THREATENED OR PROTECTED SPECIES REGULATIONS (TOPS)

Biodiversity Economy Indaba
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LEGISLATIVE FRAMEWORK
NEMBA

- Regulations
  - TOPS Regulations
  - CITES Regulations
  - BABS Regulations
  - AIS Regulations
- Norms and Standards
  - Marking of rhino and horns, and hunting of rhino
  - Management of elephants in South Africa
  - Damage-causing animals
  - Draft Professional Hunting Regulations
- Prohibition Notice
  - Wild cycads and export of large cycads
  - Draft regulations for domestic trade in rhino horns
  - Management and monitoring of hunting of leopard

The objectives of this Act are:

- Within the framework of the National Environmental Management Act, to provide for:
  - the management and conservation of biological diversity within the Republic and of the components of such biological diversity
  - the use of indigenous biological resources in a sustainable manner; and
  - the fair and equitable sharing among stakeholders of benefits arising from bioprospecting involving indigenous biological resources
• Section 57(1): No person may carry out a restricted activity involving a listed threatened or protected species without a permit.

• Section 57(2): The Minister may by notice in the Gazette prohibit the carrying out of **ANY** activity that may negatively impact on the survival of a listed threatened or protected species.

• Section 57(4): The Minister may by notice in the Gazette exempt any person from permit requirement.
The following restricted activities requires a permit:

- hunt, catch, capture or kill by any means, method or device whatsoever, including to search for, pursue, drive, lie in wait for, lure, allure, discharge a missile or injure with intent to hunt, catch, capture or kill;
- gather, collect or pluck;
- pick parts of, or cut, chop off, uproot, damaging or destroy;
- import into the Republic, including to introduce from the sea;
- export from the Republic, including re-export from the Republic;
The following restricted activities requires a permit:

- have in possession or exercise physical control over;
- grow, breed or in any other way to propagate, or cause to multiply;
- convey, move or otherwise translocate species;
- sell or otherwise trade in, buy, receive, give, donate or accept as a gift, or in any way acquire or dispose; or
- any other prescribed activity involving a listed threatened or protected species.
THREATENED OR PROTECTED SPECIES

• Threatened or Protected Species (TOPS) regulations, 2007 promulgated in terms of section 97 of NEMBA.
• TOPS Regulations aims to:
  ➢ Regulate the permit system that applies to threatened or protected species;
  ➢ Provide for the registration of facilities, namely: captive breeding facilities, commercial exhibition facilities wildlife traders, game farms, nurseries, scientific institutions, sanctuaries, rehabilitation facilities
  ➢ Regulate a specific restricted activity (e.g. hunting)
  ➢ Prohibit specific restricted activities
CATEGORIES OF SPECIES

**Critically endangered**
- Example: wattled crane, blue swallow, riverine rabbit, Albany cycad, Venda cycad

**Endangered**
- Example: geometric tortoise, black rhino, African wild dog, Bearded vulture
CATEGORIES OF SPECIES (2)

**Vulnerable**
- Example: cheetah, roan, Grass Aloe, leopard

**Protected**
- Example: baboon spiders, scorpions, beetles, Nile crocodile, African rock python, elephant, black footed cat, devil’s claw
APPLICATION

Who should apply for permit?

• Any person may apply for a permit by submitting a complete application form to the relevant issuing authority.

Where to submit an application form?

• MEC if the applicant is a private individual
• Minister if
  ✓ The applicant is a national organ of state
  ✓ Marine species
APPLICATION

Documents to be submitted with the application

- Personal information such as: Full names, ID, Physical and postal address
- Proof of legal acquisition
- A written consent
- Proof of payment of processing fee
- Any other information as may be required by the issuing authority
How long does it take the issuing authority to issue a permit?
• 20 working days to consider and decide.
• 5 working days to issue a permit, if an application is approved.

A permit may not be issued with retrospective effect
REFUSAL OF PERMITS

- An issuing authority may refuse a permit if:
  - Applicant has been convicted of an offence
  - An activity may have a negative impact on the survival of a species
CANCELLATION OF PERMITS AND REGISTRATION

• An issuing authority may cancel a permit or registration if:
  ✓ A permit or registration holder has breached a condition
  ✓ There is change in the conservation status of the relevant species
  ✓ The registered facility is operating in a manner not in accordance with any information provided to the issuing authority
PROHIBITED ACTIVITIES

• No permits may be issued for:
  o Hunting by using gin traps
  o Hunting using poison, snares, dogs, airguns
# Registrations

<table>
<thead>
<tr>
<th>Compulsory registration</th>
<th>Voluntary registration</th>
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<tbody>
<tr>
<td>• captive breeding operation</td>
<td>Game farms</td>
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<tr>
<td>• commercial exhibition facility (Zoos, Aquaria)</td>
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<tr>
<td>• nursery</td>
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<td>• scientific institution</td>
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<td>• sanctuary</td>
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<tr>
<td>• rehabilitation facility or</td>
<td></td>
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<tr>
<td>• act as a wildlife trader</td>
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[Image of wildlife]
REGISTRATIONS

Registrations

• No person may operate a facility or act as a wildlife trader involving specimens of any listed threatened or protected species, unless such facility or wildlife trader is registered in terms of TOPS.
OFFENCES

Offences:

• Carry out restricted activity without a permit;
• conducts a facility involving specimens of any listed threatened or protected species without being registered with the issuing authority in terms of Chapter 3 of these regulations;
• Contravening a notice published as a moratorium (prohibition);
• Non-compliance with permit conditions;
• Permits another person to commit an offense;
• Fraudulent use of permits;
• Making a false statement to obtain a permit
PENALTIES

Section 98 prescribes the penalties that may be imposed in terms of regulations:

- fine not exceeding R5 million; or
- imprisonment not exceeding 5 years; or
- both such fine and imprisonment.
- for second or subsequent conviction, a fine not exceeding R10 million or imprisonment not exceeding 10 years, or both such fine and imprisonment.
CONCLUSION

It is very important that:

• a person obtain a permit before carrying out any restricted activities

• comply with permit or registration conditions.

• renew permits and registration certificates before they expire