live specimen of a listed threatened or protected animal species with a projectile loaded with a tranquillizing, narcotic, immobilizing, or similar agent, with the purpose of restraining or anaesthetizing such specimen;

**“dead”** means a deceased specimen of a listed threatened or protected species that is no longer capable of propagating, reproducing, multiplying, or transferring genetic material;

**“departmental database”** means a database developed and maintained by the department for the recording of information, including in relation to rhinoceros horn and elephant ivory stock piles;

**“DNA”** means deoxyribonucleic acid, and refers to the molecules that carry the unique genetic information in the cells of a specific specimen of a listed threatened or protected species;

**“DNA certificate”** means a certificate issued in relation to the genotyping of a particular specimen of a listed threatened or protected species;

**“DNA sample”** means a blood or tissue sample of a specimen of a listed threatened or protected species;

**“elderly person”** means a person of 65 years or older;

**“extensive wildlife system”** means a natural environment—

- (a) that is of sufficient size for the management of free roaming populations of listed threatened or protected species, irrespective of whether it is fenced or not;
- (b) that meets the ecological requirements of the populations of listed threatened or protected species occurring on such land; and
- (c) where no or minimal human intervention is required in the form of—
  - (i) the provision of water;
  - (ii) the supplementation of food, except in times of drought;

- (iii) the control of parasites or predation; or
- (iv) the provision of health care;

**“fishing lure”** means any artificial object made of plastic, wood, steel, feather, wire or other substance, which is—

- (a) designed to attract the attention of a specimen of a fish species as a result of its movement, vibration, flash, shape, color and scent; and
- (b) presented in a manner to entice such specimen into seizing it;

**“free roaming populations”** mean viable populations of listed threatened or protected species capable of displaying natural social behavior, while requiring no or minimal human intervention;

**“freight agent”** means a person who conducts a business relating to the importing, exporting or re-exporting of specimens of listed threatened or protected species;

**“game farm”** means an extensive wildlife system or semi-extensive wildlife system on which specimens of a listed threatened or protected species are kept for commercial utilization;

**“game farm hunting permit”** means a permit—

- (a) issued by the issuing authority and purchased by the owner of a registered game farm in accordance with the previous Regulations; and
- (b) that authorizes any other person to purchase and hunt a specimen of a listed threatened or protected animal species on such registered game farm, including to convey and possess the dead specimen subsequent to the hunt during the validity period of the game farm hunting permit;

**“genotyping”** means the process of determining or analyzing the DNA profile of a specimen of a listed threatened or protected species;

**“gin trap”** means a device designed for the entrapment of a specimen of a listed threatened or protected species by trapping a leg, limb or any other part of the body through the mechanism of closing jaws, whether with or without an off-set jaw or padded jaws, and triggered by the animal stepping in or on to the device or touching the device with any part of its body;

**“hunt”** means to—

- (a) kill, or attempt to kill, such specimen by any means, method or device whatsoever;
- (b) search for, lie in wait for, drive, pursue, shoot at, or to discharge any missile at, such specimen with the intent to kill; or

(c) lure by any means, method or device whatsoever, such specimen with the intent to kill; in order to obtain the meat for personal consumption, or to obtain the tusk, horn, skin or any other recognizable part of such specimen as a memento of the hunt, but excludes—

- (i) the culling of such specimen;
- (ii) the killing of such specimen that has become a damage-causing animal; or
- (iii) the darting of such specimen;

**“hunting client”** means a person who is not a citizen of the Republic and also not a resident in the Republic, whether or not he or she pays or rewards a hunting outfitter, directly or indirectly for, or in connection with, the hunting of a specimen of a listed threatened or protected animal species;

**“hunting outfitter”** means a person who markets, assists with, offers, advertises or organizes the hunting of a specimen of a listed threatened or protected animal species, whether directly or through the use of an agent;

**“hybridization”** means the cross-breeding of individuals from different—

- (a) genera;
- (b) species; or
- (c) sub-species of the same species;

**“introduced population”** means a population of a listed threatened or protected species that has been translocated to, and released in, an area that does not fall within the natural distribution range of the translocated species;

**“IUCN Red List status”** means the conservation status of a listed threatened or protected species based on the IUCN Red List categories and criteria;

**“jigging”** in relation to a specimen of a listed threatened or protected fish species means the use of line and hooks, by a fast and erratic retrieving action of the hooks through the water with the intention to hook such specimen in any part of its body;

**“land owner”** means—

- (a) the person registered in a deeds registry as the owner of the land;
- (b) the *bona fide* purchaser of land, prior to the registration of the deed of transfer in his name, but after the contract of sale has been concluded, to the exclusion of the person contemplated in paragraph (a);
- (c) the authorised representative of the person contemplated in paragraph (a) or (b);
- (d) the person designated in writing as the owner of such land by an association, where the legal title thereto is vested in an association, whether corporate or non-corporate;

- (e) the management authority of a protected area;
- (f) the Minister, MEC for Environmental Affairs or municipality, as the case may be, of state land that is not a protected area, or the delegated person of the Minister, MEC for Environmental Affairs or municipality;
- (g) the occupier or lessee of land, in terms of a written agreement with the person contemplated in paragraph (a), (b), (d) or (f);
- (h) the person in whom the administration of such land is vested as executor, trustee, assignee, curator, liquidator or judicial manager, as the case may be, where the owner as contemplated in paragraph (a) or (b) is dead or insolvent, or has assigned his/ her estate for the benefit of his/ her creditors or has been placed under curatorship by order of court or is a company being wound up or under judicial management;
- (i) the lawful heir of the person contemplated in paragraph (a) or of the purchaser contemplated in paragraph (b), as the case may be, at the death of such person or purchaser or, where the land is subject to a usufruct, the usufructuary; or
- (j) a person or authority in control of communal land;

**"listed large predator"** means a specimen of any of the following listed threatened or protected species—

- (a) African wild dog (*Lycaon pictus*);
- (b) Brown hyaena (*Parahyaena brunnea*);
- (c) Cheetah (*Acinonyx jubatus*);
- (d) Leopard (*Panthera pardus*);
- (e) Lion (*Panthera leo*); or
- (b) Spotted hyaena (*Crocuta crocuta*);

**"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) biodiversity management plan developed in terms of section 43 of the Biodiversity Act;
- (c) management plan developed in terms of any applicable norms and standards; or
- (d) management plan developed in terms of applicable provincial legislation;

**"management purposes"** mean for the purpose of—

- (a) translocating;
  - (b) marking; or
  - (c) collecting a DNA sample of;
- a specimen of a listed threatened or protected species;

“**mark**” means an indelible imprint, micro-chip or any other recognized or prescribed means of identifying a specimen of a listed threatened or protected species, designed in such a way as to render the imitation of the mark by unauthorized persons as difficult as possible;

“**National Environmental Management Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998), including any amendment thereof;

“**natural distribution range**” means the area in which a specimen of a listed threatened or protected species occurs naturally, or has occurred historically, without having been introduced into such area as a result of human intervention;

“**norms and standards**” mean any national norms and standards issued in terms of—

- (a) section 9 of the Biodiversity Act;
- (b) section 11 of the Protected Areas Act; or
- (c) to the extent applicable, section 24 of the National Environmental Management Act;

“**nursery**” means a facility, operated as a business primarily for commercial purposes, where specimens of listed threatened or protected plant species are sold, and may include the cultivation, multiplication, propagation or growing of such specimens;

“**nursery possession permit**” means a permit—

- (a) issued by the issuing authority and purchased by the owner of a registered nursery in accordance with the previous Regulations; and
- (b) that authorizes any other person to purchase a specimen of a listed threatened or protected plant species from such registered nursery, including to convey and possess such plant specimen subsequent to the purchase during the validity period of the nursery possession permit;

“**person**” means a natural or juristic person;

“**personal effects permit**” means a permit—

- (a) issued by the issuing authority and purchased by a registered wildlife products trader in accordance with the previous Regulations; and
- (b) that authorizes any other person to purchase a dead specimen of a listed threatened or protected species from such registered wildlife products trader for non-commercial purposes, including to convey and possess such specimen subsequent to the purchase, or to export such specimen from the Republic subsequent to the purchase, during the validity period of the personal effects permit;

**“previous Regulations”** mean—

- (a) the Threatened or Protected Species Regulations, 2007, published in Government Notice No. 152, *Gazette* No. 29657 of 23 February 2007, as amended;
- (b) Management of Boat Based Whale Watching and Protection of Turtles Regulations, 2008, published in Government Notice No. 725, *Gazette* No. 31212 of 4 July 2008; and
- (c) Regulations for the Management of White Shark Cage Diving, 2008, published in Government Notice No. 724, *Gazette* No. 31211 of 4 July 2008;

**“professional hunter”** means a person who conducts a hunt, or offers or agrees to escort, guide, assist or accompany a hunting client in order to enable such hunting client to hunt a specimen of a listed threatened or protected animal species;

**“protected area”** has the meaning assigned to it in terms of the Protected Areas Act;

**“Protected Areas Act”** means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 1998), including any amendment thereof;

**“protected species”** means any species listed as protected in terms of section 56(1)(d) of the Biodiversity Act;

**“provincial conservation authority”** means the provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;

**“raw elephant ivory”** means—

- a) a whole uncarved elephant tusk or part of an uncarved elephant tusk, whether polished or unpolished;
- b) a whole partially carved elephant tusk or part of a partially carved elephant tusk, whether polished or unpolished; or
- c) a cut piece of an elephant tusk, whether polished or unpolished, in any form whatsoever and howsoever changed from its original form;

but excludes worked ivory;

**“registered”** means registered in terms of these Regulations;

**“rehabilitation facility”** means a facility equipped for the temporary keeping of a live—

- a) sick or injured specimen for the purpose of providing treatment of and care to such specimen; or
- b) young orphan specimen for rearing purposes;

with the overall intent to release such specimen, but excludes a facility that forms part of a veterinarian's practice;

**“release”** means to intentionally—

- (a) cease exercising physical control over;
  - (b) cease having in possession; or
  - (c) set free from its controlled environment;
- a live specimen of a listed threatened or protected species;

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

**“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 in terms of section 10 of the Biodiversity Act;

**“sanctuary”** means a facility that provides permanent care to a specimen of a listed threatened or protected species that would be unable to sustain itself if released in an extensive wildlife system or semi-extensive wildlife system, whether as a result of injury or on account of human imprinting;

**“Scientific Authority”** means the Scientific Authority established in terms of section 60 of the Biodiversity Act;

**“scientific institution”** means—

- (a) a component of an organ of state, or a non-governmental institution, involved in research;
- (b) a registered research unit, department or faculty of a tertiary institution; or
- (c) a herbarium, museum or any other institution where specimens of a listed threatened or protected species are kept or used for research, scientific information or identification purposes;

**“scientific purposes”** mean carrying out a restricted activity with the primary purpose of practicing science or conducting research;

**“selling”** means bartering, or giving or offering in exchange, and buying shall be construed accordingly;

**“semi-extensive wildlife system”** means an environment that is of sufficient size for the management of self-sustaining populations of listed threatened or protected species, irrespective of whether it is fenced or not, and

irrespective of whether it meets the ecological requirements of such populations or not, but where human intervention is required 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 predation; or
- (d) the provision of health care;

**“snare”** means an anchored noose of string, wire, cable or any other material which can be used for capturing or killing a specimen of a listed threatened or protected animal species;

**“stock book”** in relation to a specimen of a listed threatened or protected species means a register that indicates the—

- (a) quantities of specimens acquired, whether such specimens were born or purchased, or received as a donation or on loan;
- (b) quantities of specimens kept; and
- (c) quantities of specimens disposed of, whether such specimens died or were sold, or given as a donation or a loan returned;

**“taxidermist”** means a person who treats, prepares or mounts a skin, horn or other derivative of a specimen of a listed threatened or protected animal species, or who transforms a skin, horn or other derivative of such specimen into a curio;

**“temporary translocation facility”** means a facility equipped for the temporary keeping of live specimens of a listed threatened or protected animals species for quarantine or translocation purposes, including a boma, with the overall intent to release such specimens;

**“trap”** means a cage, net or any other device that is capable of catching or capturing a specimen of a listed threatened or protected species;

**“threatened species”** means an indigenous species listed as critically endangered, endangered or vulnerable species in terms of section 56(1)(a), (b) and (c) of the Biodiversity Act;

**“tracking”** means to search for, follow or pursue a specimen of a listed threatened or protected species;

**“trade”** means to import into the Republic, export from the Republic, sell, exchange, purchase, receive, accept as a gift, give, donate, or to acquire or dispose of in any way, a specimen of a listed threatened or protected species within the Republic;

“**translocation**” means the process of capturing a specimen of a listed threatened or protected animal species at a particular location, the conveying or transporting of such specimen and the release of the specimen in another location;

“**veterinarian**” means a person registered with the South African Veterinary Council to operate as such;

“**veterinary purposes**” mean for the purpose of—

- (a) diagnosis, treatment, prevention of or advice on a disease, physiological or pathological condition;
- (b) applying a medical procedure, including a surgical or dental operation or procedure; or
- (c) administering medicine;

“**wildlife auctioneer**” means a person who acts as an agent or who facilitates a commercial transaction between the seller and the purchaser of a specimen of a listed threatened or protected species;

“**wildlife trader**” means a person who engages in the business of sourcing and acquiring a live specimen of a listed threatened or protected animal species for commercial purposes, and includes a wildlife auctioneer but excludes a—

- (a) hunting outfitter;
- (b) wildlife translocator; and
- (c) commercial exhibition facility;

“**wildlife products trader**” means a person who engages in the business of sourcing and acquiring a dead specimen of a listed threatened or protected animal species for commercial purposes, but excludes a taxidermist and a wildlife auctioneer;

“**wildlife translocator**” means a person who translocates a live specimen of a listed threatened or protected animal species for commercial purposes on behalf of another person, and may include the purchasing, selling or temporary possession of such live specimen;

“**wild animal**” means a specimen of an animal species other than a domestic or stock species;

“**wild population**” means a group or collection of specimens of the same listed threatened or protected species that lives, grows and multiplies in an extensive wildlife system;

“**worked elephant ivory**” in relation to elephant ivory means any item made or manufactured into a form significantly altered from its original state, and that requires no further carving, crafting, shaping or manufacturing to effect its purpose, including—

- (a) jewelry;
  - (b) an ornamental item;
  - (c) an art item;
  - (d) a utility item;
  - (e) a musical instrument, and
  - (f) a whole elephant tusk or part of an elephant tusk, of which the whole surface has been carved;
- provided that such item is clearly recognizable as such.

#### **Purpose and application of these Regulations**

2. (1) The purpose of these Regulations is to—

- (a) further regulate the permit system set out in Chapter 7 of the Biodiversity Act insofar that such system applies to restricted activities involving specimens of listed threatened or protected species;
  - (b) provide for the registration and regulation of—
    - (i) captive breeding facilities;
    - (ii) rehabilitation facilities;
    - (iii) sanctuaries;
    - (iv) temporary translocation facilities;
    - (v) scientific institutions;
    - (vi) commercial exhibition facilities;
    - (vii) nurseries;
    - (viii) game farms;
    - (ix) wildlife traders;
    - (x) taxidermists;
    - (xi) wildlife translocators; and
    - (xii) freight agents;
  - (c) regulate the manner in which specific restricted activities may be carried out;
  - (d) prohibit the manner in which specific restricted activities may be carried out;
  - (e) provide for the regulation of boat-based whale and dolphin watching, and for white shark cage diving;
  - (f) provide for the composition and operating procedures of the Scientific Authority;
  - (g) provide for the recognition of associations.
- (2) These Regulations apply to the carrying out of restricted activities involving specimens of terrestrial and freshwater fish species, and marine species where specifically provided for, that have been listed as threatened or protected in terms of section 56 of the Biodiversity Act.

- (3) These Regulations must be read in conjunction with the CITES Regulations as far as it relates to the import, export, re-export or introduction from the sea of specimens of listed threatened or protected species.
- (4) These Regulations must be read in conjunction with applicable provincial legislation.

#### **Activities prescribed as restricted activities**

3. In addition to those activities defined in terms of section 1 of the Biodiversity Act as restricted activities, the following activities are hereby prescribed as restricted activities—
- (a) darting of a specimen of a listed threatened or protected animal species;
- (b) release of a specimen of a listed threatened or protected species; and
- (c) angling.

## **CHAPTER 2**

### **PERMIT SYSTEM FOR LISTED THREATENED OR PROTECTED SPECIES**

#### **Part 1**

#### **Application for permits**

#### **Carrying out a restricted activity**

4. (1) A person may carry out a restricted activity involving a specimen of a listed threatened or protected species, only if he or she is the holder of a permit issued—
- (a) in terms of section 57(1) of the Biodiversity Act;
- (b) in accordance with Chapter 7 of the Biodiversity Act, and
- (c) in accordance with these Regulations;
- unless the Minister has exempted the carrying out of such restricted activity involving such specimen in terms of section 57(4) of the Biodiversity Act.
- (2) Notwithstanding that—
- (a) a person has been granted written permission by the owner—
- (i) on whose property the restricted activity will be carried out, or
- (ii) of the specimen in respect of which the restricted activity will be carried out; and
- (b) the owner contemplated in paragraph (a) is in possession of a permit to carry out such restricted activity himself or herself;

the person contemplated in subregulation (1) nevertheless requires a permit contemplated in subregulation (1).

**Permits**

5. (1) The carrying out of a restricted activity may be authorised in terms of any of the following types of permits—
- (a) an ordinary permit contemplated in regulation 6;
  - (b) a standing permit contemplated in regulation 7; or
  - (c) a permit issued to an official of an issuing authority.
- (2) The issuing authority may, in accordance with the provisions of section 92(2) and (3) of the Biodiversity Act, issue an integrated permit ordinary permit or standing permit, as the case may be, if—
- (a) the restricted activity to which the permit relates, is regulated in terms of the Biodiversity Act, as well as in terms of any other law;
  - (b) the species to which the restricted activity relates, is listed in terms of section 56 of the Biodiversity Act as a threatened or protected species; and
  - (c) the issuing authority is authorised to issue a permit in terms of the Biodiversity Act, as well as in terms of the other law contemplated in subregulation (2)(a).

**Ordinary permits**

6. (1) An ordinary permit may be issued, subject to the provisions of regulations 28 and 29, for the—
- (a) once-off carrying out of a restricted activity, or a combination of restricted activities, involving one or more specimens of one or more listed threatened or protected species; or
  - (b) continuous carrying out of a restricted activity, or a combination of restricted activities, for a maximum period of 12 months, involving one or more specimens of one or more listed threatened or protected species.
- (2) A specific kind of ordinary permit, namely a permanent possession permit, may be issued, subject to the provisions of regulations 28 and 29, to authorize the possession of a specimen of a listed threatened or protected species that is a personal belonging and that is not intended for commercial use, and may, on discretion of the issuing authority, include the conveyance of such specimen.

