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**PART 1 OF 2**

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## GENERAL NOTICES

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### NOTICE 388 OF 2013

#### 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 Water and Environmental Affairs, hereby give notice of my intention, under section 97 (1)(b)(ii); (iii); (v); (viii); (ix); (f); (g) and (h) and 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 60 (sixty) days after the publication of the notice in the *Gazette*, written comments or inputs to the following addresses:

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

By hand at:     2<sup>nd</sup> Floor (Reception), Fedsure Forum Building, 315 Pretorius Street, Pretoria, 0001.

By e-mail: [mboshoff@environment.gov.za](mailto:mboshoff@environment.gov.za) or by fax to: (012) 320 7026

Comments received after the closing date may not be considered.



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

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## CHAPTER 1

### INTERPRETATION AND PURPOSE OF REGULATIONS

#### Definitions

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—

**“acoustic device”** means a device capable of producing sound;

**“adequately enclosed land”** means land that has been fenced in accordance with the provisions of applicable provincial legislation, in a manner to prevent specimens of listed threatened or protected species occurring on the fenced land, from readily escaping from such land;

**“air rifle”** means a device designed to discharge a projectile or pellet by means of compressed gas, and not a burning propellant;

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

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

**“applicable legal requirements”** means—

- (a) all legislation and instruments mentioned in section 88(3) of the Biodiversity Act;
- (b) any norms and standards which apply to the implementation of these regulations;
- (c) any management plans;

- (d) any prohibitions issued in terms of section 57(2) of the Biodiversity Act;
- (e) any exemptions issued in terms of section 57(4) of the Biodiversity Act; and
- (f) any applicable provincial legislation;

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

**“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; grown from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules derived from cultivated parental stocks;

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

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

**“boat-based whale and dolphin watching”** means approaching whales and dolphins closer than 300 meters from a boat-based whale and dolphin watching vessel for commercial purposes;

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

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

**“bred in captivity”** or **“captive bred”**, in relation to a specimen of a listed threatened or protected animal species, means that the specimen was bred and born in a controlled environment;

**“broad-based black economic empowerment”** has the meaning assigned to it in terms of section 1 of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“**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;

“**captive breeding facility**” means a facility where a specimen of a listed threatened or protected animal species is bred in a controlled environment for conservation or commercial purposes;

“**catch or capture**” means to employ any means, method or device to gain control over, or to secure possession of, a specimen of a listed threatened or protected species, 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 adequately enclosed land;

“**chum**” means to attract a listed threatened or protected marine species by any means;

“**CITES Regulations**” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora Regulations, 2010, published in Government Notice No. 173, *Gazette* No. 33002 of 5 March 2010, as amended;

“**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 interaction between humans and live specimens of such listed species;

“**commercial purposes**”, in relation to a restricted activity involving a specimen of a listed threatened or protected species, means that the primary purpose of the restricted activity is to obtain economic benefit, including profit in cash or in kind, and is directed towards trade, exchange or any other form of economic use or benefit;

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

**“controlled environment”** means an enclosure designed to hold specimens of a listed threatened or protected animal species in a way that—

- (a) prevents them from escaping;
- (b) facilitates intensive human intervention or manipulation in the form of the provision of—
  - (i) food or water, or both;
  - (ii) artificial housing; or
  - (iii) health care; and
- (c) may facilitate the intensive breeding or propagation of a listed threatened or protected species, but excludes fenced land on which self-sustaining populations of such species are managed in an extensive wildlife system;

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

**“culling”**

- (a) in relation to a protected area, means the killing of a specific number of specimens of a listed threatened or protected species within the protected area, as part of a controlled operation in order to manage such species in the protected area in accordance with the management plan of the protected area;
- (b) in relation to an extensive wildlife system or communal land, means the killing of a specific number of specimens of a listed threatened or protected species within the extensive wildlife system or communal land, as part of a controlled operation in order to manage that species on the extensive wildlife system or communal land; or
- (c) in relation to threatened or protected species of seals, shorebirds and seabirds, means the killing of certain targeted specimens as part of a controlled operation to manage the negative impact of targeted individuals on listed threatened or protected marine species;