**Standing permits**

7. (1) Subject to the provisions of regulations 28 and 29, and subregulations (2) and (3) of this regulation, a standing permit may be issued to authorize the continuous carrying out of a restricted activity, or a combination of restricted activities, involving one or more specimens of one or more listed threatened or protected species.
- (2) A standing permit may be issued, without prior registration, only to—

- (a) an official of an organ of state, for the carrying out of restricted activities in the official performance of his or her duties, whether on private land or on land under the jurisdiction of such organ of state;
  - (b) the management authority of a protected area, for the carrying out of restricted activities involving specimens of listed threatened or protected species within the protected area, that are necessary for the management of such species in accordance with the approved management plan of such protected area;
  - (c) a veterinarian, for darting and any other restricted activities necessary for management purposes; or
  - (d) an official of the National Council of Societies for the Prevention of Cruelty to Animals, in the official performance of his or her duties.
- (3) In addition to a standing permit for persons contemplated in subregulation (2), a standing permit involving a specimen of a listed threatened or protected species may be issued for the following facilities or to the following persons, as the case may be, only upon prior registration—
- (a) a captive breeding facility, for the carrying out of restricted activities involving species kept or bred in that captive breeding facility, that are necessary for the purpose for which that captive breeding facility is registered;
  - (b) a rehabilitation facility, sanctuary or temporary translocation facility, for the carrying out of restricted activities involving specimens brought to such rehabilitation facility, sanctuary or temporary translocation facility, for the purpose for which the rehabilitation facility, sanctuary or temporary translocation facility is registered;
  - (c) a scientific institution, for the keeping of specimens at such scientific institution, or for the restricted activities necessary for such scientific institution, to conduct research;
  - (d) a commercial exhibition facility, for the carrying out of restricted activities involving specimens under the care of the exhibitor, that are necessary for the purpose for which the commercial exhibition facility is registered;
  - (e) a nursery, for the carrying out of restricted activities involving specimens, for the purpose to which the registration relates;
  - (f) a game farm, for restricted activities involving specimens to which the registration relates;
  - (g) a wildlife trader, for restricted activities associated with the trading in live specimens;
  - (h) a taxidermist, for restricted activities associated with the preparation or mounting of specimens;
  - (i) a wildlife translocator, for restricted activities associated with the translocation of live specimens; or
  - (j) a freight agent, for restricted activities associated with the importation and exportation of specimens.
- (4) A standing permit relating to research may be issued to a registered scientific institution, subject to—
- (a) the prior submission of a written project proposal, approved by—
    - (i) the tertiary institution in conjunction with which the research is conducted; or

- (ii) the relevant issuing authority, in the case where the research is not conducted in conjunction with a tertiary institution; and
- (b) the prior written ethical approval by the tertiary institution contemplated in paragraph (a)(i), if applicable.

## Part 2

### Permit application procedure

#### Application for a permit

8. (1) A person may apply for a permit by using an application form—
- (a) as set out in Annexure 1 to these Regulations; or
  - (b) provided by the issuing authority that contains, as a minimum and to the extent applicable, the information contemplated in Annexure 1.
- (2) A person applying for a permit must pay the applicable permit processing fee as set out in Annexure 3 to these Regulations.
- (3) Notwithstanding the provision of subregulation (2), payment of the applicable permit processing fee does not apply—
- (a) to an organ of state; or
  - (b) in the case where an integrated permit will be issued, and where a permit processing fee has been paid in terms of applicable provincial legislation.
- (4) An application referred to in subregulation (1) must be accompanied by—
- (a) a certified copy of the identity document or passport of the person who will be carrying out the restricted activity;
  - (b) written consent, if required in terms of regulation 10 of these Regulations;
  - (c) proof of payment of the—
    - (i) applicable permit processing fee contemplated in subregulation (2); and
    - (ii) in the case of an integrated hunting permit, the fee relevant to the hunting of a particular species, as determined by the issuing authority in terms of applicable provincial legislation;
  - (d) a risk assessment, if required in terms of regulation 12 of these Regulations;
  - (e) an assessment of risks, if required in terms of these Regulations;
  - (f) a list of names of the natural persons who will be carrying out the restricted activities, if the person applying is a juristic person (to the extent possible);
  - (g) an approved management plan, if required;
  - (h) in the case of an application for a standing permit, a certified copy of the relevant registration certificate issued in terms of Chapter 3 of these Regulations;

- (i) in the case of an application for a permit to possess a specimen of a threatened or protected species, proof of legal acquisition.

#### **Submission of permit applications**

9. (1) Unless the Minister directs otherwise in the case of a specific application or applications, an application contemplated in regulation 8 must be submitted to the organ of state as specified in Section 87A of the Biodiversity Act.

- (2) Permit applications may be submitted—
  - (a) electronically;
  - (b) by post; or
  - (c) delivered by hand.

#### **Additional information required for certain applications**

10. (1) If the restricted activity applied for, will be carried out on land of which the person who will be the holder of the permit is not the owner, the applicant must—
- (a) in the case of a listed threatened species, obtain the written consent from the owner on whose land the restricted activity will be carried out, and submit such consent together with the application form contemplated in regulation 8 of these Regulations; and
  - (b) in the case of a listed protected species, obtain the written consent from the owner on whose land the restricted activity will be carried out, prior to carrying out of such restricted activity.
- (2) If the applicant is a juristic person, the application form contemplated in regulation 8 of these Regulations must be accompanied by the necessary written consent from such juristic person to authorize the person applying for the permit on behalf of such juristic person.
- (3) If the application relates to the hunting of white rhinoceros (*Ceratotherium simum simum*), black rhinoceros (*Diceros bicornis*), African elephant (*Loxodonta africana*), leopard (*Panthera pardus*) or lion (*Panthera leo*), by a hunting client, the following documentation must be submitted by a hunting client together with the application form contemplated in regulation 8 of these Regulations—
- (a) a certified copy of the passport of the hunting client;
  - (b) proof of previous hunting experience in the country of usual residence of the hunting client;
  - (c) proof of previous hunting experience in African species; and
  - (d) proof of membership of a hunting association recognized by the relevant authority responsible for the environment in the country of usual residence of the hunting client (if applicable).

- (4) Subregulation (1) does not apply to the management of damage-causing animals by an official of a provincial conservation authority, if such damage-causing animal poses a threat to human life.

**Restricted activities requiring the collection of DNA samples for genotyping**

11. (1) In addition to the circumstances contemplated in regulations 27, 32(3), 70(3), 70(4) and 73(5) of these Regulations, the issuing authority must require the genotyping of a specimen of a listed threatened or protected species, if so required in terms of a non-detriment finding made by the Scientific Authority.
- (2) In addition to the circumstances contemplated in subregulation (1), the issuing authority may, if it deems necessary, require the genotyping of a specimen of a listed threatened or protected species to be done, at the cost of the applicant, before a permit is issued.
- (3) A copy of the DNA certificate issued for a specimen that has been subject to genotyping must be made available, upon request, to the relevant issuing authority.
- (4) The genotyping contemplated in subregulation (1) must be done by a registered scientific institution.

**Restricted activities requiring a risk assessment**

12. (1) The issuing authority must, in addition to the information contemplated in regulations 10 and 11 of these Regulations, and in addition to the circumstances contemplated in regulation 57(4) of these Regulations, require a risk assessment for—
- (a) restricted activities involving wild specimens of critically endangered species;
- (b) restricted activities carried out in ecosystems listed as threatened in terms of section 52 of the Biodiversity Act; or
- (c) release of a captive-bred or artificial propagated specimen of a listed threatened or protected species into a national protected area.
- (2) Notwithstanding the provision of subregulation (1), a risk assessment is not required for the carrying out of a restricted activity, if such restricted activity is necessary for the conservation of a critically endangered species, and such restricted activity is carried out by an official of—
- (a) South African National Parks;
- (b) SANBI;
- (c) a provincial conservation authority; or
- (d) a protected area of a municipality.

**Risk assessment report**

13. (1) The person carrying out a risk assessment contemplated in regulation 12 of these Regulations must submit a report thereafter to the relevant issuing authority, prior to the consideration of the application.
- (2) The risk assessment report contemplated in subregulation (1) must, as a minimum, include the following—
- (a) ecological 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 to which the application applies; 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 level of the species in the food-chain; and
    - (cc) the functions that the species performs in its ecosystem; and
  - (vii) the major threats affecting the species nationally and locally;
- (b) information regarding the restricted activity to which the application applies, 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 species or to any other species or ecosystems, including—
- (i) degradation and fragmentation of the habitat of the species;

- (ii) creation of a significant change in an ecosystem caused by the removal or addition of keystone species;
  - (iii) over-exploitation of a species;
  - (iii) hybridization;
  - (iv) out-breeding; and
  - (v) introduction of disease;
  - (e) evaluation of the risk identified under paragraph (d) in terms of—
    - (i) the likelihood of the risk being realized; and
    - (ii) the severity of the risk and consequences of the realization of the risk for the particular species as well as for other species, habitats and ecosystems;
  - (f) any management measures that must be applied to minimize potential risks;
  - (g) management of potential risks; and
  - (h) any other information as the issuing authority may determine.
- (3) In addition to the information contemplated in subregulation (2), the risk assessment report must contain the following details—
- (a) the personal details and qualifications of the person carrying out the risk assessment;
  - (b) key economic, social and ecological considerations that will guide a decision on whether to issue a permit;
  - (c) a recommendation on whether or not a permit should be issued; and
  - (d) any conditions or control measures that should apply if a permit is to be issued.
- (4) The applicant must appoint the person who will be carrying out the risk assessment, at own cost, to provide the information required in subregulations (2) and (3).
- (5) The applicant must—
- (a) take all reasonable steps to verify whether the person who will be carrying out the risk assessment complies with the requirements of regulation 14 of these Regulations; and
  - (b) provide the person who will be carrying out the risk assessment with access to all information at the disposal of the applicant regarding the application, whether or not such information is favorable to the applicant.

**General requirements applicable to the person who will be carrying out a risk assessment**

14. (1) The person who will be carrying out a risk assessment contemplated in regulation 12 of these Regulations must—
- (a) be independent;
  - (b) have adequate knowledge of—

- (i) the Biodiversity Act;
  - (ii) these Regulations;
  - (iii) any norms and standards and guidelines that have relevance to the application; and
  - (iv) the species concerned, or alternatively must consult with an expert on the species concerned when conducting the risk assessment;
- (c) have expertise in—
- (i) biodiversity matters; and
  - (ii) conducting risk assessments;
- (d) conduct the risk assessment to which the application relates in an objective manner, even if such risk assessment result in views and findings not favorable to the applicant;
- (e) comply with—
- (i) applicable legal requirements; and
  - (ii) the provisions of the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003);
- (f) take into account, to the extent applicable, the matters contemplated in regulation 8 of these Regulations when carrying out the risk assessment and preparing any report relating to the application; and
- (g) disclose to the applicant and the issuing authority all material information in his or her possession that reasonably has or may have the potential of influencing—
- (i) any decision to be taken by the issuing authority in terms of these Regulations with respect to the permit application; or
  - (ii) the objectivity of the risk assessment.
- (2) In the case that the risk assessment was carried out by a person who is registered as a candidate natural scientist or certificated natural scientist in terms of the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003), or the report was compiled by such person, the report must also be signed off by the registered professional natural scientist under whose supervision and control such person has performed his or her work.

#### **Disqualification of the risk assessment report**

15. (1) If the issuing authority at any stage of considering an application has reason to believe that the person who carried out the risk assessment may not comply with the requirements of regulation 14 of these Regulations in respect of the application, the issuing authority—
- (a) may disqualify the risk assessment report;
  - (b) must notify the person who carried out the risk assessment and the applicant of the reasons therefore and that the application is suspended until the matter is resolved; and
  - (c) afford the person who carried out the risk assessment and the applicant an opportunity to make written representations to the issuing authority regarding the independence of the disqualified person.

- (2) An interested and affected party may notify the issuing authority of suspected non-compliance with regulation 14 of these Regulations by the person carrying out the risk assessment.
- (3) The notification contemplated in subregulation (2) must be submitted in writing to the issuing authority and must contain documentation supporting the allegation that is referred to in such notification.
- (4) Where an interested and affected party notifies the issuing authority of suspected non-compliance with regulation 14 of these Regulations, the issuing authority must investigate the allegation.
- (5) If, after considering the notification contemplated in subregulation (3), the issuing authority is unconvinced of compliance with regulation 14 of these Regulations by the person carrying out the risk assessment, the issuing authority must, in writing, inform such person and the applicant accordingly and may—
  - (a) refuse to accept any further reports or input from such person in respect of the application in question; and
  - (b) request the applicant to—
    - (i) commission, at own cost, an external review by an independent person or persons of any reports prepared or processes conducted by the person who carried out the risk assessment in connection with the application;
    - (ii) redo any specific aspects of the work done by the previous person who carried out the risk assessment in connection with the application; and
    - (iii) complete any unfinished work in connection with the application or take such action as the issuing authority requires remedying the defects.

#### **Assessment of risks**

16. (1) In addition to the circumstances contemplated in regulations 70(5) and 83(10) of these Regulations, the issuing authority may require an assessment of risks as it deems necessary.
  - (2) The assessment of risks contemplated in subregulation (1) must include, as a minimum, the following information—
    - (a) to the extent applicable, the registered name and number of the extensive wildlife system or semi-extensive wildlife system onto which a specimen of a listed threatened or protected species is to be released;
    - (b) to the extent applicable, a list of indigenous species already occurring on the extensive wildlife system or semi-extensive wildlife system onto which a specimen of a listed threatened or protected species is to be released;

- (c) to the extent applicable, the fencing specifications of the extensive wildlife system or semi-extensive wildlife system onto which the species is to be released;
  - (d) the potential risks associated with the conveyance, movement or translocation of the specific specimen, or to any other species or ecosystems, including—
    - (i) degradation and fragmentation of the habitat of the species; and
    - (ii) hybridization of species;
  - (e) evaluation of the risk identified under paragraph (d) in terms of—
    - (i) the likelihood of the risk being realized; and
    - (ii) the severity of the risk and consequences of the realization of the risk for the particular species as well as for other species, habitats and ecosystems;
  - (f) any management measures that have been implemented to minimize potential risks;
  - (g) how permissible restricted activities will be carried out to prevent or minimize potential risks; and
  - (h) any other information as the issuing authority may deem necessary.
- (3) The assessment of risks may be done by any person, provided that such person has sufficient knowledge of the Biodiversity Act and biodiversity matters.

### Part 3

#### Consideration of permit applications

##### Timeframes for issuing authorities

17. (1) On receipt of an application submitted in terms of regulation 9 of these Regulations, and if the issuing authority is satisfied that all the information that it requested has been submitted, the issuing authority must consider and decide on the application within 20 working days of receipt of such information and in accordance with this Part.
- (2) If an issuing authority requires additional information, it must request the applicant, within 10 working days of receipt of the application, in terms of section 88(2)(a) of the Biodiversity Act, to furnish such additional information within 3 months of such request.
- (3) If the additional information requested by the issuing authority in terms of subregulation (2) is not submitted to the issuing authority within 3 months of such request, the issuing authority may deem the application to have been withdrawn, and must inform the applicant accordingly.
- (4) If the information submitted by the applicant is sufficient, but the issuing authority is unable to comply with the timeframe referred to in subregulation (1) above, the issuing authority must—

- (a) provide reasons in writing to the applicant, prior to the lapsing of such timeframe, as to why it is unable to comply with such timeframe; and
- (b) decide on the application within 20 working days from the date on which the timeframe contemplated in subregulation (1) lapsed.
- (5) Notwithstanding the provision of subregulation(1), the issuing may determine the timeframe for applications to which the genotyping of specimens of listed threatened or protected species contemplated in terms of Regulation 11 of these Regulations, relate.

**Factors to be taken into account by issuing authorities when considering permit applications**

18. (1) When considering a permit application, an issuing authority must consider—

- (a) all the information and documentation submitted by the applicant to the issuing authority in connection with the application, including any additional information requested by the issuing authority in terms of regulations 10, 11, 12, 16 or or 17(2) of these Regulations; and
- (b) any applicable legal requirements.
- (2) The issuing authority must, in addition to the provisions of subregulation (1) and to the extent applicable, also take into account—
  - (a) 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;
  - (b) whether the species to which the application relates is an alien species;
  - (c) the IUCN Red List status of the species;
  - (d) whether the application involves a listed threatened or protected species that will be introduced to, or taken or removed from, a wild population;
  - (e) whether the restricted activity applied for is regulated in terms of regulations 30, 31, 32, 75, 76, 77, 78, 79, 80, 81, 82, 83 or 86 of these Regulations;
  - (f) whether the restricted activity is prohibited in certain circumstances in accordance with regulations 70, 71, 72, 73 or 74 of these Regulations;
  - (g) whether an environmental impact assessment has been carried out in terms of the National Environmental Management Act, and if so, must consider the findings thereof;
  - (h) whether an environmental authorization has been issued in terms of the National Environmental Management Act, and if so, must consider the conditions thereof;
  - (i) whether the carrying out of the restricted activity, or not carrying out of such restricted activity, as the case may be, 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;
  - (j) any applicable approved management plan;

- (k) whether the issuing authority has refused, cancelled or suspended any other permits issued to the applicant, in terms of section 92A, 93 or 93B respectively of the Biodiversity Act;
- (l) any recommendation or non-detriment finding made by the Scientific Authority in terms of section 61(1)(c) or (d) of the Biodiversity Act, regarding the application;
- (m) any relevant information on the database that SANBI is required to keep in terms of section 11(1)(j) of the Biodiversity Act;
- (n) whether the restricted activity will be carried out in a captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, commercial exhibition facility, nursery, or on a game farm, or by a scientific institution, wildlife trader, a taxidermist, a wildlife translocator or a freight agent, and whether such facility or such person is registered in accordance with these Regulations;
- (o) whether the restricted activity will be carried out in a threatened ecosystem or protected area;
- (p) whether the applicant has been convicted of an offence in terms of the Biodiversity Act;
- (q) any objections to the application; and
- (r) any other relevant factors.

**Additional factors to be taken into account by issuing authorities when considering applications for hunting permits**

19. 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 contemplated in regulation 18 of these Regulations, also take into account—
- (a) any applicable hunting proclamation issued in terms of applicable provincial legislation;
  - (b) any method of hunting prohibited in terms of regulation 71 of these Regulations;
  - (c) in the case of a hunting client, whether—
    - (i) the hunt has been organized by a hunting outfitter;
    - (ii) whether the hunting client will be accompanied by a professional hunter; and
    - (iii) the hunting experience contemplated in regulation 10(3) of these Regulations, of the hunting client;
  - (d) whether a person applying for a permit is a member of an association or organization recognized in terms of Chapter 6 of these Regulations;
  - (e) any applicable hunting off-take limits determined by the Scientific Authority in terms of regulation 98 of these Regulations, for a listed threatened or protected animal species; and
  - (f) whether the written consent contemplated in regulation 10(1) of these Regulations, of the landowner on whose land the hunt will be conducted, has been submitted together with the application.

**Circumstances in which permits must be refused**

20. (1) The issuing authority must refuse to issue a permit if—
- (a) the applicant has not signed the application form;

- (b) the applicant has failed to pay the applicable processing fee as set out in Annexure 3 to these Regulations;
  - (c) the application is not accompanied by the information contemplated in regulation 8(4) of these Regulations;
  - (d) any applicable legal requirements are not being complied with;
  - (e) the carrying out of a restricted activity has been prohibited in terms of section 57(2) of the Biodiversity Act;
  - (f) the restricted activity applied for is in conflict with any of the non-detriment findings made by the Scientific Authority in terms of section 61(1)(d) of the Biodiversity Act;
  - (g) the off-take limits determined by the Scientific Authority will be or have been exceeded;
  - (h) the permit has also been refused or revoked in terms of any other applicable legislation; or
  - (i) registration of a facility is compulsory in terms of Chapter 3 of these Regulations, and such facility is not registered.
- (2) In addition to the factors contemplated in subregulation (1), the issuing authority must refuse to issue an export permit for a rhinoceros trophy if—
- (a) the hunting permit has not been signed off by the—
    - (i) owner or manager of the game farm, extensive wildlife system or semi-extensive wildlife system where the rhinoceros was hunted; and
    - (ii) official of the relevant provincial conservation authority or environmental management inspector who supervised the hunt;
  - (b) the trophy has not been appropriately marked in compliance with regulation 31(6) of these Regulations; or
  - (c) any information required in terms of these Regulations has not been submitted to the issuing authority.
- (3) In addition to the factors contemplated in subregulation (1), the issuing authority must refuse to issue a permit if the application relates to breeding in a sanctuary.

#### **Part 4** **Issuing of permits**

##### **Decision on permit applications**

21. (1) After having considered and decided upon an application in accordance with regulations 17, 18 and 19 of these Regulations, the issuing authority must within 5 working days of the date of such decision, and if the application is approved, issue the permit.

- (2) If the decision of the issuing authority is to issue the permit subject to certain conditions, the issuing authority must—
  - (a) give reasons for the decision to the applicant, if required by the applicant; and
  - (b) inform the applicant of his or her right to appeal against the decision and the appeal procedure to be followed in accordance with the relevant regulations applicable to appeals.
- (3) If the decision of the issuing authority is to refuse the application, the issuing authority must in addition to the legal requirement set out in terms of section 88(5) of the Biodiversity Act inform the applicant of his right to appeal against the decision of the issuing authority and the appeal procedure to be followed in accordance with the relevant regulations applicable to appeals.
- (4) The issuing authority may issue a permit with retrospective effect if deemed necessary.

#### **Contents of permits**

22. (1) Unless the carrying out of a restricted activity is authorised in terms of an integrated permit, the issuing authority must issue a permit in the form set out in—
  - (a) Annexure 4 to these Regulations if it is an ordinary permit, or
  - (b) Annexure 5 to these Regulations if it is a standing permit.
- (2) The issuing authority must issue a permit in the name of the person who will be carrying out the restricted activity.
- (3) If an integrated permit is issued, the permit must, to the extent applicable, contain the following information—
  - (a) The name, identity number or passport number, postal address and physical address of the person carrying out the restricted activity;
  - (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 the 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 restricted activity may be carried out by the permit holder;
  - (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) where 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 authorizing 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 authorizing the sale or supply of such a species;
  - (v) in the case of a hunting client, the particulars of the hunting outfitter;
  - (vi) the location and other relevant particulars of the place where the restricted activity is to be carried out (where applicable);
  - (vii) in the case of a standing permit for a captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, nursery, game farm, wildlife trader, taxidermist, wildlife translocator or freight agent—
    - (aa) the physical address of the premises where the restricted activities will be carried out;
    - (bb) a unique registration number;
  - (viii) in the case of a permit authorizing 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, measured in accordance with regulations 30 and 31 of these Regulations;
    - (cc) a description of the markings or any other form of identification in respect of each piece of elephant ivory, or each rhinoceros horn or piece of rhinoceros horn as provided for in terms of regulations 30 and 31 of these Regulations; and
  - (j) the specific conditions subject to which the permit is issued.
- (4) To the extent possible, if the permit is issued to a juristic person, all the names of the natural persons who will be carrying out the restricted activities authorised in the permit, must be listed in an annexure to the permit.
- (5) A permit authorizing the hunting of a specimen of a listed threatened or protected species must specify the instrument and the method by which the animal may be hunted.

**Compulsory permit conditions applicable to the holder of a permit**

23. (1) Any permit must be issued subject to the condition that the holder thereof—

- (a) may not transfer the permit to any other person;
  - (b) may not make any unauthorized alteration to the permit, in which case the permit will be rendered invalid;
  - (c) must sign the permit in order to validate the permit before carrying out the restricted activity to which the permit applies; and
  - (d) is bound by any norms and standards that apply to the restricted activity or species for which the permit is issued, and that the permit holder must act in accordance with those norms and standards when carrying out the restricted activity to which the permit applies.
- (2) In addition to the compulsory conditions contemplated in subregulation (1), all ordinary permits issued for the maximum period of validity contemplated in regulation 29 of these Regulations, and all standing permits, must be issued subject to a condition that the permit holder must keep a register containing the information contemplated in subregulation (3), and must report such information in writing to the relevant issuing authority prior to the expiry of such ordinary permit or standing permit.
- (3) The register contemplated in subregulation (2) must contain the following information—
- (a) the name of the permit holder;
  - (b) the facility to which the registration applies (if applicable);
  - (c) the unique number to which the registration applies (if applicable);
  - (d) the restricted activity or activities that have been carried out;
  - (e) the date on which the restricted activity or activities have been carried out;
  - (f) the common and scientific names of the species to which the restricted activity or activities contemplated in subparagraph (d) relate;
  - (g) the number of specimens involved;
  - (h) the markings of specimens involved (if applicable);
  - (i) if the permit relates to purchasing, the name, physical address and permit number of the seller;
  - (j) if the permit relates to selling, the name, physical address and permit number of the purchaser; and
  - (k) if the permit relates to the transport and export of a specimen, and to the extent applicable, the name and physical address of the person where the specimen has been transported or exported to.
- (4) In addition to the compulsory conditions contemplated in subregulation (1), all hunting permits must be issued subject to the condition that—
- (a) the holder thereof must have all relevant documentation authorizing the hunt on his or her person during the hunt;
  - (b) the information contemplated in subregulation (5) must be submitted in writing to the issuing authority within 21 days of the hunt, by—
    - (i) the holder of the permit, in the case of a local hunter; or

- (ii) the hunting outfitter, in the case of a hunting client; and
  - (c) in the case of a hunting client, that he or she must be accompanied by a professional hunter.
- (5) The information contemplated in subregulation (4)(b) includes the following—
- (a) the permit number and date of issuance of the permit;
  - (b) the species, sex and number of animals hunted; and
  - (c) the location where the hunt took place.

**Compulsory conditions applicable to captive breeding facilities, rehabilitation facility, temporary translocation facilities, game farms or commercial exhibition facilities**

24. (1) In addition to the conditions contemplated in regulation 23(1) and (2), a permit issued in respect of a captive breeding facility, rehabilitation facility, temporary translocation facility, game farm or a commercial exhibition facility must be issued subject to a condition that the permit holder must—

- (a) prevent hybridization and/or inbreeding;
  - (b) keep a stock book;
  - (c) participate within any regional studbook, where appropriate;
  - (d) provide information contemplated in paragraphs (a), (b) and (c) in writing to the relevant issuing authority prior to the expiry of the ordinary permit or standing permit; and
  - (e) make the information contemplated in paragraph (d) available upon request of the relevant issuing authority.
- (2) Notwithstanding the provision of subregulation (1)(a), inbreeding may be permitted in a captive breeding facility for conservation purposes, only—
- (a) in accordance with a conservation strategy approved by the relevant issuing authority;
  - (b) if a stock book contemplated in subregulation (1)(b) is kept; and
  - (c) studbook contemplated in subregulation (1)(c) is kept.
- (3) A permit in respect of a captive breeding facility must, in addition to the compulsory conditions contemplated in subregulation (1), be subject to a condition that no specimens of listed large predators originating from wild populations may be introduced in a captive breeding facility.
- (4) A permit in respect of a commercial exhibition facility must, in addition to the compulsory conditions contemplated in subregulation (1), be subject to a condition that the permit holder must, if it is a travelling exhibition, inform the issuing authority of the province to which it will be going, in writing and to the extent possible, at least 30 days prior to travelling to such province.

- (5) A permit issued in respect of a rehabilitation facility must, to the extent possible, specify the period within which a specimen kept in such rehabilitation facility, must be released.

**Compulsory conditions applicable to sanctuaries**

25. In addition to the conditions contemplated in regulation 23(1) and (2), a permit issued in respect of a sanctuary must be subject to the condition that the permit holder must prevent breeding in the sanctuary, in so far that such permit holder—
- (a) must take appropriate measures to prevent natural reproduction in the sanctuary; and
  - (b) may not perform artificial insemination, or allow the procedure to be performed, in the sanctuary.

**Compulsory conditions applicable to scientific institutions**

26. In addition to the conditions contemplated in regulation 23(1) and (2), a standing permit, or an ordinary permit issued for the maximum period of validity contemplated in regulation 29 of these Regulations, in respect of a registered scientific institution must be issued subject to a condition that the permit holder must submit to the relevant issuing authority—
- (a) a progress report—
    - (i) at the end of each calendar year, in the case of a standing permit; or
    - (ii) upon expiry of the permit, in the case of an ordinary permit; and
  - (b) a report of the research findings, upon completion of the research project.

**Compulsory conditions applicable to extensive wildlife systems and semi-extensive wildlife systems**

27. (1) In addition to the compulsory conditions contemplated in regulation 23(1) and (2), a permit in respect of the possession or exercising physical control of specimens of bontebok (*Damaliscus pygargus pygargus*) and Southern roan antelope (*Hippotragus equinus equinus*) on an extensive wildlife system or a semi-extensive wildlife system, must be issued subject to a condition that a blood sample of each such specimen must be collected for genotyping in accordance with regulation 11 of these Regulations.
- (2) An official of the relevant provincial conservation authority must, to the extent possible, be present when a blood sample contemplated in subregulation (1) is collected.

**Validity of permits**

28. (1) If a permit is issued by the Minister or his or her delegated official in accordance with section 87A(1)(a) of the Biodiversity Act, such permit is valid throughout the Republic, unless otherwise indicated in the permit.

- (2) If a permit is issued by the MEC or his or her delegated official in accordance with section 87A(2) of the Biodiversity Act, such permit is valid only within the area of jurisdiction of such MEC, or for the specific locality where the restricted activity involving such specimen will be carried out, as the case may be.

**Period of validity of permits**

29. (1) An ordinary permit contemplated in regulation 6(1) of these Regulations may be issued with a period of validity not exceeding 12 months.
- (2) Notwithstanding the provision of subregulation (1), a permanent possession permit contemplated in regulation 6(2), may be issued for a period not exceeding 10 years.
- (3) A standing permit contemplated in regulation 7 of these Regulations may be issued for a period not exceeding—
- (a) 48 months to an organ of state or the management authority of a protected area; or
- (b) 36 months to a registered captive breeding facility; registered rehabilitation facility, registered sanctuary, registered temporary translocation facility, registered scientific institution, registered commercial exhibition facility; registered nursery, registered game farm; registered wildlife trader, registered taxidermist, registered wildlife translocator, registered freight agent and a veterinarian.
- (4) Notwithstanding the provision of subregulation (3)(a), a permit issued to an official of a provincial conservation authority for the carrying out of restricted activities in the official performance of such official's duties remains valid until the employment of the holder of such permit is terminated, whether or not terminated on initiative of the employer or the permit holder.

**Part 5**

**Elephant ivory and rhinoceros horn**

**Requirements for permits authorizing possession of elephant ivory**

30. (1) When an application for a permit relating to the possession of elephant ivory is submitted to the issuing authority in terms of regulation 9(1) of these Regulations, the following must accompany such application—
- (a) information on the circumference, inner length and outer length measured from base to tip following the curve, of the elephant ivory;
- (b) the weight of the elephant ivory, where practically possible; and
- (c) photographs of the elephant ivory.

- (2) The issuing authority must be satisfied that the quality of the photographs contemplated in subregulation 1(c) is adequate for easy identification of such ivory.
- (3) Prior to the issuance of a permit to authorize possession of the elephant ivory, an official of the relevant issuing authority must conduct an inspection of the elephant ivory to verify the correctness of the information supplied by the applicant.
- (4) In addition to the requirement of regulation 4(1) of these Regulations, a person in possession of raw elephant ivory must apply to the issuing authority to have such raw elephant ivory marked, if the raw elephant ivory is both more than 20 cm in length and 1 kg or more in weight.
- (5) Notwithstanding the provision of subregulation (4), if the elephant ivory, in respect of which the application contemplated in subregulation (1) is made, has already been marked in accordance with other applicable legal requirements, such application must also be accompanied by proof of such marking.
- (6) The issuing authority contemplated in subregulation (3), if satisfied that the possession of the raw elephant ivory 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 elephant ivory in kilograms;
  - (b) record the weight, circumference at the base, as well as the inner and outer length from base to tip of such elephant ivory; and
  - (c) capture all the information referred to in (a) and (b) above in the database contemplated in subregulation (8).
- (7) In the case of an application in respect of which the elephant ivory has already been marked in accordance with other applicable legal requirements, and if the issuing authority is satisfied that the requirements of subregulation (6) are met, the existing marking must be accepted and such information must be reflected in the relevant permit.
- (8) The Department must develop and maintain a database reflecting the information contemplated in subregulation (6).

**Requirements for permits authorizing possession of rhinoceros horn**

31. (1) When an application for a permit relating to the possession of rhinoceros horn is submitted to the issuing authority in terms of regulation 9(1) of these Regulations, the following must accompany such application—
- (a) information on the circumference, inner length and outer length, measured from base to tip following the curve, of each individual detached rhinoceros horn;
  - (b) the weight of each individual detached rhinoceros horn, where practically possible; and
  - (c) photographs of each individual detached rhinoceros horn.
- (2) The issuing authority must be satisfied that the quality of the photographs contemplated in subregulation 1(c) is adequate for easy identification of such horns.
- (3) If the rhinoceros horn, in respect of which the application contemplated in subregulation (1) is made, has already been marked in accordance with other applicable legal requirements, such application must also be accompanied by proof of such marking.
- (4) Prior to the issuance of a permit to authorize possession of the rhinoceros horn an official of the relevant issuing authority must conduct an inspection of the rhinoceros horn to verify the correctness of the information supplied by the applicant.
- (5) In addition to the requirement of regulation 4(1) of these Regulations, a person in possession of any rhinoceros horn that is 5cm or more in length, irrespective of the weight of such rhinoceros horn, must apply to the relevant issuing authority to have the rhinoceros horn marked.
- (6) The issuing authority contemplated in subregulation (5), if satisfied that the possession of the rhinoceros horn is lawful, must—
- (a) mark such rhinoceros horn by means of—
    - (i) a micro-chip, to the extent possible; and
    - (ii) indelible ink or punch die, using the following formula—
      - (aa) the country-of-origin two letter ISO code and the last two digits of the particular year, followed by a forward slash;
      - (bb) the serial number for the particular year, followed by a forward slash; and
      - (cc) the weight of the rhinoceros horn in kilograms;
  - (b) record the weight, circumference at the base, as well as the inner and outer length from base to tip of such rhinoceros horn; and
  - (c) capture all the information contemplated in paragraphs (a) and (b) above, including the micro-chip number, in the database referred to in regulation 30(8) of these Regulations.

- (7) The issuing authority must mark the rhinoceros horn at the expense of the person applying for such marking.
- (8) In the case of an application in respect of which the rhinoceros horn has already been marked in accordance with other applicable legal requirements, and if the issuing authority is satisfied that the requirements of subregulation (6) are met, the existing marking must be accepted and such information reflected in the relevant permit.

#### **Additional requirements involving rhinoceros and rhinoceros horn**

- 32. (1)** Any live rhinoceros sold and transported after the commencement of these Regulations that has not already been micro-chipped, must be micro-chipped by the relevant issuing authority, at the expense of the owner of the rhinoceros, with one microchip in each of the horns, and one micro-chip in front of the left shoulder.
- (2) In addition to the marking of rhinoceros horn in the manner contemplated in regulation 31(6)(a) of these Regulations, confiscated rhinoceros horn must also be marked by attaching the relevant CAS number by means of indelible ink, to such confiscated rhinoceros horn.
  - (3) Tissue samples for genotyping must be collected in the following circumstances—
    - (a) horn and blood samples when a live rhinoceros is darted for translocation, treatment or any other management intervention;
    - (b) horn samples when—
      - (i) an inspection contemplated in regulation 31(4) of these Regulations is conducted; or
      - (ii) when a rhinoceros was hunted and the horns have to be marked prior to the conveyance of the hunting trophies to the taxidermist; and
    - (c) tissue samples of a rhinoceros that has been killed unlawfully.
  - (4) The tissue samples contemplated in subregulation (3) must be collected by the following persons—
    - (a) a veterinarian registered with the South African Veterinary Council and responsible for the darting of the live rhinoceros;
    - (b) an official from the issuing authority responsible for the micro-chipping of horns contemplated in regulation 31(6) of these Regulations, and who has been adequately trained in the collection of DNA samples;
    - (c) the conservation official or environmental management inspector who supervised the hunt of a rhinoceros, and who has been adequately trained in the collection of DNA samples; or

- (d) the environmental management inspector who is responsible for investigating the unlawful killing of the rhinoceros contemplated in subregulation (3)(c), and who has been adequately trained in the collection of DNA samples.
- (5) Notwithstanding the provision of regulation 11(3) of these Regulations, the tissue samples contemplated in subregulation (3) must be sent to the Veterinary Genetics Laboratory of the Faculty of Veterinary Science of the University of Pretoria at Onderstepoort, as soon as possible after it has been taken, for genotyping.
- (6) The issuing authority must keep the information contemplated in regulation 31(6) of these Regulations on the departmental database.