**“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 interacting with human activities, there is proof that it—

- (a) causes substantial loss to stock or to wild animals;

- (b) causes damage that has a substantial detrimental effect on cultivated trees, crops, natural flora or other property; or
- (c) presents a threat to human life;

**“darting”**, in relation to a live specimen of a listed threatened or protected animal species, means to shoot the specimen with a projectile loaded with a tranquillising, narcotic, immobilising, or similar agent;

**“dead”** in relation to a specimen of a listed threatened or protected species means a non-living specimen that is no longer capable of propagating, reproducing, multiplying, or transferring genetic traits;

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

**“DNA certificate”** means a certificate that contains the unique genetic information relating to a specific specimen of a listed threatened or protected species;

**“DTI”** means the Department of Trade and Industry;

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

**“extensive wildlife system”** means a natural environment, irrespective of whether it is adequately enclosed or not, that is suitable and of sufficient size for the management of self-sustaining populations of listed threatened or protected species, where no or minimal 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
- (d) the provision of health care;

**“falconer”** means a person who keeps, and may breed, falcons or other birds of prey for falconry purposes;

**“falconry”** means the sport of hunting by means of falcons or other birds of prey;

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

**“free dive”** means to dive in the vicinity of white sharks without the protection of a cage;

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

**“game farm”** means an extensive wildlife system on which specimens of a listed threatened or protected species occur;

**“game farm hunting permit”** means a permit issued by the issuing authority and purchased by the owner of a registered game farm, that authorises any other person to carry out a specific restricted activity on such registered game farm, namely to purchase and hunt a specimen of a listed threatened or protected animal species, including to convey and possess such dead specimen subsequent to the hunt during the validity period of the game farm hunting permit;

**“genotyping”** means the process of determining 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;

**“habitat destruction”** means the alteration or modification of the habitat of a specimen of a listed critically endangered species in any way, to the extent that specimens of such species are no longer capable of surviving in the altered or modified habitat;

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

- (a) the insertion or attachment of a tag to a listed threatened or protected marine species for the purpose of tracking or monitoring;



- (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 nests or eggs;
- and harassment has a corresponding meaning;

**“hunt”** in relation to a specimen of a listed threatened or protected animal species, includes—

- (a) to kill, or attempt to kill, such specimen by any means, method or device whatsoever;
- (b) to search for, lie in wait for, drive, pursue, shoot at, or to discharge any missile at, such specimen with the intent to kill;
- (c) to lure by any means, method or device whatsoever, such specimen with the intent to kill; or
- (d) to dart such a specimen for purposes other than for veterinary treatment, scientific or management purposes, whether or not with the intent to kill;

but excludes—

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

**“hunting client”** means a person who—

- (a) is not resident in the Republic; and
- (b) pays or rewards a hunting outfitter, or a professional hunter or any other person, whether directly or indirectly for, or in connection with, the hunting of a listed threatened or protected animal species;

**“hunting outfitter”** means a person who is authorised in terms of the relevant provincial legislation to market, assist with, offer, present or organize the hunting of a specimen of a listed threatened or protected species;

**“hybridisation”** means the cross-breeding of individuals from different species or sub-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;

**“land owner”** means—

- (a) the person registered in a deeds registry as the owner of the land, and includes the authorised representative of such person;
- (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) a person in control of land, including the management authority of a protected area but excluding the occupant of land if such occupant is not the authorised representative of the person contemplated in paragraph (a);
- (d) a person who has the right to use the land; or
- (e) 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) Cheetah (*Acinonyx jubatus*);
- (b) Spotted hyaena (*Crocuta crocuta*);
- (c) Brown hyaena (*Parahyaena brunnea*);
- (d) Wild dog (*Lycaon pictus*);
- (e) Leopard (*Panthera pardus*); or
- (f) Lion (*Panthera leo*);