### CHAPTER 3

#### REGISTRATION OF CAPTIVE BREEDING FACILITIES, REHABILITATION FACILITIES, SANCTUARIES, TEMPORARY TRANSLOCATION FACILITIES, SCIENTIFIC INSTITUTIONS, COMMERCIAL EXHIBITION FACILITIES, NURSERIES, GAME FARMS, WILDLIFE TRADERS, TAXIDERMISTS, WILDLIFE TRANSLOCATORS AND FREIGHT AGENTS

##### Part 1

##### Registration of persons or facilities

**Compulsory registration of captive breeding facilities, rehabilitation facilities, sanctuaries, temporary translocation facilities, scientific institutions, commercial exhibition facilities, nurseries, game farms, wildlife traders, taxidermists, wildlife translocators and freight agents**

33. (1) No person may operate—

- (a) a captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, or nursery; or
- (b) as a wildlife trader, taxidermist, wildlife translocator or freight agent;

unless such facility contemplated in paragraph (a) or such person contemplated in paragraph (b) is registered with the relevant issuing authority in terms of this Chapter.

- (2) The registration of a facility or a person in terms of this Chapter does not absolve the holder of the registration from the obligation to obtain a permit in terms of section 57(1), read with Chapter 7, of the Biodiversity Act prior to the carrying out of a restricted activity.

##### **Voluntary registration of game farms**

- 34. (1) The owner of a game farm, who is also the holder of a certificate of adequate enclosure, may apply to the issuing authority for registration of the game farm in terms of this Chapter.

- (2) The relevant issuing authority may register the game farm contemplated in subregulation (1) and issue a registration certificate for the species to which the certificate of adequate enclosure relates, if the issuing authority has conducted a basic assessment with regards to the suitability of the habitat for the specific species involved.
- (3) Notwithstanding the provision of subregulation (2), a basic habitat assessment is not required if it has been conducted previously in terms of applicable provincial legislation.

#### **Issuing authorities for registration of persons or facilities**

35. (1) The Minister is the issuing authority responsible for deciding an application for registration—
- (a) in a national protected area;
  - (b) that is a marine species; or
  - (c) applied for by an official, on behalf of—
    - (i) a provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;
    - (ii) a national protected area;
    - (iii) the South African National Biodiversity Institute; or
    - (iv) an organ of state in the national sphere of government.
- (2) The MEC for Environmental Affairs is the issuing authority responsible for deciding an application for any registration not listed in subregulation (1).
- (3) Notwithstanding subregulations (1) and (2) the Minister and the MEC for Environmental Affairs may in writing agree that any application for registration—
- (a) contemplated in subregulation (1) may be decided by the MEC for Environmental Affairs; or
  - (b) contemplated in subregulation (2) may be decided by the Minister.

#### **Application for registration**

36. (1) A person may apply for registration on an application form provided by the relevant issuing authority, which contains, as a minimum, the information as set out in subregulation (2).
- (2) An application form contemplated in subregulation (1) must, to the extent applicable, make provision for the following information—
- (a) the applicant's details, including—
    - (i) the applicant's name;
    - (ii) identity or passport number;

- (iii) telephone number;
  - (iv) cell phone number;
  - (v) fax number;
  - (vi) e-mail address;
  - (vii) postal address; and
  - (viii) physical address;
- (b) details of the facility including—
- (i) the name of the facility;
  - (ii) the kind of facility;
  - (iii) the date of establishment of the facility;
  - (iv) physical address where the restricted activities will be carried out; and
  - (v) the farm name and registration number;
- (c) details of the species involved, including—
- (i) scientific name;
  - (ii) common name (if any);
  - (iii) quantity per species;
- (d) sex;
- (e) size; and
- (f) markings of the specimens.
- (3) A person applying for registration must pay the applicable processing fee as set out in Annexure 3 to these Regulations.
- (4) Notwithstanding the provision of subregulation (3), payment of the applicable processing fee as set out in Annexure 3 to these Regulations does not apply to organs of state.

#### **Submission of applications for registration**

37. (1) If the Minister is the issuing authority in respect of a specific application for registration, the application must be submitted to the Department.
- (2) If the MEC for Environmental Affairs is the issuing authority in respect of a specific application for registration, the application must be submitted to the relevant provincial conservation authority.
- (3) Applications for registration may be submitted—
- (a) electronically;
  - (b) by post; or
  - (c) delivered by hand.

**Additional information required for the registration of a captive breeding facility**

38. In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration of a captive breeding facility must include the following information—
- (a) details of the number and age of males and females that comprise the parental breeding stock;
  - (b) evidence of legal acquisition of the specimens or copies of permits issued;
  - (c) details of the current stock, including the numbers, sex and age of offspring kept in addition to the parental breeding stock;
  - (d) the percentage of mortalities in the different age groups and sexes of the current stock;
  - (e) past, current and expected annual production of offspring and, where possible, information on the number of females producing offspring each year, including plans for the disposal of off-spring;
  - (f) an assessment of the anticipated need for, and source of, additional specimens to supplement the breeding stock to increase the genetic pool of the captive population in order to avoid harmful inbreeding;
  - (g) a detailed description of the marking methods used for the breeding stock and offspring;
  - (h) a 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) a description and schematic diagram of the facility to house the current and expected stock;
  - (j) the security measures to prevent escape or thefts;
  - (k) the number and size of breeding enclosures, rearing enclosures and egg incubators, where appropriate;
  - (l) food production or supply;
  - (m) removal of waste; and
  - (n) the availability of veterinary services.

**Additional information required for the registration of a sanctuary, rehabilitation facility, temporary translocation facility or commercial exhibition facility**

39. (1) In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration of a rehabilitation facility, sanctuary, a temporary translocation facility or commercial exhibition facility must, to the extent applicable, include the following information—
- (a) a description and schematic diagram of the facility to house the current and expected stock, including rearing enclosures and egg incubators and the number and size of keeping enclosures;
  - (b) security measures to prevent escapes or thefts;
  - (c) water and food production or supply;
  - (d) removal of waste;
  - (e) availability of veterinary services;
  - (f) detail of current stock, including details of the numbers, sex and age of the individual specimens; and
  - (g) evidence of legal acquisition of the specimens or copies of permits issued.

- (2) In addition to the information contemplated in subregulation (1), an application for the registration of a sanctuary must include information relating to measures taken to prevent breeding in such sanctuary.

**Additional information required for the registration of a nursery**

40. In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration of a nursery must include the following information—
- (a) description of the nursery 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 relevant to listed threatened or protected species currently in propagation;
  - (d) inventory of the all parental stock of listed threatened or protected species, whether artificially propagated or of wild origin, including—
    - (i) quantities per species;
    - (ii) size (stem diameter); and
    - (iii) evidence of legal acquisition; and
  - (e) photos of parental stock.

**Additional information required for the registration as a wildlife trader, taxidermist or freight agent**

41. In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration of a wildlife trader, taxidermist and freight agent must include the following information—
- (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; and
  - (e) security measures to prevent thefts.

**Additional information required for the registration as a wildlife translocator**

42. (1) In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration as a wildlife translocator must include the following information—
- (a) information relating to record keeping; and
  - (b) information relating to the translocation equipment to be used by the applicant.
- (2) If the application for the registration of a wildlife translocator also involves temporary translocation facilities, the following information must be submitted with the application—
- (a) a description and schematic diagram of the facility to temporary house the translocated specimens;
  - (b) security measures to prevent escapes or thefts;

- (c) water and food production or supply;
- (d) removal of waste; and
- (e) availability of veterinary services.

**Additional information required for the registration as a scientific institution**

43. (1) In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration as a scientific institution must include the following information—
- (a) evidence of legal acquisition;
  - (b) current and anticipated stock to be kept (if applicable);
  - (c) information relating to research projects conducted by the applicant;
  - (d) information on the contribution of the research to be conducted by the applicant, to the conservation of listed threatened or protected species; and
  - (e) information relating to record keeping.
- (2) In addition to the information contemplated in subregulation (1), an application for the registration as a scientific institution for genotyping purposes, must include the following information—
- (a) experience in analyzing the DNA profiles of specimens of listed threatened or protected species; and
  - (b) proof, in the form of academic publications, of the ability to interpret the DNA profiles of the specimens to which the application relates.

**Additional information required for the registration of a game farm**

44. In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration of a game farm must include the following information—
- (a) details of the number and age (if known or appropriate) of males and females of each listed species currently kept on game farm;
  - (b) certificate of adequate enclosure or comparable document issued by the provincial issuing authority in terms of provincial conservation legislation;
  - (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 supplement the breeding stock to increase the genetic pool of the population in order to avoid harmful inbreeding;
  - (e) detailed description of the marking methods used (if any);
  - (f) details regarding measures / strategies to prevent hybridization; and
  - (g) description of the strategies used by the game farmer, if any, that will contribute to improving the conservation status of wild populations of the species.

**Additional information required by the issuing authority**

45. In addition to the information contemplated in regulations 36 to 44 of these Regulations, the issuing authority may request any additional relevant information deemed necessary in order for the issuing authority to decide on the application.

**Part 2****Consideration of registration applications****Time frames for issuing authorities**

46. (1) On receipt of an application submitted in terms of regulation 37 of these Regulations and the relevant information contemplated in regulations 36 to 44 of these Regulations, the issuing authority must conduct an inspection of the premises in respect of which the application has been submitted, within 20 working days of receipt of such application and information and in accordance with this Part.
- (2) The official who has conducted the inspection contemplated in subregulation (1) must within 5 working days of the inspection of the premises, make a written recommendation as to—
- (a) whether the application must be granted or refused; and
- (b) if the recommendation is to grant the application, any conditions subject to which the application may be granted.
- (3) If an issuing authority requires further additional information, the issuing authority must, within 14 working days of receipt of the application or the inspection, as the case may be, request an applicant to furnish such additional information and must stipulate the time period in which such additional information must be supplied.
- (4) If the information requested by the issuing authority in terms of subregulation (3) is not submitted to the issuing authority within 3 months of such request, the issuing authority may deem the application to have been withdrawn.
- (5) If the information submitted by the applicant is sufficient, but the issuing authority is unable to comply with the timeframe contemplated in subregulation (1), the issuing authority must—
- (a) provide reasons in writing to the applicant, prior to the lapsing of such timeframe, as to why it is unable to comply with such timeframe; and
- (b) decide on the application within 20 days from the date on which the original timeframe contemplated in subregulation (1) lapsed.

**Factors to be taken into account by issuing authorities when considering registration applications**

47. (1) When considering an application for registration, an issuing authority must consider—
- (a) all the information and documentation submitted by the applicant to the issuing authority in connection with the application, including any additional information requested by the issuing authority in terms of regulation 46(3) of these Regulations; and
  - (b) whether all applicable legal requirements have been complied with.
- (2) The issuing authority must, in addition to the provisions of subregulation (1) and to the extent applicable, also take into account—
- (a) 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;
  - (b) the purpose for which the captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, nursery or game farm is conducted;
  - (c) whether the applicant is prepared to micro-chip or mark, where appropriate, each specimen of the listed threatened or protected species bred or kept at the relevant captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, nursery, game farm, or specimens associated with operating as a wildlife trader, taxidermist, wildlife translocator or freight agent; and
  - (d) all other relevant factors.
- (3) When considering an application for the registration of a game farm, the issuing authority must take into account whether the game farm is adequately enclosed for the species to which the registration application applies.

**Circumstances in which registration must be refused**

48. (1) The issuing authority must refuse to grant a registration if—
- (a) the purpose to which the application relates does not meet the objectives of the Biodiversity Act; or
  - (b) any applicable legal requirements are not complied with.
- (2) In addition to the provision of subregulation (1), the issuing authority must refuse to register a captive breeding facility or commercial exhibition facility—
- (a) if measures have not been implemented to prevent hybridization;
  - (b) in relation to a listed large predator but excluding lion, and white rhinoceros or black rhinoceros, if such facility does not contribute to improving the conservation status of a threatened species to which the application relates.

- (3) In addition to the provision of subregulation (1), the issuing authority must refuse to register a game farm—
- (a) if measures have not been implemented by the applicant to prevent hybridization;
  - (b) for listed threatened or protected species that are not included on the certificate of adequate enclosure issued by the provincial issuing authority; or
  - (c) in addition to the species contemplated in (b), for the following predator species—
    - (i) African wild dog (*Lycaon pictus*);
    - (ii) Bat-eared fox (*Otocyon megalotis*);
    - (iii) Black-footed cat (*Felis nigripes*);
    - (iv) Brown hyena (*Parahyaena brunnea*);
    - (v) Cape fox (*Vulpes chama*);
    - (vi) Cheetah (*Acynonix jubatus*);
    - (vii) Leopard (*Panthera pardus*);
    - (viii) Serval (*Leptailurus*); and
    - (ix) Spotted hyena (*Crocuta crocuta*).

### Part 3

#### Issuing of registration certificates

##### Decision on applications for registration

49. (1) After having considered and decided upon an application for registration in accordance with regulations 46 and 47 of these Regulations, the issuing authority must within 10 working days of the date of such decision, and if the application is approved, issue the relevant registration certificate.
- (2) If the decision of the issuing authority is to approve the application for registration subject to certain conditions, the issuing authority must—
- (a) give reasons for the decision to the applicant if required by the applicant; and
  - (b) inform the applicant of his or her right to appeal against the decision and the appeal procedure to be followed in accordance with the applicable appeals regulations.
- (3) Where the issuing authority decides to refuse the application, the issuing authority must—
- (a) give reasons for the decision to the applicant; and
  - (b) inform the applicant of his or her right to appeal against the decision and the appeal procedure to be followed in accordance with the applicable appeals regulations.

- (4) The issuing authority may issue a registration certificate with retrospective effect, only in respect of regulation 62(5).

#### **Contents of registration certificates**

50. A registration certificate issued in terms of these Regulations must, to the extent applicable, contain the following information—
- (a) the name, identity number or passport number and physical address of the person to whom the certificate is issued;
  - (b) the physical address of the premises where the captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, nursery or game farm will be conducted from, or where the registered wildlife trader, taxidermy, wildlife translocator or freight agent;
  - (c) the name of the issuing authority;
  - (d) the registration certificate number and date of issue;
  - (e) particulars of the species and specimens in respect of which the registration certificate is issued, including the scientific, and the common name if any, of the species, sub-species or variation involved;
  - (f) the specific conditions that the registration is subject to, if any; and
  - (g) the period of validity of the registration certificate.

#### **Compulsory conditions to be included on a registration certificate**

51. Any registration certificate must be issued subject to the condition that—
- (a) the registration certificate is not transferable;
  - (b) any unauthorized alteration to the registration certificate will render the registration certificate invalid;
  - (c) the registration certificate is invalid until such time that it is signed by the registration certificate holder; and
  - (d) the holder of the registration certificate is bound by any norms and standards that apply to the registered captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, nursery, game farm, wildlife trader, taxidermist, wildlife translocator or freight agent, and that the registration certificate holder must comply with such norms and standards.
- (2) In addition to the compulsory conditions contemplated in subregulation (1), a registration certificate must be issued to the owner of a taxidermy or similar facility, subject to the condition that upon receipt of a black or white rhinoceros trophy, the holder of the registration certificate must report the following information to the Department—
- (a) date of receipt of the rhinoceros horns;
  - (b) weight of the rhinoceros horns;

- (c) micro-chip numbers of the rhinoceros horns; and
- (d) numbers of the hunting permit, transport permit and professional hunting register.

#### **Validity of registration certificates**

52. (1) If a registration certificate is issued by the Minister in accordance with regulation 35(1) of these Regulations, such registration is valid throughout the Republic.
- (2) If a registration certificate is issued by the MEC for Environmental Affairs in accordance with regulation 35(2) of these Regulations, such registration certificate is valid only within the area of jurisdiction of such MEC for Environmental Affairs, or for the specific locality where the restricted activity involving such specimen will be carried out, as the case may be.
- (3) The registration certificate for a game farm is valid only for the particular game farm in respect of which the registration certificate was issued.

#### **Period of validity of registration certificates**

53. (1) A registration certificate remains valid until it is cancelled by the issuing authority contemplated in regulation 35 of these Regulations, and in accordance with regulation 62 of these Regulations.

### **CHAPTER 4**

#### **DUTIES OF HOLDERS OF PERMITS AND REGISTRATION CERTIFICATES**

##### **Duties of permit holders**

54. (1) The holder of any permit contemplated in regulation 4 of these Regulations must—
- (a) ensure that the permit has been issued correctly, prior to carrying out the restricted activities authorized by the permit;
  - (b) comply with all the conditions as specified on the permit by the relevant issuing authority;
  - (c) obtain a permit from the relevant issuing authority if he or she intends to carry out any additional restricted activity not authorised by the permit, prior to carrying out such additional restricted activity;
  - (d) obtain a permit from the relevant issuing authority if he or she intends to carry out a restricted activity involving a specimen of a listed threatened or protected species not included in the permit, prior to carrying out a restricted activity involving such specimen; and
  - (e) apply for renewal of an ordinary or standing permit prior to the lapsing thereof.
- (2) The holder of an ordinary permit issued for the maximum period of validity, and the holder of a standing permit, must keep a register containing the information contemplated in regulation 23(3) of these

Regulations, and must submit a written report on the information to the issuing authority prior to the expiry of such ordinary permit or standing permit.

- (3) A person who is the holder of a permit that authorizes the carrying out of restricted activities for research purposes, or a registered scientific institution must submit to the relevant issuing authority—
  - (a) a progress report—
    - (i) at the end of each calendar year, in the case of a standing permit; or
    - (ii) upon expiry of the permit, in the case of an ordinary permit; and
  - (b) a report of the research findings, upon completion of the research project.
- (4) If any norms and standards apply to the restricted activity for which a permit is issued, the permit holder must comply with such norms and standards when carrying out the restricted activity authorised by the permit.
- (5) The holder of a hunting permit must—
  - (a) have all relevant documentation authorizing the hunt on his person during the hunt; and
  - (b) within 21 days of the hunt, irrespective of whether or not the hunt was successful, furnish the issuing authority with a copy of the completed reverse side of the permit, 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.

#### **Duties of holders of registration certificates**

55. (1) The holder of a registration certificate issued in terms of the provisions of these Regulations must—
- (a) ensure that the registration certificate has been issued correctly;
  - (b) ensure that the facility is not conducted for a purpose, or a person does not operate in a manner, other than to what the registration relates; and
  - (b) comply with all the conditions of the registration certificate.
- (2) If any norms and standards apply to a registered captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, nursery, game farm, wildlife trader, taxidermist, wildlife translocator or freight agent, the holder of the registration certificate must comply with such norms and standards.