**“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 any relevant provincial conservation legislation;

**“mark”** means—

- (a) an indelible imprint, micro-chip or any other recognised 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 unauthorised persons as difficult as possible; or
- (b) the method of marking to identify specimens of rhinoceros horn or elephant ivory, as prescribed in terms of these Regulations;

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

**“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”** means 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 issued by the issuing authority and purchased by the owner of a registered nursery, that authorises any other person to carry out a specific restricted activity at such registered nursery, namely to purchase a specimen of a listed threatened or protected plant species, including to convey and possess such plant specimen subsequent to the purchase during the validity period of the nursery possession permit;

**“ordinary permit”** means a permit authorising the carrying out of any restricted activity or a combination of restricted activities listed on such permit, in relation to either one or more live or dead specimens of listed threatened or protected species listed on such permit;

**“permanent possession permit”** means an ordinary permit that may be issued for a minimum period of one year and a maximum period of 50 years, authorising the possession and/or conveyance for non-commercial purposes, of a live or dead specimen of a listed threatened or protected species;

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

**“personal effects permit”** means a permit issued by the issuing authority and purchased by a registered wildlife products trader, that authorises any other person to carry out a specific restricted activity, namely to purchase from the registered wildlife products trader for non-commercial purposes, a dead specimen of a listed threatened or protected species, including to convey and possess such specimen subsequent to the purchase, or to export such specimen from the Republic during the validity period of the personal effects permit;

**“previous Regulations”** means the—

- (a) 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, as amended; 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, as amended;

**“professional hunter”** means a person who is authorised in terms of the relevant provincial legislation, to conduct a hunt, or to offer or agree to escort or accompany a hunting client in order to enable such hunting client to hunt a specimen of a listed threatened or protected species;

**“protected area”** has the meaning assigned to it in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

**“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 whole elephant tusk or any part thereof, polished or unpolished and in any form whatsoever, and all elephant ivory in cut pieces, polished or unpolished and howsoever changed from its original form, but excludes worked ivory;

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

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

**“release”** means to intentionally—

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

**“risk assessment”** means a risk assessment requested by an issuing authority in terms of section 89 of the Biodiversity Act;

**“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);

**“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 in a controlled environment to specimens of listed threatened or protected species that would be unable, whether as a result of injury or on account of human imprinting, to sustain themselves if released;

**“SATOUR”** means South African Tourism;

**“South African Qualification Authority”** means the authority established in terms of section 3 of the South African Qualification Authority Act, 1995 (Act No. 58 Of 1995);

**“Scientific Authority”** means the Scientific Authority referred to in section 60 of the Biodiversity Act;

**“scientific institution”** means—

- (a) an organ of state or non-governmental institution involved in research;
- (b) a registered research unit 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”** means the purpose is directed towards the practice of science and includes research;

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

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

**“standing permit”** means a permit authorising the continuous carrying out of any restricted activity or a combination of restricted activities listed on such permit, in relation to either one or more live or dead specimens of listed threatened or protected species listed on such permit, and that is valid for a longer specified period than an ordinary permit;

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

**“temporary holding facility”** means a facility equipped for the temporary keeping of live specimens of a listed threatened or protected species for—

- (a) rehabilitation purposes relating to the treatment and recovery of sick or injured specimens;
- (b) rearing purposes, in the case of young orphaned specimens;
- (c) quarantine purposes; or
- (d) translocation purposes;

with the overall intent to release;

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

**“threatened species”** means 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 or pursue a specimen of a listed threatened or protected species without killing the specimen;

**“trade”** means to import into the Republic, export from the Republic, sell or otherwise trade in, 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;

**“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;

**“white shark cage-diving”** means the attraction of a white shark by means of chumming, in order 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;

**“white shark cage-diving vessel”** means a suitable vessel that is registered by SAMSA as suitable for white shark cage-diving;

**“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 acquiring and sourcing live specimens of listed threatened or protected animal species with the express intention to trade in such specimens for commercial purposes, and includes a wildlife auctioneer but excludes a—

- (a) hunting outfitter; and
- (b) wildlife translocator;

**“wildlife products trader”** means a person who engages in the business of acquiring and sourcing dead specimens of listed threatened or protected animal species, with the express intention to trade in such dead specimens for commercial purposes, but excludes taxidermists and auctioneers;

**“wildlife translocator”** means a person who translocates live specimens of 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 specimens;

**“wild populations”** 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”** means any item made of, or manufactured from, elephant ivory, and includes—

- (a) jewellery;
- (b) an ornamental item;
- (c) an art item;
- (d) a utility item;
- (e) a musical instrument, and
- (f) a whole elephant tusk of which the whole surface has been carved;

provided that such item is clearly recognizable as such and in a form requiring no further carving, crafting or manufacture to effect its purpose.

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

2. 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;
- (c) angling;
- (d) habitat destruction;
- (e) harassing a specimen of a listed threatened or protected marine species;
- (f) attracting a live specimen of a listed threatened or protected marine species;
- (g) boat-based whale and dolphin watching;
- (h) white shark cage diving; or
- (i) collecting guano of listed threatened or protected marine bird species.



**Purpose and application of these regulations**

3. (1) The purpose of these regulations is to—
- (a) further regulate the permit system set out in Chapter 7 of the Biodiversity Act insofar as that system applies to restricted activities involving specimens of listed threatened or protected species;
  - (b) provide for the registration and regulation of—
    - (i) captive breeding facilities;
    - (ii) sanctuaries;
    - (iii) temporary holding facilities;
    - (iv) scientific institutions;
    - (v) commercial exhibition facilities;
    - (vi) nurseries;
    - (vii) game farms;
    - (viii) wildlife traders;
    - (ix) wildlife product traders;
    - (x) taxidermists;
    - (xi) wildlife translocators;
    - (xii) freight agents;
    - (xiii) falconers;
    - (xiv) boat-based whale and dolphin watching operators; and
    - (xv) white shark cage-diving operators;
  - (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 composition and operating procedures of the Scientific Authority; and
  - (f) provide for the recognition of associations.
- (2) These regulations apply to the carrying out of restricted activities involving specimens of species that have been listed in terms of section 56 of the Biodiversity Act as threatened or protected.
- (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.

## CHAPTER 2

### PERMIT SYSTEM FOR LISTED THREATENED OR PROTECTED SPECIES

#### Part 1

##### Application for permits

##### Carrying out of any 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 in terms of Chapter 7 of the Biodiversity Act, unless the Minister has exempted such restricted activity in terms of section 57(4) of the Biodiversity Act.

(2) Notwithstanding that—

- (a) a person has been granted permission by the owner on whose property the restricted activity will be carried out, or
- (b) the owner on whose property the restricted activity will be carried out, is in possession of a permit to carry out such restricted activity himself or herself;

the person intending to carry out the restricted activity requires a permit in terms of section 57(1) read with Chapter 7 of the Biodiversity Act.

##### 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, including a permanent possession permit;
- (b) a standing permit;
- (c) a permit to an official of an issuing authority;
- (d) a boat-based whale and dolphin watching permit; or
- (e) white shark cage diving permit.

(2) The issuing authority may, in compliance with the provision of section 92(2) and (3) of the Biodiversity Act, issue an integrated permit, if—

- (a) the restricted activity to which the permit relates, is regulated in terms of the Biodiversity Act as well as in terms of 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 the other law contemplated in subregulation (2)(a).