**CHAPTER 5****RENEWAL, AMENDMENT AND CANCELLATION OF PERMITS AND REGISTRATION CERTIFICATES****Part 1****Renewal and amendment of permits and registration certificates****Renewal of permits**

56. (1) The holder of a permit must apply in writing, prior to the lapsing of such permit, to the issuing authority that issued the permit, for the renewal of such permit, if he or she intends to continue with the carrying out of the restricted activity to which the permit relates.
- (2) An application contemplated in subregulation (1) must be accompanied by—
- (a) the reasons for the application;
  - (b) the applicable processing fee set out in Annexure 3 to these Regulations; and
  - (c) the species fee as determined by the issuing authority in terms of applicable provincial legislation, if the application involves an integrated permit and the restricted activity applied for is hunting.

**Consideration of and decision on renewal of permit applications**

57. (1) On receipt of an application for renewal of a permit in terms of regulation 56, an issuing authority must—
- (a) consider the application in accordance with the provisions of Part 3 of Chapter 2 of these Regulations; and
  - (b) make a decision in accordance with the provisions of Part 4 of Chapter 2 of these Regulations.
- (2) When considering an application for the renewal of a permit, the issuing authority must consider whether it has previously cancelled any permit of the applicant, in accordance with regulation 62 of these Regulations.
- (3) Notwithstanding the provisions of subregulation (1), the issuing authority may only consider renewing a permit if—
- (a) the provisions of regulation 54 of these Regulations and all conditions subject to which the permit was issued, were complied with;
  - (b) there is no evidence that the permit holder carried out the restricted activities in a manner that is detrimental to the species kept by the permit holder; and
  - (c) the conservation status of the species to which the permit relates has not deteriorated, or the legislation that affects the continuation of the permit has not changed.

- (4) If the conservation status of the species to which an application contemplated in subregulation (1) has deteriorated, the issuing authority may request a risk assessment to be submitted prior to considering the renewal of the permit.
- (5) If the issuing authority decides to renew a permit to which the application contemplated in subregulation (1) relates, the issuing authority must issue a new permit.

#### **Amendment of permits or registration certificates**

**58.** (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 60 of these Regulations; or
- (b) on own initiative of the issuing authority in accordance with regulation 61 of these Regulations.

(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.

#### **Applications for amendment by holders of permits or registration certificates**

**59.** (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 contemplated in subregulation (1) must be—

- (a) on an official application form determined by, and obtainable from, the relevant issuing authority, and must contain, as a minimum, the information set out in Annexure 2 to these Regulations; and
- (b) accompanied by the applicable processing fee set out in Annexure 3 to these Regulations.

#### **Consideration of and decision on applications for amendment**

**60.** (1) On receipt of an application contemplated in regulation 59 of these Regulations, the issuing authority must—

- (a) promptly decide on the application if the application relates to a non-substantive amendment of the permit or registration certificate; and
- (b) must consider the factors contemplated in Chapters 2 and 3 of these Regulations if the application is for substantive amendment to the permit or registration certificate.

- (2) The issuing authority may request additional information to be furnished by the applicant.
- (3) After having reached a decision on the application contemplated in subregulation (1), the issuing authority must—
  - (a) if the application is approved, issue an amended permit or registration certificate to the applicant; or
  - (b) if the application is refused—
    - (i) give reasons for the refusal to the applicant; and
    - (ii) inform the applicant of his right to appeal against the decision and the appeal procedure to be followed in accordance with the applicable appeals regulations.

#### **Amendment of permits or registration certificates on initiative of issuing authorities**

- 61.** (1) 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 certificate relates;
  - (b) for the more effective enforcement of the provisions of the Biodiversity Act or these Regulations;
  - (c) to give effect to any relevant norms and standards that apply to the holder of the permit or registration certificate; or
  - (d) to correct technical or editorial errors on the permit or registration certificate.
- (2) The issuing authority must—
- (a) 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) afford the holder of the permit or registration certificate a reasonable opportunity to submit representations regarding the proposed amendment.

### **Part 2**

#### **Cancellation of permits and registration certificates**

##### **Cancellation of permits or registration certificates**

- 62.** (1) An issuing authority may cancel a permit or registration relating to a captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, nursery, game farm, wildlife trader, taxidermist, wildlife translocator or freight agent if—
- (a) the permit or registration certificate holder has breached a condition subject to which the permit or registration certificate was issued;

- (b) the captive breeding facility, rehabilitation facility, sanctuary, temporary translocation facility, scientific institution, commercial exhibition facility, nursery or game farm is managed, or the wildlife trader, taxidermist, wildlife translocator or freight agent is operating in a manner which is—
    - (i) detrimental to the specimens being bred, reared, propagated, traded or kept at such facility or by such person; or
    - (ii) not in accordance with any information provided to the issuing authority; or
  - (c) there is a change in the conservation status of the species involved being bred, reared, propagated, traded or kept by a permit holder or at such facility that affects the continuation of the permit or registration.
- (2) In addition to the provision of subregulation (1), the relevant issuing authority must cancel the registration of a game farm, if the certificate of adequate enclosure of such game farm has not been renewed by the relevant conservation authority within a period of 6 months after the expiry date of such certificate.
- (3) An issuing authority considering the cancellation of a permit or registration certificate in terms of subregulation (1) or (2) must—
- (a) notify the holder of such 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 in terms of the provisions of the Promotion of Administrative Justice Act, Act No. 3 of 2000.
- (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 in writing of the decision; and
  - (b) if the decision is to cancel the permit or registration—
    - (i) instruct the permit or registration certificate holder to return the permit or registration certificate within 30 days; and
    - (ii) inform the applicant of his right to appeal against the decision and the appeal procedure to be followed in accordance with the applicable appeals regulations.
- (5) In the case that a registration certificate is cancelled by the issuing authority, the holder of such cancelled registration certificate must be provided the opportunity to rectify the circumstances that have caused the registration certificate to be cancelled, and to apply for the re-issuance of the registration certificate within 3 months of the cancellation, in which case the issuing authority may issue the registration certificate with retrospective effect.

**Cancelled permits and registration certificates to be returned to issuing authorities**

63. (1) The holder of a permit or registration certificate that has been cancelled, must return the permit or registration certificate to the issuing authority within 30 days after the date of having been informed of the cancellation.
- (2) Any failure by a permit or registration certificate holder to return a cancelled permit or registration certificate in accordance with subregulation (1) must be taken into account by an issuing authority when considering any future application from such person submitted in terms of regulation 9 or 37 of these Regulations.

**Permits or registration certificates may not be transferred**

64. (1) A permit or registration certificate may not be transferred to any other person.
- (2) In the event that ownership of a facility or operation changes, the holder of the permit or registration certificate must apply for an amendment of such permit or registration certificate, which amendment must not unreasonably be withheld by the issuing authority.

**Lost or stolen permits or registration certificates**

65. An issuing authority may, upon 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 3 to these Regulations.

**Part 3****Reporting on permits by Issuing Authorities****Register to be established and maintained by issuing authorities**

66. (1) Each issuing authority must—
- (a) establish and maintain a register of—
- (i) all permits, including integrated permits, issued, renewed or amended by that issuing authority;
  - (ii) all permits that were refused;
  - (iii) all permits issued by that issuing authority that were subsequently cancelled; and
- (b) record in the register contemplated in subregulation (1)(a)—
- (i) in the case of applications that were granted, the number assigned to each permit;

- (ii) the scientific, and the common name if any, 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 subject to 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
- (2) Each provincial issuing authority must submit a copy of the register contemplated in subregulation (1), to the Department at the end of each calendar year.

## CHAPTER 6

### ASSOCIATIONS OR ORGANISATIONS INVOLVED IN THE UTILISATION OF LISTED THREATENED OR PROTECTED SPECIES

#### Recognition of associations or organizations

67. (1) Any association or organization representing persons or facilities involved in the utilization of listed threatened or protected species, including but not limited to facilities or operations contemplated in regulations 33 and 34 of these Regulations, wishing to be considered for any dispensation in terms of the Biodiversity Act or these Regulations, must apply in writing to the Director-General of the Department for recognition.
- (2) An application contemplated in subregulation (1) may be approved if the applicant—
- (a) is a juristic person;
  - (b) can provide proof that it represents a substantial proportion of its sector on a national level;
  - (c) can provide proof that it will be able to perform a function or provide support to the relevant sector to the same standard as the issuing authority or delegated entity;
  - (d) has adopted a code of responsible conduct and good practices, which is—
    - (i) ascribed to by its members;
    - (ii) aligned with the objectives of the Biodiversity Act; and
    - (iii) acceptable to the Director-General of the Department;
  - (e) gives a written undertaking to the Director-General of the Department that it will—
    - (i) enforce its code of responsible conduct and good practices against members who breach the code; and

- (ii) report to the issuing authority any case of alleged criminal conduct by any of its members involving the carrying out of a restricted activity or a breach of any conditions subject to which any permit was granted to such member; and
- (f) has a clear policy on broad-based black economic empowerment to include persons from disadvantage communities as members.

#### **Codes of responsible conduct and good practice**

68. The code of responsible conduct and good practices of any recognised association or organization contemplated in regulation 67(1) of these Regulations must—
- (a) require its members to act in strict compliance with—
    - (i) the provisions of such code of responsible conduct and good practice;
    - (ii) applicable legal requirements; and
    - (iii) any conditions subject to which permits relating to listed threatened or protected species are granted;
  - (b) where appropriate, define a set of criteria that will foster the sustainable utilization of specimens of listed threatened or protected species; and
  - (c) 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 member from the association or organization.

#### **Withdrawal of recognition of associations or organizations**

69. (1) The Director-General of the Department may withdraw the recognition of a recognised association or organisation if it fails to honour its written undertaking given to the Director-General of the Department in terms of regulation 67(2)(e) of these Regulations.
- (2) The Director-General of the Department must—
- (a) notify the association or organization in writing that withdrawal of its recognition is being considered, together with the reasons for the proposed withdrawal; and
  - (b) afford the association or organization a reasonable opportunity to submit written representations regarding the proposed withdrawal of its recognition.

### **CHAPTER 7**

#### **PROHIBITION OF SPECIFIC RESTRICTED ACTIVITIES UNDER CERTAIN CIRCUMSTANCES**

##### **Conveyance, movement or translocation of a listed threatened or protected animal species prohibited under certain circumstances**

70. (1) A person may not convey, move or otherwise translocate specimen of a listed threatened or protected animal species to a national protected area, if—

- (a) such national protected area falls outside the natural distribution range of that animal species; or
- (b) the genetic make-up or integrity—
  - (i) of the species to be conveyed, moved or otherwise translocated to the national protected area has in any way been compromised; or
  - (ii) of the species already occurring in the national protected area has the potential to be compromised in any way as a result of such conveyance, movement or translocation.
- (2) Notwithstanding the prohibition contemplated in subregulation (1)(a) such prohibition does not apply if the conveyance, movement or translocation of a specimen of a listed threatened or protected species to a national protected area is necessary for the enhancement of the conservation status of that animal species.
- (3) A person may not convey, move or otherwise translocate a live specimen of a listed threatened or protected species from a particular property that is not a national protected area, if such specimen is kept on such property together with another specimen of a species with which it is likely to hybridize with, unless—
  - (i) the genotyping of such specimen has been done in accordance with regulation 11 of these Regulations; and
  - (ii) the DNA certificate confirms that such specimen is not a hybrid.
- (4) Irrespective of whether or not a specimen of bontebok (*Damaliscus pygargus pygargus*) is likely to hybridize with another specimen kept on the same property, such live specimen may not be conveyed, moved or otherwise translocated if the genotyping thereof has not been done in accordance with regulation 11 of these Regulations.
- (5) A live specimen of a listed threatened or protected species contemplated in subregulation (3), or a live specimen of bontebok (*Damaliscus pygargus pygargus*) contemplated in subregulation (4), that has been subject to genotyping in accordance with regulation 11 of these Regulations, may not be conveyed, moved or otherwise translocated if such specimen is a hybrid.
- (6) Notwithstanding the provisions contemplated in subregulations (2), (3) or (4), a person may not convey, move or otherwise translocate a live specimen of a listed threatened or protected animal species to or from an extensive wildlife system, semi-extensive wildlife system or controlled environment if there is a risk of transmitting a disease.

#### **Hunting of a listed threatened or protected species prohibited under certain circumstances**

71. (1) A person may not hunt a specimen of a listed threatened or protected species—

- (a) in a controlled environment;
  - (b) while such specimen is under the influence of any tranquilizing, narcotic, immobilizing or similar agent;
  - (c) by making use of a gin trap, pit fall, cage, enclosure, snare or any other method or device wherein or whereby such specimen is intended to be captured before it is killed;
  - (d) by means of poison;
  - (e) by means of darting;
  - (f) by means of the following fire arms—
    - (i) an air gun;
    - (ii) a fire arm discharging a rim firing cartridge of 22 of an inch or smaller caliber, except for a *coup-de-grâce*;
    - (iii) a fire arm which, after it has been discharged, automatically reloads and fires when the trigger thereof is pulled or is held in a discharged position; or
    - (iv) a shot gun, except for the hunting of birds;
  - (g) by means of bait, sound, smell or any other luring method, except for the hunting by means of dead bait, of—
    - (i) leopard and hyena ; or
    - (ii) lion, in which case such lion—
      - aa) may be hunted by means of dead bait on an extensive wildlife system with a minimum size of 15 000 ha only; and
      - bb) may not have been bred in captivity;
  - (h) by means of dogs, except to—
    - (i) track a wounded animal; or
    - (ii) flush, point and retrieve a specimen;
  - (i) by means of flood or spot lights, except for the hunting of leopard, hyena or serval;
  - (j) by means of a motorized vehicle, except—
    - (i) for the tracking of such specimen over long ranges; or
    - (ii) to allow a physically disabled or elderly person to hunt; or
  - (k) by means of an aircraft, except for the tracking of such specimen over long ranges.
- (2) In addition to the prohibitions contemplated in subregulation (1), a person may not hunt a specimen of a listed large predator but excluding a lion (*Panthera leo*), white rhinoceros (*Ceratotherium simum simum*), black rhinoceros (*Diceros bicornis*), Nile crocodile (*Crocodylus niloticus*) or African elephant (*Loxodonta africana*) by means of or by the use of a bow and arrow.
- (3) In addition to the prohibitions contemplated in subregulation (1) and (2), a person may not hunt a specimen of a listed large predator that has been released in an area adjacent to a captive holding facility for listed large predators.

**Catching of a listed threatened or protected species prohibited under certain circumstances**

72. A person may not catch a specimen of a listed threatened or protected species by means of—
- (a) snares, except foot snares for scientific purposes;
  - (b) poison;
  - (c) gin traps;
  - (d) dogs, except to—
    - (i) track a wounded specimen; or
    - (ii) point, flush and retrieve a specimen;
  - (e) traps, or luring by means of bait, smell or sound, except for scientific, veterinary or management purposes, or for the purpose of catching a damage-causing animal; or
  - (f) any device other than those contemplated in paragraphs (a), (b), (c) or (e) above, that does not conform to the requirements of applicable norms and standards.

**General circumstances relating to the prohibition to import, export, re-export or introduce from the sea a listed threatened or protected species**

73. (1) A person may not import or introduce from the sea, a specimen of a listed threatened or protected species, unless it is authorized—
- (a) by a permit issued in accordance with these Regulations; and
  - (b) to the extent applicable, in terms of the CITES Regulations.
- (2) A person may not export or re-export a specimen of a black rhinoceros (*Diceros bicornis*) or a white rhinoceros (*Ceratotherium simum simum*), or a specimen of an *Encephalartos* species, unless it is authorized—
- (a) by a permit issued in accordance with these Regulations; and
  - (b) to the extent applicable, in terms of the CITES Regulations.
- (3) A person may not import, export, re-export or introduce from the sea of a specimen of a listed threatened or protected species through a port of exit or entry other than the following—
- (a) land ports—
    - (i) Beit Bridge border post;
    - (ii) Golela border post
    - (iii) Jeppes Reef border post;
    - (iv) Lebombo border post;
    - (v) Maseru border post;
    - (vi) NaKop border post;

- (vii) Ramatlabama border post;
- (viii) Vioolsdrift border post; or
- (b) airports and harbours—
  - (i) Cape Town International Airport;
  - (ii) O.R. Tambo International Airport;
  - (iii) King Shaka International Airport;
  - (iv) Port Elizabeth International Airport;
  - (v) Kruger – Mpumalanga International Airport;
  - (vi) Cape Town Harbour;
  - (vii) Durban Harbour; or
  - (viii) Port Elizabeth Harbour.
- (4) Notwithstanding the provision of subregulation (3), a person may not import, export or re-export a rhinoceros horn hunting trophy through a port of entry or exit other than O.R. Tambo International Airport.
- (5) Notwithstanding the provision of subregulations (1) and (3), a live specimen of a listed threatened or protected species may not be imported unless a blood sample of such specimen has been collected for genotyping and the results of such genotyping are made available to the relevant issuing authority.
- (6) A person may not export a live specimen of a listed threatened or protected species, if such specimen is likely to be invasive in the country of import.

**Specific circumstances relating to the prohibition to possess and trade in listed protected species that are also included in Appendix 1 of CITES**

74. (1) A person may not possess—
- (a) an imported specimen of a listed protected species that is also included in Appendix 1 of CITES; or
  - (b) the off-spring of a specimen contemplated in paragraph (a);
- unless such person is authorized by a permit issued in accordance with these Regulations to possess such imported specimen or the off-spring of such imported specimen.
- (2) A person may not sell or donate an imported specimen contemplated in subregulation (1)(a), unless—
    - (a) such imported specimen originates from a commercial captive breeding facility that has been registered with the CITES Secretariat; and
    - (b) the selling or donation of such specimen is authorized by a permit issued in accordance with these Regulations.

- (3) A permit in terms of the Biodiversity Act is not required to sell or donate the off-spring of an imported specimen contemplated in subregulation (1)(a), regardless of whether such imported specimen originates from—
- (a) a captive breeding facility contemplated in subregulation (2)(a);
  - (b) from the wild; or
  - (c) from a facility other than a facility contemplated in subregulation (2)(a).

## CHAPTER 8

### THE REGULATION OF SPECIFIC RESTRICTED ACTIVITIES INVOLVING CERTAIN LISTED THREATENED OR PROTECTED SPECIES

#### **Culling of listed threatened or protected species**

75. (1) The culling of a specimen of a listed threatened or protected species may be carried out by—
- (a) an official of the issuing authority;
  - (b) an official of the management authority of a protected area; or
  - (c) a person designated by a person contemplated in paragraph (a) or (b).
- (2) The culling of a specimen of a listed threatened or protected species may be carried out by means of, or the use of—
- (a) a firearm suitable for hunting purposes, which may be fitted with a silencer;
  - (b) flood lights or spot lights;
  - (c) motorised vehicles; or
  - (d) air craft.