#### **Ordinary permits**

6. (1) An ordinary permit may be issued, on discretion of the issuing authority, for the—
- (a) once-off carrying out of any of the restricted activities or a combination of restricted activities;
  - (b) carrying out of multiple events of any of the restricted activities or a combination thereof; or
  - (c) carrying out of a restricted activity involving one or more specimens of one or more listed threatened or protected species.
- (2) A permanent possession permit may be issued to authorise 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 subregulations (2) and (3), a standing permit may be issued to authorise the continuous carrying out of any of the restricted activities, or a combination thereof, in relation to specimens of either one or more listed threatened and 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;
  - (b) an organ of state, for the carrying out of restricted activities involving specimens of listed threatened or protected species on land under its jurisdiction;
  - (c) 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 management plan of the protected area;
  - (d) a veterinarian, for darting and any other restricted activities necessary for the management of such species; or

- (e) an official of the National Council of Societies for the Prevention of Cruelty to Animals.
- (3) In addition to a standing permit for persons contemplated in subregulation (2), a standing permit involving specimens of listed threatened or protected species may be issued to the following persons, upon prior registration—
- (a) a person operating a captive breeding facility, for the carrying out of restricted activities involving species kept or bred at that captive breeding facility, that are necessary for the purpose for which that captive breeding operation is registered;
  - (b) the operator of a sanctuary or temporary holding facility, for the carrying out of restricted activities involving specimens brought to that sanctuary or temporary holding facility that are necessary for their treatment or care, or for the purpose for which the sanctuary or temporary holding facility is registered;
  - (c) the operator or head of a scientific institution or a person approved in writing by such an institution, for the carrying out of restricted activities involving specimens kept at that institution or being researched by the institution;
  - (d) the operator or head of 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) the owner of a nursery, for the carrying out of restricted activities involving specimens, for the purpose to which the registration relates;
  - (f) an owner of 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 wildlife products trader, for restricted activities associated with the trading in dead specimens;
  - (i) a taxidermist, for restricted activities associated with the treatment and mounting of specimens;
  - (j) a wildlife translocator, for restricted activities associated with the translocation of live specimens;
  - (k) a freight agent, for restricted activities associated with the importation and exportation of specimens; or
  - (l) a falconer, for restricted activities associated with falconry.
- (4) A standing permit involving scientific research may be issued, subject to—
- (a) the prior ethical approval by the tertiary institution in conjunction with which the research is conducted, if applicable; and

- (b) the prior submission of a 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.

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

- 8. (1) A boat based whale and dolphin watching permit may be issued to a person who operates a business involving the observation of whales and dolphins from sea-going vessels.
- (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 4 to these Regulations.
- (3) A person may apply for a boat based whale and dolphin watching permit following an invitation published by the Minister in the *Gazette*.

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

- 9. (1) A white shark cage-diving permit may be issued to a person who operates a business involving the observation of a free-swimming white shark from within a protective cage submerged from a vessel, or viewing such white shark from a vessel.
- (2) The issuing authority may issue the number of permits for white shark cage diving operations, and for the areas contemplated in Annexure 5 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*.

## Part 2

### Permit application procedure

#### Where to submit permit applications

10. (1) If the Minister is the issuing authority in respect of a specific application for a permit relating to the carrying out of any restricted activity, the application must be submitted to the Department.
- (2) If the MEC is the issuing authority in respect of a specific application for a permit relating to the carrying out of any restricted activity, the application must be submitted to the relevant provincial conservation authority.

#### Submission of permit applications

11. (1) An application for a permit must be in accordance with—
  - (a) the form as set out in Annexure 1 to these Regulations; or
  - (b) an application form 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 processing fee as set out in Annexure 3 to these Regulations.
- (3) An application referred to in subregulation (1) must be accompanied by—
  - (a) a copy of the identity or passport of the person who will be carrying out the restricted activity;
  - (b) written consent, if required in terms of regulation 12 of these Regulations;
  - (c) proof of payment of the—
    - (i) applicable processing fee contemplated in subregulation (2); and
    - (ii) species fee as determined by the issuing authority if the application involves an integrated permit and the restricted activity applied for is hunting;
  - (d) a risk assessment, if required in terms of regulation 14 of these Regulations;
  - (e) a list of names of the natural persons who will be carrying out the restricted activities, if the person applying is a juristic person;
  - (f) an approved management plan, if required;

- (g) 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;
  - (h) in the case of an application for a permit to possess a specimen of a threatened or protected species, proof of legal acquisition;
  - (i) in the case of an application for a boat based whale and dolphin watching permit—
    - (i) an operational plan;
    - (ii) proof that the applicant—
      - (aa) is a South African citizen; and
      - (bb) has access to a vessel suitable for boat based whale and dolphin watching; and
    - (iii) an undertaking that the applicant has employed, or will employ—
      - (aa) one or more registered tourist guides; and
      - (bb) a qualified skipper; and
    - (iv) an undertaking that the applicant has adequate public liability insurance, or will obtain such insurance;
  - (j) in the case of an application for a white shark diving permit—
    - (i) an operational plan;
    - (ii) proof that the applicant—
      - (aa) is a South African citizen; and
      - (bb) has access to a vessel and cage suitable for white shark cage diving;
    - (iii) an undertaking that the applicant has employed, or will employ—
      - (aa) one or more registered tourist guides;
      - (bb) a qualified diving master; and
      - (cc) a qualified skipper; and
    - (iv) an undertaking that the applicant has adequate public liability insurance, or will obtain such insurance; and
  - (k) any other additional information deemed relevant by the issuing authority.
- (4) Permit applications—
- (a) may be submitted—
    - (i) electronically;
    - (ii) by post; or
    - (iii) delivered by hand; and

- (b) must be submitted in duplicate, with the original or certified documentation in support of the application as required, in the case of boat-based whale and dolphin watching or white shark cage-diving.
- (5) Notwithstanding the provision of subregulation (2), payment of the applicable processing fee set out in Annexure 3 to these Regulations does not apply—
  - (a) to organs of state; or
  - (b) in the case where an integrated permit will be issued, and where a permit fee has been paid in terms of applicable provincial legislation.

**Additional information required for certain applications**

- 12. (1) If the restricted activity applied for is to be carried out on private land and the applicant is not the owner of the land, the applicant must—
  - (a) in the case of a listed threatened species, obtain the written consent from the owner on whose land the restricted activity is to be carried out, and submit such consent together with the application form contemplated in regulation 11 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 is to 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 11 of these Regulations must be accompanied by the necessary authorisation of that juristic person for submission of the application.
- (3) If the application relates to the hunting of African elephant (*Loxodonta africana*), leopard (*Panthera pardus*), lion (*Panthera leo*), white rhinoceros (*Ceratotherium simum simum*) or black rhinoceros (*Diceros bicornis*) by a hunting client, the following documentation must be submitted by a hunting client together with the application form contemplated in regulation 11 of these Regulations—
  - (a) a copy of the hunting client's passport;
  - (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 (if applicable); and
  - (d) proof of membership of a hunting association recognised 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 the damage-causing animal poses a threat to human life.

#### **Restricted activities requiring the collection of tissue samples for genetic analysis**

13. If it is deemed necessary, the issuing authority may, in addition to the information contemplated in regulations 11 and 12 of these Regulations, require the collection of tissue samples of specimens of listed threatened or protected species for genetic analysis, before a permit is issued.

#### **Restricted activities requiring a risk assessment**

14. (1) The issuing authority must, in addition to the information contemplated in regulations 11 and 12 of these Regulations, require a risk assessment for—
- (a) restricted activities involving wild specimens of critically endangered species;
  - (b) restricted activities carried out in threatened ecosystems listed in terms of section 52 of the Biodiversity Act;
  - (c) release of captive-bred specimens of a listed threatened or protected species into an extensive wildlife system where a population of such species already occurs; or
  - (d) the importation of indigenous species from other countries.
- (2) In addition to the circumstances contemplated in subregulation (1), the issuing authority may require a risk assessment in accordance with section 89 of the Biodiversity Act.