#### **Darting of listed threatened or protected species**

76. (1) A specimen of a listed threatened or protected species may not be darted for purposes other than for veterinary, scientific, conservation or management purposes.
- (2) A specimen of a listed threatened or protected animal species may be darted only by a veterinarian, or a person contemplated in subregulation (3).
- (3) A person, other than a veterinarian, must be authorised to dart a specimen of a listed threatened or protected animal species—
- (a) by a permit issued in terms of the Medicines and Related Substances Control Act, Act No. 101 of 1965;
  - (b) by a permit issued in terms of Chapter 7 of the Biodiversity Act; and
  - (b) in writing by the South African Veterinary Council.

- (4) A veterinarian must be present when a specimen of a listed threatened or protected species is darted by a person contemplated in subregulation (3).
- (5) A veterinarian or a person contemplated in subregulation (3) may dart a specimen of a listed threatened or protected species on foot, or from a motorized vehicle, aircraft or vessel.

**Conveyance, movement or translocation of live listed threatened or protected animal species**

77. (1) A permit in terms of the Biodiversity Act is not required for the translocation of a specimen of a listed threatened or protected species, provided that such translocation has been exempted in terms of section 57(4) of the Biodiversity Act subject to the following conditions—

- (a) in the case of the translocation of specimens within their natural distribution range—
  - (i) the translocation may be done from game farm to game farm only, where—
    - (aa) both game farms have been registered in terms of these Regulations prior to such translocation; and
    - (bb) the registration certificates of both game farms include the species to be translocated;
  - (ii) risks associated with the translocation contemplated in subparagraph (i) of such specimens, and measures to address such risks, have been identified as part of the registration of the game farm;
  - (iii) the translocation contemplated in subparagraph (i) is done by a registered wildlife translocator; and
  - (iv) the wildlife translocator contemplated in subparagraph (iii) and the owner of the registered game farm onto which the specimens are released keep a register of such translocation; and
- (b) in the case of the translocation of specimens outside their natural distribution range—
  - (i) the translocation may be done from registered game farm to game farm only, where—
    - (aa) both game farms have been registered in terms of these Regulations prior to such translocation; and
    - (bb) the registration certificates of both game farms include the species to be translocated;
  - (ii) risks associated with the translocation contemplated in subparagraph (i) of such specimens, and measures to address such risks, have been identified as part of the registration of the game farm;
  - (iii) the translocation contemplated in subparagraph (i) is done by a registered wildlife translocator;
  - (iv) the wildlife translocator contemplated in subparagraph (iii) and the owner of the registered game farm onto which the specimens are released keep a register of such translocation; and
  - (v) an assessment of risks contemplated in regulation 16(2) is conducted, if required by the issuing authority.

- (2) Notwithstanding the provisions of subregulation (1), the translocation of a specimen of a listed threatened or protected animal species requires the prior issuance of a permit—
  - (a) if such specimen is translocated to an extensive wildlife system; or
  - (b) inside or outside its natural distribution range to a semi-extensive wildlife system, if any of the conditions contemplated in subregulation (1) cannot be met.

#### **Angling and keeping of listed threatened or protected fish species**

78. (1) A permit in terms of the Biodiversity Act for the catching of a specimen of a listed threatened or protected fish species by means of angling, and the subsequent releasing thereof, is not required if such specimen is immediately released alive in the water from where it has been caught.
- (2) A person may keep the specimen contemplated in subregulation (1), only if such person is authorized by a permit issued in accordance with these Regulations.
  - (3) The issuing authority may issue a permit contemplated in subregulation (2) relating to the number and size of specimens that may be kept, subject to the provisions of applicable provincial legislation.
  - (4) Specimens of listed threatened or protected fish species may be lured, for the purpose of angling, by means of—
    - (a) bait; or
    - (b) fishing lure.

#### **Hunting of listed threatened or protected species**

79. (1) Conditions relating to the number of specimens of each listed threatened or protected species that may be hunted, and the period during which such specimens may be hunted, are subject to the provisions of applicable provincial legislation.
- (2) A professional hunter may kill a specimen of a listed threatened or protected species wounded by a hunting client, only if such intervention is required and subject to the verbal permission of such hunting client.

#### **Hunting of black rhinoceros (*Diceros bicornis*) or white rhinoceros (*Ceratotherium simum simum*)**

80. (1) The issuing authority may not issue more than one permit within a period of 12 months to a particular hunting client to authorize the hunt of a white rhinoceros for trophy purposes.

- (2) The issuing authority may issue a permit in accordance with these Regulations for the hunting of a black rhinoceros (*Diceros bicornis*) or white rhinoceros (*Ceratotherium simum simum*) by a hunting client, only if the Department has made a positive recommendation.
- (3) The holder of a permit authorizing the hunt of a specimen of a black rhinoceros (*Diceros bicornis*) or white rhinoceros (*Ceratotherium simum simum*) may only hunt such specimen if the hunt is supervised by an official from the provincial conservation authority or an environmental management inspector.

**Selling of live black rhinoceros (*Diceros bicornis*) or white rhinoceros (*Ceratotherium simum simum*)**

81. (1) The owner of a live black rhinoceros (*Diceros bicornis*) or white rhinoceros (*Ceratotherium simum simum*) may sell the live rhinoceros only if—
- (a) such owner is authorized by a permit issued in accordance with these Regulations to sell such black rhinoceros (*Diceros bicornis*) or white rhinoceros (*Ceratotherium simum simum*);
  - (b) the genotyping of such black rhinoceros (*Diceros bicornis*) or white rhinoceros (*Ceratotherium simum simum*) has been done in accordance with regulations 32(4) and (5) of these Regulations; and
  - (c) such owner is in possession of a DNA certificate for each individual rhinoceros, issued by the person responsible for the genotyping of such specimen.
- (2) The DNA certificate issued for a particular specimen of a black rhinoceros (*Diceros bicornis*) or white rhinoceros (*Ceratotherium simum simum*), must accompany such specimen when it is sold by the owner thereof.

**Regulation of restricted activities involving African elephant (*Loxodonta africana*)**

82. (1) A person may carry out a restricted activity involving a wild or captive elephant, only if—
- (a) such person is authorized by a permit issued in accordance with these Regulations; and
  - (b) such restricted activity is carried out in accordance with the provisions of a management plan, developed in terms of the Norms and Standards for the management of elephants in South Africa, and approved by the issuing authority.
- (2) A person may keep an elephant in captivity, only if the elephant is—
- (a) kept in a registered—
    - (i) commercial exhibition facility;
    - (ii) rehabilitation facility, in the case of—
      - (aa) the treatment and recovery of an ill or injured elephant; or
      - (aa) a genuine orphan calf, subsequent to its release in an extensive wildlife system;
    - (iii) temporary translocation facility for the purpose of translocation; or

- (iii) sanctuary, if it is a genuine orphan calf that cannot be rehabilitated successfully in an extensive wildlife system; and
- (b) is being fitted with two microchips, one each at the base of the tale and one in front of the left shoulder.
  
- (3) An elephant may be darted only for the purpose of—
  - (a) carrying out a disease control procedure;
  - (b) treatment by a veterinarian registered with the South African Veterinary Council;
  - (c) translocation;
  - (d) scientific research; or
  - (e) carrying out management activities.
  
- (4) A wild elephant may not be captured—
  - (a) for the purpose of introducing it in a commercial exhibition facility; or
  - (b) in a protected area, if the capture is not in accordance with an approved management plan of such protected area, developed in terms of the Protected Areas Act.
  
- (5) An elephant may not be translocated, unless it is—
  - (a) part of a cow-calf group, and—
    - (i) the entire cow-calf group is translocated; and
    - (ii) the calves are older than 2 months; or
  - (b) a bull to be introduced in an area where there is a cow-calf group, and the cow-calf group has successfully established itself in the area for a period of 3 months.

#### **Regulation of restricted activities involving listed threatened or protected fish species**

- 83. (1)** The issuing authority may issue a permit in accordance with these Regulations in relation to the conveyance to and release of a live specimen of a listed threatened or protected fish species—
- (a) within the same catchment of such specimen;
  - (b) on private land on which closed water is found, within the natural distribution range; or
  - (c) in a low escape-risk research facility, whether inside or outside the natural distribution range, provided that such research facility is registered in terms of these Regulations as scientific institution.
- 
- (2) A person may not convey and release a live specimen of a listed threatened or protected fish species—
- (a) in a natural aquatic system outside the natural distribution range of such specimen;
  - (b) between different catchments within the natural range of such specimen; or
  - (c) on private land on which closed water is found, outside the natural distribution range of such specimen.

- (3) Notwithstanding the provision of subregulation (2)(b), a live specimen of a listed threatened or protected fish species may be conveyed to and released in a different catchment within the natural distribution range of such specimen, provided that such conveyance and release is—
- (a) done by a provincial conservation authority;
  - (b) done for conservation purposes; and
  - (c) authorized by a permit issued in accordance with these Regulations.
- (4) The issuing authority may issue a permit in accordance with these Regulations in relation to the possession of, or exercising physical control over, a live specimen of a listed threatened or protected fish species—
- (a) in an exhibition facility for educational purposes only; or
  - (b) in a low escape-risk research facility, whether inside or outside the natural distribution range provided that such research facility is registered in terms of these Regulations as scientific institution.
- (5) A permit may not be issued for the possession of or exercising physical control over a live specimen of a listed threatened or protected fish species for home use in garden ponds or fish tanks.
- (6) The issuing authority may issue a permit in accordance with these Regulations in relation to the breeding of a specimen of a listed threatened or protected fish species in a low escape-risk breeding facility, provided that—
- (a) such specimen is bred for conservation purposes; and
  - (b) such breeding facility is registered in terms of these Regulations as a captive breeding facility.
- (7) The issuing authority may issue a permit in accordance with these Regulations in relation to the catching of a specimen of a listed threatened or protected fish species, subject to the condition that such specimen may not be killed subsequent to the catching of such specimen.
- (8) Notwithstanding the provision of subregulation (7), the issuing authority may issue a permit in accordance with these Regulations in relation to the catching and killing of a specimen of a listed threatened or protected fish species for conservation purposes by a registered low escape-risk research facility.
- (9) A permit in terms of the Biodiversity Act in relation to the catching and release of a specimen of a listed threatened or protected fish species is not required if such specimen is released immediately subsequent to the catching of such specimen, in the same water where it has been caught.

- (10) The issuing authority may issue a permit in accordance with these Regulations in relation to the selling of a live specimen of a listed threatened or protected fish species, subject to a condition that such specimen may only be sold—
- (a) to the owner of private land contemplated in subregulation (1)(b); and
  - (b) if an assessment of risks in relation to such land has been done in accordance with regulation 16 of these Regulations.
- (11) The issuing authority may issue a permit in accordance with these Regulations in relation to the donation of a live specimen of a listed threatened or protected fish species to a person or facility—
- (a) inside the natural distribution range of such specimen, namely by—
    - (i) a low escape-risk research facility to another low escape-risk research facility;
    - (ii) a provincial conservation authority to—
      - (aa) a low risk research facility; or
      - (bb) the owner of private land contemplated in subregulation (1)(b); or
    - (iii) the owner of private land contemplated in subregulation (1)(b) to another owner of private land contemplated in subregulation (1)(b);
  - (b) outside the natural distribution range of such specimen, by—
    - (i) a low escape-risk research facility to another low escape-risk research facility; or
    - (ii) a provincial conservation authority to a low escape-risk research facility.
- (12) A person or facility contemplated in subregulation (11) may receive as a donation, a specimen of a listed threatened or protected fish species, only if such person or facility is authorized by a permit issued in accordance with these Regulations to receive such specimen as a donation.
- (13) The issuing authority may issue a permit in accordance with these Regulations in relation to the importation, exportation or re-exportation of a live specimen of a listed threatened or protected fish species, only to a low escape-risk research facility.
- (14) The issuing authority may issue a permit in accordance with these Regulations in relation to the conveyance, possession, donation, importation, exportation or re-exportation of dead specimens of listed threatened or protected fish species, only to low risk-escape research facilities.
- (15) A permit in terms of the Biodiversity Act in relation to the receiving of dead specimens of listed threatened or protected fish species by low risk-escape research facilities is not required.

Regulation of restricted activities involving specimens of listed threatened or protected species in respect of semi-extensive wildlife systems

84. (1) Permits issued in accordance with these Regulations for the carrying out of restricted activities involving specimens of listed threatened or protected species are required in respect of semi-extensive wildlife systems in the following circumstances—
- (a) Having in possession or exercising physical control over;
  - (b) Selling or otherwise trading in; and
  - (c) Importing into the Republic; or exporting or re-exporting from the Republic.
- (2) Permits in terms of the Biodiversity Act for the carrying out of restricted activities involving specimens of listed threatened or protected species are not required in respect of a semi-extensive wildlife system in the following circumstances, provided that such semi-extensive wildlife system is registered as a game farm, and provided that the restricted activity is carried out in accordance with any other provision of these Regulations—
- (a) Hunting, provided that the owner of the property on which a specimen was hunted, must keep a register containing the following information—
    - (i) Name and physical address of the hunter;
    - (ii) Particulars of the species, and number and sex of specimens hunted; and
    - (iii) Date on which the specimens were hunted,
  - (b) Catching or capturing;
  - (c) Breeding, or in any way causing the specimen to multiply, provided that measures must be taken to prevent breeding between specimens of species that are likely to hybridize;
  - (d) Conveying, moving or otherwise translocating of specimens, provided that such conveyance, movement or translocation is done in accordance with Regulation 77 and the Norms and Standards for the translocation of indigenous species in South Africa;
  - (e) Buying;
  - (f) Darting by a veterinarian;
  - (g) Releasing of specimens in the following circumstances—
    - (i) if such specimens have been conveyed, moved or otherwise translocated to other semi-extensive wildlife systems in accordance with Regulation 77 and the Norms and Standards for the translocation of indigenous species in South Africa; or
    - (ii) if such specimens are released from a captive breeding facility onto a semi-extensive wildlife system, in the case where the captive breeding facility is on the same property as the semi-extensive wildlife system.
- (3) The register contemplated in subregulation (2)(a) must be made available upon request to an official of the relevant issuing authority.

- (4) Notwithstanding the provision of subregulation (2)(d), specimens may not be conveyed, moved or otherwise translocated to an extensive wildlife system, unless—
  - (a) an assessment of risks has been conducted in accordance with regulation 16 of these Regulations; and
  - (b) such conveyance, movement or translocation has been authorized by a permit issued in accordance with these Regulations.
  
- (5) Notwithstanding that a permit is not required if the conveying, moving or otherwise translocating of a specimen is done in accordance with the Norms and Standards for the translocation of indigenous species in South Africa, such conveyance, movement or translocation must nevertheless be done in accordance with the provisions of regulation 70(1), (3), (4), (5) and (6).

## CHAPTER 9

### MANAGEMENT OF LISTED THREATENED OR PROTECTED ANIMAL SPECIES THAT ARE DAMAGE-CAUSING ANIMALS

#### Duty of care

85. (1) The owner of land has a general duty of care to take reasonable measures to limit or prevent damage being caused by damage-causing animals.
- (2) The reasonable measures contemplated in subregulation (1) may include measures relating, but not limited to, the measures contained in norms and standards established in terms of section 9 of the Biodiversity Act.
  - (3) A person or group of persons experiencing damage or loss caused by damage-causing animals must report such damage or loss to the issuing authority, as soon as possible after becoming aware of such damage or loss.
  - (4) The issuing authority must determine whether an individual specimen, or a group of specimens, of a listed threatened or protected species, as the case may be, is responsible for the damage or loss contemplated in subregulation (3) and can be deemed a damage-causing animal, or are damage-causing animals.
  - (5) The issuing authority must take the following factors into consideration when determining whether an individual specimen, or group of specimens, of a listed threatened or protected species is a damage-causing animal, or are damage-causing animals, as the case may be—
    - (a) actual loss of livelihood or revenue, or potential of further loss of livelihood or revenue;
    - (b) the frequency of the damage or loss experienced;

- (c) whether reasonable measures to prevent damage being caused by damage-causing animals have been taken; or
  - (d) any other factor that is deemed relevant by the issuing authority.
- (6) The MEC of a province where a national protected area exists must enter into a written agreement with the management authority of such national protected area in relation to the management of damage-causing animals originating from such national protected area.

### **Management measures**

86. (1) In the case of a damage-causing animal originating from any land other than a national protected area, the following management measures may be considered by the issuing authority—
- (a) capture and relocation of the damage-causing animal by—
    - (i) the issuing authority;
    - (ii) the management authority of a protected area; or
    - (iii) any other person; or
  - (b) killing the damage-causing animal by—
    - (i) the issuing authority;
    - (ii) the management authority of a protected area or
    - (iii) any other person.
- (2) The person contemplated in subregulation (1)(a)(iii) or (1)(b)(iii)—
- (a) must be in possession of a permit issued by the issuing authority in accordance with these Regulations;
  - (b) must be designated in writing by the management authority of the protected area if the damage-causing animal originates from a protected area; and
  - (c) may not be a hunting client.
- (3) The issuing authority, management authority of a protected area or any other person contemplated in subregulation (1)(a) and (b) may use the methods contemplated in subregulations (9), (10) and (11) if so required, to capture and relocate or kill the damage-causing animal contemplated in subregulation (1).
- (4) In the case of a damage-causing animal originating from a national protected area, the management measures contemplated in subregulation (1) must be carried out in accordance with the written agreement contemplated in regulation 85(6) of these Regulations.

- (5) Notwithstanding the provisions of subregulation (2)(a) and regulation 4 of these Regulations a person may kill a damage-causing specimen of a listed threatened or protected species without a permit in an emergency or life-threatening situation.
- (6) If a person kills a damage-causing animal in the circumstances contemplated in subregulation (5), such person must, within 24 hours after the damage-causing animal has been killed—
- (a) inform the issuing authority of the incident; and
  - (b) surrender the remains of the damage-causing animal to the issuing authority to be disposed of in an appropriate manner.
- (7) The issuing authority must evaluate the evidence in the circumstances contemplated in subregulation (5) and—
- (a) consider whether or not in the circumstances of such incident, to institute criminal proceedings; and
  - (b) take appropriate steps to institute criminal proceedings where relevant.
- (8) In the case where the issuing authority decides to institute criminal proceedings, the issuing authority must report the incident and the steps contemplated in subregulation (7)(b) in writing to the Department as soon as reasonably possible.
- (9) Notwithstanding the provisions of regulations 71 and 72 of these Regulations the issuing authority, the management authority of the protected area or the person contemplated in subregulation 1(b) may kill a damage-causing animal by the following means, if so specified on the permit—
- (a) poison, only in accordance with norms and standards relating to the management of damage-causing animals; or
  - (b) a firearm suitable for hunting purposes, which may be fitted with a silencer.
- (10) A damage-causing animal may be captured by means of darting.
- (11) Notwithstanding the provisions of regulations 71 and 72 of these Regulations the issuing authority, the management authority of a protected area or the person contemplated in subregulation (1)(a) and (b) may catch or kill a damage-causing animal by means of—
- (a) dogs, only for the purpose of—
    - (i) tracking a wounded damage-causing animal; or
    - (ii) pointing, flushing and retrieving a damage-causing animal;
  - (b) luring by means of sound or smell;
  - (c) bait and trap cages;
  - (d) gin traps, only if such gin traps have an off-set jaw or padded jaws;

- (e) flood or spot lights;
- (f) from a motorized vehicle; or
- (g) from an air craft.

**CHAPTER 10**  
**SCIENTIFIC AUTHORITY**

**Part 1**

**Establishment, composition and operating procedures**

**Establishment of the Scientific Authority**

87. The Scientific Authority established in terms of section 60 of the Biodiversity Act and regulation 59 of the previous Regulations, continues to exist as a juristic person in terms of these Regulations, despite the repeal of the previous Regulations.

**Composition of the Scientific Authority**

88. (1) The Scientific Authority consists of—

- (a) two members to represent the Department;
- (b) one member to represent the Department of Agriculture, Forestry and Fisheries;
- (c) one member to represent each provincial conservation authority;
- (d) one member to represent South African National Parks;
- (e) one member to represent SANBI;
- (f) one member to represent tertiary institutions; and
- (g) one member to represent the National Zoological Gardens.

- (2) A provincial conservation authority may be represented by an official from another organ of state responsible for the protection of biodiversity within that particular province, in the case where such provincial conservation authority does not have the necessary scientific expertise.

- (3) The Minister appoints the members of the Scientific Authority.

- (4) The Director-General must request the Department of Agriculture, Forestry and Fisheries, each provincial conservation authority, South African National Parks, SANBI, tertiary institutions and the National Zoological Gardens to nominate persons for appointment to the Scientific Authority in accordance with subregulation (1).

**Chairperson and deputy chairperson**

89. (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.

**Term of office**

90. The term of office for a member of the Scientific Authority is 4 years and can be renewed if approved by the Minister for another term.

**Removal from office**

91. The Minister may remove a member of the Scientific Authority from office, but only on grounds of—
- (a) misconduct, incapacity or incompetence;
  - (b) insolvency; or
  - (c) conviction of a criminal offence without the option of a fine.

**Filling of vacancies**

92. Whenever a vacancy arises in the membership of the Scientific Authority, the Minister must fill the vacancy in accordance with regulation 88(4) of these Regulations.

**Meetings of the Scientific Authority**

93. (1) The Scientific Authority must meet at least once a year to develop a report to the Minister regarding compliance with the provisions of section 61 of the Biodiversity Act.
- (2) The Chairperson may convene additional meetings as and when necessary.

**Expert advisors**

94. The Scientific Authority may co-opt expert advisors from within or outside the public service to be present and speak at meetings.

**Participation in meetings by way of electronic or other media**

95. A member of the Scientific Authority or another person co-opted in terms of regulation 94 of these Regulations 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.

#### **Procedures**

96. The Scientific Authority determines its own internal procedures.

#### **Quorum and decisions**

97. (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 95 of these Regulations must for the purpose of subregulation (2) be regarded as being present at the meeting.

### **Part 2**

#### **Setting of annual off-take limits**

##### **Setting of annual off-take limits**

98. The Scientific Authority must each year before the end of September determine for the following year, if and where so required, annual off-take limits of specimens of listed threatened or protected species for the country as a whole and /or per province.

### **Part 3**

#### **Non-detriment findings**

##### **Provisions included in non-detriment findings**

99. The Scientific Authority may include provisions in the non-detriment findings, made in terms of section 62 of the Biodiversity Act, in respect of specimens of listed threatened or protected species in captivity, relating to the compulsory—
- (a) marking and identification of specimens;
  - (b) collection, analysis and storage of DNA samples;
  - (c) keeping of studbooks.

**SECTION B**  
**PROVISIONS RELATING TO LISTED THREATENED OR PROTECTED MARINE SPECIES**

**CHAPTER 11**  
**PERMITS AND RESTRICTED ACTIVITIES**

**Specific definitions applicable to listed threatened or protected marine species**

**100.** In this Chapter, unless the context indicates otherwise, a word or expression or any derivative or other grammatical form of such word or expression to which a meaning has been assigned in regulation 1 of these Regulations or in the Biodiversity Act, has the corresponding meaning, unless the context indicates otherwise, and the following additional definitions shall only apply to this Chapter—

**“attract”** means to feed, chum or bait, or to use any other means, method or device to lure a live specimen of a listed threatened or protected marine species;

**“boat-based whale and dolphin watching”** means approaching dolphins, and whales closer than 300 meters, from a boat-based whale and dolphin watching vessel for commercial purposes, and includes the advertising of such activity;

**“boat based whale and dolphin watching vessel”** means a vessel that is certified by SAMSA as suitable and safe for boat-based whale and dolphin watching;

**“bycatch”** means a specimen or number of specimens of a listed threatened or protected marine species that is accidentally caught, while fishing for a target species for which a permit has been issued in terms of the Marine Living Resources Act;

**“chum or chumming”** means scenting or using pieces of an animal weighing less than 10 grams, in the water to attract a live specimen of a listed threatened or protected marine species;

**“colony”** means a location on land or an island used for breeding by a specimen of a listed threatened or protected seal or seabird species, or where at least 10 seabirds of the same species aggregate for moulting, or where an average of at least 50 seals can be found year round, but excludes locations where specimens are held in captivity;

**“feed”** means to supply food or other objects which will be perceived as food by a specimen of a listed threatened or protected marine species;

**“free dive”** means to swim or dive in the vicinity of white sharks without the protection of a cage, with or without diving equipment or gear;

**“habitat modification”** means the alteration or destruction of the habitat of a specimen of a listed threatened or protected marine species in any way as a result of human intervention, to the extent that specimens of such species are no longer capable of surviving in the altered or destroyed habitat;

**“harassing”** means behavior or conduct that threatens, disturbs or torments a live specimen of a listed threatened or protected marine species, and includes—

- (a) the insertion or attachment of a tag or other device to a listed threatened or protected marine species;
- (b) in the case of a whale, approaching a whale with a vessel or aircraft closer than 300 meters;
- (c) in the case of a white shark, approaching a white shark predated on natural prey with a vessel or aircraft closer than 80 meters;
- (d) in the case of turtles, photographing turtles at night or digging up turtle nests or eggs;
- (e) in the case of dolphins, driving through a school of dolphins;
- (f) in the case of seals and sea birds, approaching a colony closer than 30 meters;
- (g) in the case of seabirds, disturbing, digging up or destroying nests or eggs, and
- (h) in the case of a whale shark and a basking shark, approaching a whale shark or basking shark closer than 20 meters;

and harassment has a corresponding meaning;

**“Marine Living Resources Act”** means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

**“SAMSA”** means the South African Marine Authority established in terms of section 2 of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998);

**“white shark cage diving”** means the attraction of a white shark by chumming to observe a free-swimming white shark from within a protective cage submerged from a vessel or viewing such white shark from a vessel, for commercial purposes and includes the advertising of such activity; and

**“white shark cage diving vessel”** means a vessel that is certified by SAMSA as suitable and safe for white shark cage diving.

**Activities prescribed as restricted activities**

101. In addition to those activities defined in terms of section 1 of the Biodiversity Act as restricted activities, the following activities are hereby prescribed as restricted activities in respect of specimens of listed threatened or protected marine species—

- (a) habitat modification;
- (b) harassing a specimen of a listed threatened or protected marine species;
- (c) attracting a live specimen of a listed threatened or protected marine species;
- (d) boat-based whale and dolphin watching;
- (e) white shark cage diving; or
- (f) feeding.

**Permits**

102. (1) The carrying out of a restricted activity in respect of a specimen of a listed threatened or protected marine species may be authorised in terms of any of the following types of permits—

- (a) an ordinary permit, including a permanent possession permit contemplated in regulation 6;
- (b) a standing permit contemplated in regulation 7;
- (c) a permit to an official of an issuing authority;
- (d) a boat-based whale and dolphin watching permit contemplated in regulation 105; or
- (e) a white shark cage diving permit contemplated in regulation 106.

**General provisions applicable to specimens of listed threatened or protected marine species**

103. The following provisions of these regulations shall apply *mutatis mutandis* to this Chapter and all permits issued under this Chapter, unless specifically excluded or modified in this Chapter; and any reference to 'listed threatened or protected species' must be read as a reference to a 'listed threatened or protected marine species'—

Regulation 1, 4, 5, 6, 7(1), 7(2), 7(3), 8, 9, 10(1), 10(2), 11, 12, 13, 14, 15, 16, 17, 18, 20(1), 20(3), 21, 22, 23(1), 23(2), 23(3), 24, 25, 28, 29, 33, 35, 36, 37, 38, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54(1), 54(2), 54(4), 54(5), 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 73, 74, 119, 120, 121, 122, 123, 124 and 125.

**Scientific institutions and research activities**

104. (1) Any provision in these regulations relating to any person or scientific institution with respect to registration or requiring a permit for scientific purposes, or any restricted activity which is carried out for scientific purposes, shall not apply to any listed threatened or protected marine species.

(2) Any person or organization which intends carrying out a restricted activity for scientific purposes involving a listed threatened or protected marine species, must lodge an application with the Minister in

accordance with the provisions of section 83 of the Marine Living Resources Act, or any regulations published under the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 1998).

#### **Boat-based whale and dolphin watching permits**

105. (1) A boat-based whale and dolphin watching permit may be issued to a person who carries out the restricted activity of boat-based whale and dolphin watching as prescribed in regulation 101 of these Regulations.
- (2) The issuing authority may issue the number of permits for boat-based whale and dolphin watching operations, and for the areas contemplated in Annexure 6 to these Regulations.
- (3) A person may apply for a boat-based whale watching permit following an invitation published by the Minister in the *Gazette*.

#### **White shark cage diving permits**

106. (1) A white shark cage diving permit may be issued to a person who carries out the restricted activity of white shark cage diving as prescribed in regulation 101 of these Regulations.
- (2) The issuing authority may issue the number of permits for white shark cage diving operations, and for the areas contemplated in Annexure 7 to these Regulations.
- (3) A person may apply for a white shark cage diving permit following an invitation published by the Minister in the *Gazette*.

#### **Permit applications**

107. (1) An application for a boat-based whale and dolphin watching permit must, in addition to the requirements contemplated in regulation 8, be accompanied by—
- (a) an operational plan;
  - (b) proof that the applicant—
    - (i) is a South African citizen; and
    - (ii) has access to a boat-based whale and dolphin watching vessel; and
  - (c) an undertaking that the applicant has employed, or will employ—
    - (i) one or more registered tourist guides; and
    - (ii) a qualified skipper certified by SAMSA as capable of skippering the nominated boat-based whale and dolphin watching vessel; and
  - (d) a copy of adequate liability insurance or an undertaking that the applicant will obtain such insurance;

- (2) in the case of an application for a white shark diving permit—
  - (a) an operational plan;
  - (b) proof that the applicant—
    - (i) is a South African citizen; and
    - (ii) has access to a white shark cage diving vessel;
  - (c) an undertaking that the applicant has employed, or will employ—
    - (i) one or more registered tourist guides;
    - (ii) a qualified diving master; and
    - (iii) a qualified skipper certified by SAMSA as capable of skippering the nominated white shark cage diving vessel; and
  - (d) a copy of adequate liability insurance or an undertaking that the applicant will obtain such insurance; and
- (3) any other additional information deemed relevant by the issuing authority.

#### **Timeframes for issuing authorities**

- 108. (1) Subject to subregulation (2), the timeframes set out in regulation 17 similarly apply for permits issued for listed threatened or protected marine species.
- (2) The timeframes set out in regulation 17 do not apply to applications relating to boat-based whale and dolphin watching permits, or white shark cage diving permits.

#### **Additional factors to be taken into account by the issuing authority when considering applications for boat-based whale and dolphin watching permits and applications for white shark cage diving permits**

- 109. (1) When considering an application for a boat-based whale and dolphin watching permit or an application for a white shark cage diving permit, the issuing authority must, in addition to the factors contemplated in regulation 18 of these Regulations, also take the following general factors into consideration—
  - (a) promoting the economic growth of the boat-based whale and dolphin watching, and the white shark cage diving industries and the sustainable non-consumptive use of whales, dolphins and white sharks, particularly for eco-tourism, through—
    - (i) the allocation of the optimal number of permits that could be safely issued; and
    - (ii) the allocation of permits to persons who will be able to beneficially exercise the allocation;
  - (b) the need to improve the regulatory and compliance framework pertaining to the boat-based whale watching and white shark cage diving industries;
  - (c) the need to address transformation of these industries;
  - (d) the need to provide for control over diving to view white sharks or the boat-based viewing of white sharks, in order for these activities to take place in a manner that does not threaten the safety of divers or the protection and conservation of white sharks; and

- (e) the need to provide for control over the number of boat-based whale and dolphin watching and white shark cage diving permit holders in order to manage any adverse impact on whale, dolphin and white shark behavior and to protect whales, dolphins and white sharks.
- (2) When considering an application for boat-based whale and dolphin watching and white shark cage diving permits, the issuing authority must, in addition to the factors contemplated in subregulation (1) and regulation 19 of these Regulations, also take the following specific criteria for each individual application into consideration—
- (a) whether the applicant, while in possession of an existing permit or exemption, optimally utilised the rights contained in the permit or exemption;
  - (b) whether the applicant has been convicted of any offence related to the permit or any other environmental legislation and the seriousness thereof;
  - (c) the extent to which the applicant invested or participated in the boat-based whale and dolphin watching or white shark cage diving industries;
  - (d) the number, working conditions of and opportunities for the employees of the applicant;
  - (e) whether the nominated vessels have a vessel monitoring system; or
- any other factor that may be relevant to boat-based whale or dolphin watching or white shark cage diving or specific areas of operations.

#### **Circumstances in which permits must be refused**

110. (1) In addition to the factors contemplated in regulation 20, the issuing authority must refuse to issue permits for boat-based whale and dolphin watching and for white shark cage diving—

- (a) if the applicant—
  - (i) has failed to attest to the declaration obtained from the issuing authority;
  - (ii) fails to demonstrate access to—
    - (aa) a boat based whale and dolphin watching vessel ; or
    - (bb) a white shark cage diving vessel, (including a cage);
  - (iii) fails to employ or demonstrate that the applicant will employ one or more registered tourist guides;
  - (iv) fails to employ, or fails to demonstrate that the applicant will employ a qualified skipper certified by SAMSA
  - (v) is not a South African citizen; or
  - (vi) has not complied with or will be unable to comply with any other essential requirements in terms of the policy issued by the Minister; and
- (b) in areas where boat-based whale and dolphin watching, and white shark cage diving are not permissible; or

- (c) if the maximum number of boat-based whale and dolphin watching permits, and white shark cage diving permits, have already been issued.
- (2) In addition to the factors contemplated in regulation 20, the issuing authority must refuse to issue a permit if it relates to—
  - (a) swimming with dolphins; or
  - (b) advertising an experience to swim with dolphins;whether or not for commercial gain.

**Compulsory permit conditions applicable to the holder of a boat-based whale and dolphin watching permit or a white shark cage diving permit**

- 111.(1) In addition to the compulsory conditions contemplated in regulation 23(1), boat-based whale and dolphin watching permit must be issued subject to the following additional conditions—
- (a) a person under the control or supervision of the permit holder may not feed or swim with whales or dolphins;
  - (b) the permit holder, or a crew member or client under the control or supervision of the permit holder, may not enter a closed or restricted area;
  - (c) boat-based whale and dolphin watching may only be undertaken on a boat-based whale and dolphin watching vessel;
  - (d) the permit holder may only use the vessel or vessels specified on the permit, and may not use more than one vessel at a time;
  - (e) if the permit holder intends to use a different vessel or vessels from what has been specified on the permit, he or she must obtain written permission from the issuing authority to change the nominated vessel;
  - (f) the permit holder must display the permit in a visible place on the vessel when engaging in operations or services; and
  - (g) when advertising boat-based whale and dolphin watching operations or services, reference must be made to the permit number.
- (2) In addition to the compulsory conditions contemplated in regulation 23(1), a white shark cage diving permit must be issued subject to the following additional conditions—
- (a) the permit holder may not take a person to free-dive with white sharks without a permit specifically authorizing such free diving;
  - (b) the permit holder, or a crew member or client under the control or supervision of the permit holder, may not dump any material into the sea other than to attract sharks in the manner provided for in the permit;
  - (c) the permit holder, or a crew member or client under the control or supervision of the permit holder, may not dive outside the cage, touch, tag or interfere with any sharks;

- (d) when attracting a white shark for the purpose of this permit, the permit holder, or a crew member or client under the control or supervision of the permit holder, may not allow a shark to take the bait;
- (e) attracting may only be conducted within the areas stipulated in the permit,;
- (f) white shark cage diving may only be undertaken on a white shark cage diving vessel;
- (g) the permit holder may only use the vessel or vessels specified on the permit, and may not use more than one vessel at a time;
- (h) if the permit holder intends to use a different vessel from what has been specified on the permit, he or she must obtain written permission from the issuing authority to change the nominated vessel,;
- (i) the permit holder must display the permit in a visible place on the vessel when engaging in operations or services; and
- (j) when advertising white shark cage diving reference must be made to the permit number.

**Compulsory permit conditions applicable to captive breeding facilities or commercial exhibition facilities**

112. (1) A permit in respect of a captive breeding facility or a commercial exhibition facility must, in addition to the compulsory conditions contemplated in regulation 24, be subject to a condition that no specimens of the following listed threatened or protected marine species originating from wild populations may be introduced in a commercial exhibition facility—

- a) dolphins;
- b) whales;
- c) seals;
- d) sea birds;
- e) saw fish;
- f) coelacanth; and
- g) white sharks, basking sharks and whale sharks.

**Period of validity of a boat-based whale and dolphin watching permit or a white shark cage diving permit**

113. In addition to the validity periods determined in regulation 29 for an ordinary permit and a standing permit, a boat-based whale and dolphin watching permit and a white shark cage diving permit, may be issued for a period not exceeding 5 years.