#### **Risk assessment report**

15. (1) The person carrying out the risk assessment 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) 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 species' level 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 a species' habitat;
  - (ii) creation of a significant change in an ecosystem caused by the removal or addition of keystone species;
  - (iii) over-exploitation of a species; and
  - (iv) hybridisation of species;
- (e) evaluation of the risk identified under paragraph (d) in terms of—

- (i) the likelihood of the risk being realised; and
  - (ii) the severity of the risk and consequences of the realisation of the risk for the particular species as well as for other species, habitats and ecosystems;
  - (f) any management measures that must be applied to minimise 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 (1), 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 (1) and (2).
- (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 16 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**

16. The person appointed in terms of regulation 15(4) of these Regulations must—
- (a) be independent;
  - (b) have expertise in conducting risk assessments, including knowledge of the Biodiversity Act, these Regulations and any guidelines that have relevance to the application;
  - (c) have adequate knowledge of the species concerned, or alternatively consult with an expert on the species concerned when conducting the risk assessment;

- (d) conduct the assessment to which the application relates, in an objective manner, even if this result in views and findings not favorable to the applicant;
- (e) comply with applicable legal requirements; and
- (f) take into account, to the extent applicable, the matters contemplated in regulation 11 of these Regulations when carrying out the risk assessment and preparing any report relating to the application; and disclose to the applicant or the issuing authority, as the case may be, 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.

#### **Disqualification of the person carrying out a risk assessment**

17. (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 16 of these Regulations in respect of the application, the issuing authority—
- (a) may disqualify the person who carried out the risk assessment;
  - (b) must notify the disqualified person and the applicant of the reasons therefore and that the application is suspended until the matter is resolved; and
  - (b) afford the disqualified person 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 16 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 the notification.
- (4) Where an interested and affected party notifies the issuing authority of suspected non-compliance with regulation 16 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 16 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) to complete any unfinished work in connection with the application; or
  - (iv) take such action as the issuing authority requires remedying the defects.

### **Part 3**

#### **Consideration of permit applications**

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

18. (1) On receipt of an application submitted in terms of regulation 11 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 14 working days of receipt of the application, in terms of section 88(2)(a) of the Biodiversity Act to furnish such additional information, and must stipulate the time period in which such additional information must be supplied.
- (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.

- (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) The time frames set out in this regulation do not apply to applications relating to boat based whale and dolphin watching permits, or applications relating to white shark cage diving permits.

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

- 19.** (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 regulation 12 or 18(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) the IUCN Red List status of the species;
  - (c) whether the application involves a listed threatened or protected species that will be introduced to, or taken or removed from, a wild population;
  - (d) whether the restricted activity applied for is regulated in terms of regulations 30, 31, 32, 76, 77, 78, 79, 80, 81, 82, 83, 84 or 85 of these Regulations;
  - (e) whether the restricted activity is prohibited in certain circumstances in accordance with regulations 71, 72, 73, 74 or 75 of these Regulations;
  - (f) whether an environmental impact assessment has been carried out in terms of the National Environmental Management Act, and if so, must have regard to the findings thereof;
  - (g) whether an environmental authorisation is required in terms of the National Environmental Management Act, and if so, must have regard to the conditions thereof;

- (h) whether the carrying out of the restricted activity or not, 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;
- (i) any applicable approved management plan;
- (j) any risk assessment or expert evidence requested by the issuing authority;
- (k) whether the issuing authority has cancelled any other permits issued to the applicant, in terms of section 93 of the Biodiversity Act;
- (l) any recommendation or non-detrimental finding by the Scientific Authority made 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, sanctuary, temporary holding facility, commercial exhibition facility, nursery, or on a game farm, or by a scientific institution, wildlife trader, a wildlife products trader, a taxidermist, a wildlife translocator, a freight agent or a falconer, and whether they are registered in accordance with these Regulations;
- (o) whether the restricted activity will be carried out in a threatened ecosystem or protected area;
- (p) any objections to the application; and
- (q) any other relevant factors.