**Renewal of a boat-based whale and dolphin watching permit or a white shark cage diving permit**

114. (1) Notwithstanding the provisions of regulation 56, a boat-based whale and dolphin watching permit and a white shark cage diving permit are not renewable and are subject to an allocation process. On the expiry of the validity period of these permits, the Minister will invite persons, by Notice in the *Gazette*, to submit new applications.

- (2) If a new allocation process has not been completed in terms of subregulation (1), prior to the expiry of a boat-based whale and dolphin watching permit or a white shark cage diving permit, such permit may be renewed for a period not exceeding two years.
- (3) Notwithstanding the provisions of regulation 57, a boat-based whale and dolphin watching permit or a white shark cage diving permit may be renewed in terms of sub-regulation (2), at the discretion of the issuing authority prior to a new allocation process, provided that the permit holder has complied with all the provisions of the Biodiversity Act and these Regulations where applicable, and with all previous permit conditions.

**Specific restricted activities by commercial exhibition facilities and rehabilitation facilities involving a listed threatened or protected marine species prohibited under certain circumstances**

115. (1) When issuing a permit to a commercial exhibition facility, the issuing authority must issue such permit subject to the condition that the holder thereof may not catch or receive a specimen of a listed threatened or protected cetacean, marine turtle, seabird, shorebird or seal species originating from a wild population.
- (2) When issuing a permit to a commercial exhibition facility, the issuing authority must issue such permit subject to the condition that the holder thereof may be in possession of a specimen of a listed threatened or protected cetacean, marine turtle, seabird, shorebird or seal species, only if such specimen has been bred in captivity, or has been kept in captivity prior to the commencement of these Regulations.
  - (3) When issuing a permit to a rehabilitation facility, the issuing authority must issue such permit subject to the condition that the holder thereof may be in possession of a specimen of a listed threatened or protected cetacean, marine turtle, seabird, shorebird or seal species, only if such specimen is unable to be released back into the wild, provided that the rehabilitation facility is also registered as a sanctuary.

**Regulation of restricted activities involving boat-based whale and dolphin watching and white shark cage diving**

116. (1) The Minister may determine the number of boat-based whale or dolphin watching permits, or the number of white shark cage diving permits, to be issued, in order to ensure the sustainable non-consumptive use of whales, dolphins and white sharks for eco-tourism purposes.
- (2) The areas where boat-based whale or dolphin watching is permissible, are listed in Annexure 6 to these Regulations.

- (3) The areas where white shark cage diving is permissible, are listed in Annexure 7 to these Regulations.

**Regulation of restricted activities involving listed threatened or protected marine species**

117. (1) The issuing authority may, to achieve the objectives of disease control, or to manage conflict between individuals of listed threatened or protected marine species issue permits for the carrying out of the following restricted activities—

- (a) removal and relocation of specimens of listed threatened or protected species of seabirds, shorebirds or seals from one location to another location;
- (b) the humane killing of specimens of listed threatened or protected species of seabirds, shorebirds or seals in accordance with subregulation (3);
- (c) the burning of carcasses of specimens of listed threatened or protected species of seabirds, shorebirds or seals;
- (d) the use of reproductive control measures; or
- (e) any other restricted activity which is necessary in the opinion of the issuing authority to combat or manage disease amongst listed threatened or protected species of seabirds, shorebirds and seals or conserve and manage populations.

(2) In authorizing any of the activities contemplated in subregulation (1), the issuing authority must give preference to authorizing those activities which effectively achieve the objectives of conservation and management with the least disruptive impact on specimens of listed threatened or protected species of seabirds, shorebirds and seals and their habitats.

(3) The issuing authority must refuse to authorise the killing of a specimen of any listed threatened or protected species of seabirds, shorebirds or seals contemplated in subregulation (1)(b), unless no reasonable possibility exists that any other activity will effectively achieve the objective of conservation and management of listed threatened or protected species of seabirds, shorebirds and seals.

**Catch, release and killing of listed threatened or protected marine species**

118. (1) A permit to authorize the catching, capturing or release of a specimen of a listed threatened or protected marine species is not required if such specimen has been caught—

- a) as by-catch, and
- b) such specimen is released alive in the water from which it has been caught.

(2) In the case where it is not possible to release the specimen alive as contemplated in subregulation (1)(b), a permit to authorize the killing of such specimen is not required, provided that:

- (a) all attempts made to release such specimen alive, have failed; and
- (b) such dead specimen is released in the water from which it has been caught.

**SECTION C**  
**TRANSITIONAL PROVISIONS**

**CHAPTER 12**  
**PERMITS AND RESTRICTED ACTIVITIES IN TERMS OF THE PREVIOUS REGULATIONS**

**Continuation of restricted activities carried out, and permits and registration certificates issued, under the previous Regulations**

119. (1) Anything done in terms of the previous Regulations and which can be done in terms of these Regulations must be regarded as having been done in terms of these Regulations.
- (2) Any permit, including a game farm hunting permit, a nursery possession permit, a personal effects permit, a boat-based whale and dolphin watching permit and a white shark cage diving permit or registration certificate issued in terms of the previous Regulations that have not expired on the date of coming into effect of these Regulations, must despite the repeal of the previous Regulations be regarded as having been issued in terms of these Regulations, and remains valid until the expiry date indicated on such permit or registration certificate.
- (3) Game farm hunting permits, nursery possession permits and personal effects permits cease to exist in terms of these Regulations, and issuing authorities may not issue new game farm hunting permits, nursery possession permits and personal effects permits in terms of these Regulations.
- (4) Notwithstanding the provision of regulation 56(3), a boat-based whale and dolphin watching permit or a white shark cage diving permit issued in terms of the Marine Living Resources Act, may be renewed in terms of these Regulations, at the discretion of the issuing authority prior to the first allocation process, initiated in terms of these Regulations, provided that the permit holder has complied with all the provisions of the Biodiversity Act and these Regulations, and with all previous permit conditions. Such permit may be renewed for the period until the first allocation process in terms of these Regulations have been concluded.

**Pending applications for permits, registration certificates and appeals**

120. (1) An application for a permit or registration submitted in terms of the previous Regulations and which is pending when these Regulations come into effect, must be dispensed with in terms of these Regulations.

- (2) An appeal lodged in terms of the previous Regulations, and which is pending on the date of coming into effect of these Regulations must be dispensed with in terms of the appeals regulations developed in terms of the National Environmental Management Act.

#### **Criminal prosecution in terms of the previous Regulations**

121. A criminal prosecution instituted in terms of the previous Regulations, and which is pending on the date of coming into effect of these Regulations, must be dispensed with in terms of the previous Regulations as if the previous Regulations were not repealed.

### **CHAPTER 13**

#### **OFFENCES AND PENALTIES**

##### **Offences**

122. (1) A person is guilty of an offence if that person—
- (a) contravenes any provision of these Regulations;
  - (b) carries out any restricted activity in conflict with information provided in the management plan to which the permit application or registration application was subject; or
  - (c) alters, erases or in any way tampers with the markings made on elephant ivory or rhinoceros horn in terms of these Regulations.
- (3) A person is guilty of an offence if such person permits, facilitates or allows any other person to contravene any of the provisions of these Regulations.

##### **Penalties**

123. (1) A person convicted of an offence in terms of regulation 122 of these Regulations is liable upon conviction to—
- (a) imprisonment for a period not exceeding 5 years; or
  - (b) a fine not exceeding R5 million; or
  - (c) both a fine and such imprisonment; and
  - (d) in the case of a second or subsequent conviction, a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years, or both such fine and imprisonment.

##### **Repeal of the previous Regulations**

124. The previous Regulations are hereby repealed.

**Short title and commencement of these Regulations**

125. These regulations are called the Threatened or Protected Species Regulations, 2015, and take effect on a date determined by the Minister by notice in the *Gazette*.

**ANNEXURE 1**  
**PERMIT APPLICATION FORM**

A. Applicant details:

<b>NAME OF APPLICANT:</b>	
<b>NAME OF PERSON WHO WILL CARRY OUT THE RESTRICTED ACTIVITY: (if not the same as the applicant):</b>	
<b>IDENTITY OR PASSPORT NO: APPLICANT:</b>	
<b>PERSON WHO WILL CARRY OUT THE RESTRICTED ACTIVITY: (if not the same)</b>	
<b>TEL NO:</b>	<b>CELLULAR NO:</b>
<b>FAX NO:</b>	
<b>E-MAIL:</b>	
<b>POSTAL ADDRESS:</b>	<b>PHYSICAL ADDRESS:</b>

B. Facility details:

<b>NAME OF FACILITY:</b>
<b>KIND OF FACILITY:</b>
<b>DATE OF ESTABLISHMENT OF FACILITY:</b>
<b>PHYSICAL ADDRESS OF FACILITY:</b>

C. Kind of Permit Applied for (Tick off)

<b>ORDINARY</b>	<input type="checkbox"/>	<b>STANDING</b>	<input type="checkbox"/>	<b>PERMANENT POSSESSION</b>	<input type="checkbox"/>
<b>NEW</b>	<input type="checkbox"/>	<b>RENEWAL</b>	<input type="checkbox"/>	<b>AMENDMENT</b>	<input type="checkbox"/>

D. If the Application applies to a Standing Permit (Tick off)

<input type="checkbox"/>	<b>CAPTIVE BREEDING OPERATION</b>	<input type="checkbox"/>	<b>SANCTUARY</b>	<input type="checkbox"/>
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	TEMPORARY TRANSLOCATION FACILITY	SCIENTIFIC INSTITUTION	
	COMMERCIAL EXHIBITION FACILITY	NURSERY	
	GAME FARM	WILDLIFE TRADER	
	REHABILITATION FACILITY	TAXIDERMIST	
	WILDLIFE TRANSLOCATOR	FREIGHT AGENT	

E. Kind of restricted activity applied for (see section G in the case of a hunt):

E.g. Possession / Hunt / Catch / Capture / Gather / Growing / Breeding / Other Applicable Restricted

Activity:

HUNT		CATCH		KILL	
GATHER		COLLECT		PLUCK	
PICK		CUT		CHOP OFF	
UPROOT		DAMAGE		DESTROY	
IMPORT	EXPORT	RE-EXPORT		INTRODUCE FROM THE SEA	
POSSESSION/ EXERCISE PHYSICAL CONTROL					
GROW		BREED		PROPAGATE	
CONVEY/ MOVE/ TRANSLOCATE					
SELL		BUY		RECEIVE	
GIVE		DONATE		ACCEPT AS A GIFT	
RELEASE		ANGLING		DART	

F. Property where restricted activity will take place

(if not the same as provided in B):

PHYSICAL ADDRESS:	POSTAL ADDRESS

G. In the case of transport/ export / import / sell / purchase:

NAME OF SELLER:	NAME OF PURCHASER:
PHYSICAL ADDRESS (SELLER/ TRANSPORT FROM OR EXPORT FROM):	PHYSICAL ADDRESS (PURCHASER/ TRANSPORT TO):

## H. Species Involved:

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

## I. Additional Information for Hunt:

## (i) Hunting Client and Applicant Details: (If applicable)

<b>HUNTING CLIENT AND NAME:</b>
<b>PASSPORT NUMBER:</b>
<b>PHYSICAL ADDRESS:</b>

## (ii) Hunting Outfitter and Professional Hunting Details: (if applicable)

HUNTING OUTFITTER	PROFESSIONAL HUNTER
<b>NAME:</b>	<b>NAME:</b>
<b>TEL NO:</b>	<b>TEL NO:</b>

## (iii) Duration of Hunting Trip

<b>ARRIVAL DATE: (dd/mm/year)</b>	<b>DEPARTURE DATE: (dd/mm/year)</b>

## (iv) Weapon and Method of Hunt

WEAPON	METHOD

## J. Additional Information for Standing Permits

<b>REGISTRATION NUMBER:</b>	
-----------------------------	--

.....  
Signature of applicant

.....  
Date

K. Official Use

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

L. Period of Validity of Permit

FROM: (dd/mm/year)	TO: (dd/mm/year)

**ANNEXURE 2****APPLICATIONS FOR RENEWAL OF PERMITS;  
APPLICATIONS FOR AMENDMENT OF PERMITS OR REGISTRATIONS**

- A. Applicant details, including name, identity no, telephone no, fax no, cell phone 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; and
- C. Details of renewal/ amendment applied for and reasons (if appropriate)

**ANNEXURE 3**  
**PROCESSING FEES**

PERMIT	FEE
Ordinary permit – new, renewal or amendment	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 Permanent possession permit – R50.00
Registration	R 1 000.00
Standing permit	R 1 000.00
Renewal of a standing permit	R1000.00
Amendment of a standing permit or registration certificate	R200.00
Lost/stolen Permit	R50.00
Permits to officials of organs of state	No application fee applicable
Boat-based whale and dolphin watching permits and white shark cage diving permits	Fees as published in Government Notice No. 795, Gazette No. 33518 of 10 September 2010

## Annexure 4

**ORDINARY PERMIT**

(Issued in terms of the provisions of the National Environmental Management: Biodiversity Act 2004, Act 10 of 2004)

**NAME OF ISSUING AUTHORITY**

<b>NAME</b>	
<b>ADDRESS</b>	
<b>PROVINCE</b>	

**DETAIL OF PERMIT HOLDER**

<b>NAME</b>		<b>ID NO.</b>	
<b>SURNAME</b>		<b>PASSPORT NO.</b>	
	<b>POSTAL ADDRESS</b>	<b>RESIDENTIAL ADDRESS</b>	
<b>ADDRESS</b>			
<b>ADDRESS</b>			
<b>ADDRESS</b>			
<b>TOWN</b>			
<b>POSTAL CODE</b>			
<b>PROVINCE</b>			

**DETAIL OF SPECIES INVOLVED**

<b>SPECIES</b>		<b>SEX (if known)</b>	<b>QUANTITY</b>	<b>MARKING (if applicable)</b>
<b>COMMON NAME</b>	<b>SCIENTIFIC NAME</b>			

**DETAIL OF RESTRICTED ACTIVITIES INVOLVED**


<b>NAME AND SURNAME OF PURCHASER/ SELLER</b>	
<b>RESIDENTIAL ADDRESS OF PURCHASER/ SELLER</b>	

<b>IN THE CASE OF INTERNATIONAL IMPORT/ EXPORT:</b>	
<b>NAME AND SURNAME OF CONSIGNEE/ CONSIGNOR</b>	
<b>RESIDENTIAL ADDRESS OF CONSIGNEE/ CONSIGNOR</b>	

<b>IN THE CASE OF A HUNT:</b>	
<b>NAME AND SURNAME OF HUNTING CLIENT</b>	

<b>(if applicable)</b>	
<b>NAME AND SURNAME OF PROFESSIONAL HUNTER (if applicable)</b>	
<b>NAME AND SURNAME OF HUNTING OUTFITTER (if applicable)</b>	
<b>WEAPON AND METHOD OF HUNTING</b>	

<b>IN THE CASE OF POSSESSION OF ELEPHANT IVORY OR RHINOCEROS HORN:</b>	
<b>WEIGHT OF EACH PIECE APPLIED FOR</b>	
<b>LENGTH OF THE ELEPHANT IVORY</b>	
<b>BASE CIRCUMFERENCE OF ELEPHANT IVORY OR RHINOCEROS HORN</b>	
<b>REGISTRATION NUMBER</b>	
<b>MICROCHIP NUMBER</b>	

<b>PERMIT VALIDATION</b>			
<b>PERIOD OF VALIDITY</b>	<b>FROM:</b>		<b>TO:</b>
<b>RECEIPT NUMBER</b>			
<b>SIGNATURE ISSUING OFFICER</b>		<b>SIGNATURE PERMIT HOLDER</b>	
<b>DATE STAMP:</b>			

Annexure 5

**STANDING PERMIT**

(Issued in terms of the provisions of the  
National Environmental Management:  
Biodiversity Act 2004, Act 10 of 2004)

NAME OF ISSUING AUTHORITY	
NAME	
ADDRESS	
PROVINCE	

PROVINCIAL DEPARTMENT	NATIONAL DEPARTMENT
PROTECTED AREA MANAGEMENT AUTHORITY	VETERINARIAN
REGISTERED CAPTIVE BREEDING OPERATION	REGISTERED SCIENTIFIC INSTITUTION
REGISTERED SANCTUARY	REGISTERED REHABILITATION FACILITY
REGISTERED COMMERCIAL EXHIBITION FACILITY	REGISTERED GAME FARM
REGISTERED WILDLIFE TRADER	REGISTERED NURSERY
UNIQUE REGISTRATION NUMBER	

DETAIL OF PERMIT HOLDER			
NAME		ID NO.	
SURNAME		PASSPORT NO.	
	POSTAL ADDRESS	RESIDENTIAL ADDRESS	
ADDRESS			
ADDRESS			
ADDRESS			
TOWN			
POSTAL CODE			
PROVINCE			

DETAIL OF SPECIES INVOLVED				
SPECIES		SEX (if known)	QUANTITY	MARKING (if applicable)
COMMON NAME	SCIENTIFIC NAME			

DETAIL OF RESTRICTED ACTIVITIES INVOLVED	

PERMIT VALIDATION			
PERIOD OF VALIDITY	FROM:	TO:	

<b>RECEIPT NUMBER</b>	
<b>SIGNATURE ISSUING OFFICER</b>	<b>SIGNATURE PERMIT HOLDER</b>
<b>DATE STAMP:</b>	

## ANNEXURE 6

## AREAS, AND NUMBER OF PERMITS PER AREA, FOR BOAT-BASED WHALE AND DOLPHIN WATCHING OPERATIONS

Areas	No. of permits
Port Nolloth	1
Lambert's Bay	1
St Helena Bay – Sandy Point	1
Saldanha Bay	1
Cape Town	1
Hout Bay	1
Cape Point - Kalkbaai	1
Gordons Bay	1
Hermanus	3
Gans Bay	1
Kleinbaai	2
Arniston and Struis Bay	1
Stilbaai	1
Mossel Bay	1
Knysna	1
Plettenberg Bay	2
Cape St Francis	1
Port Elizabeth	1
Kenton on Sea	1
Port Alfred	1
East London	1
Kei – Umgazi rivers	2
Umgazi – Umtanvuna rivers	2
Shelley Beach	2
Durban	2
Richards Bay	1
St Lucia	2
Sodwana Bay	1

**ANNEXURE 7****AREAS, AND NUMBER OF PERMITS PER AREA, FOR WHITE SHARK CAGE DIVING OPERATIONS**

<b>Areas</b>	<b>No. of commercial permits</b>
Seal Island, False Bay	3
Dyer Island, Gansbaai	8
Quoin Rock, Quoin Point	2
Seal Island, Mossel Bay	1
Algoa Bay, Port Elizabeth	2