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

20. 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 19 of these Regulations, also take into account—
- (a) any applicable hunting proclamations issued in terms of applicable provincial legislation;
  - (b) any methods of hunting prohibited in terms of these regulations;
  - (c) whether the restricted activity involves the management of damage causing animals as regulated in Chapter 9 of these Regulations;
  - (d) in the case of a hunting client, whether the hunt has been organized by a hunting outfitter and whether the hunting client will be accompanied by a professional hunter;
  - (e) whether a person applying for a permit is a member of an association or organisation recognised in terms of Chapter 6 of these Regulations;

- (f) any applicable hunting off-take limits determined by the Scientific Authority in terms of regulation 99 of these Regulations, for a listed threatened or protected animal species; and
- (g) whether the additional information contemplated in regulation 12(3) of these Regulations has been submitted together with the application.

**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**

21. (1) When considering an application for a boat-based whale and dolphin watching or an application for a white shark cage diving permit, the issuing authority must, in addition to the factors contemplated in regulation 19 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 white shark cage diving industry;
  - (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 white shark cage diving permits, the issuing authority must, in addition to the factors contemplated in sub-regulation (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
- (f) any other factor that may be relevant to boat-based whale or dolphin watching or white shark cage diving or specific area of operations.

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

**22. (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 11(3) 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 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.
- (4) In addition to the factors contemplated in subregulation (1), 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 a vessel suitable for—
      - (aa) boat based whale and dolphin watching ; or
      - (bb) white shark cage diving, (including a cage);
    - (iii) fails to employ or demonstrate that the applicant will employ one or more registered tourist guides;
    - (iv) is not a South African citizen; or
    - (v) 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, has already been issued.

## Part 4

### Issuing of permits

#### Decision on permit applications

23. (1) After having considered and decided upon an application in accordance with regulations 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 relevant 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 applicable appeals regulations.
- (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 applicable appeals regulations.
- (4) The issuing authority may not issue any permit with retrospective effect.

#### Contents of permits

24. (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 6 to these Regulations if it is an ordinary permit, or
- (b) Annexure 7 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 authorising the purchase or acquisition of a specimen of a listed threatened or protected species;
  - (iv) the name and physical address of the person purchasing or acquiring the specimen of a listed threatened or protected species, in the case of a permit authorising the sale or supply of such a species;
  - (v) in the case of a hunting client, the particulars of the professional hunter and 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, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, nursery, game farm, wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent or falconer—
    - (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 authorising the possession of elephant ivory or rhinoceros horn—
  - (aa) the weight of each piece of elephant ivory or of each rhinoceros horn or piece of rhinoceros horn;
  - (bb) the length of the elephant ivory or rhinoceros horn, and the circumference at the base of the tusk or horn, 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) 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 authorising 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 conditions applicable to the holder of a permit**

- 25.** (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 unauthorised 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 and submit a report in writing to the issuing authority at the end of each calendar year—

- (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.
- (3) 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 authorising the hunt on his or her person during the hunt;
  - (b) the holder thereof must within 21 days of the hunt furnish the issuing authority with a written return on the hunt stating—
    - (i) the permit number and date of issuance of the permit;
    - (ii) the species, sex and number of animals hunted; and
    - (iii) the location where the hunt took place; and
  - (c) in the case of a hunting client, that he or she must be accompanied by a professional hunter.
- (4) In addition to the compulsory conditions contemplated in subregulations (1) and (2), a standing permit, or an ordinary permit issued for the maximum period of validity contemplated in regulation 29 of these Regulations, issued to a registered scientific institution, must be issued subject to a condition that the permit holder must—

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- (a) submit a progress report to the relevant issuing authority—
    - (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) submit a report of the research findings, upon completion of the research project.
- (5) In addition to the compulsory conditions contemplated in subregulation (1), boat based whale and dolphin watching permits 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 vessel certified by the South African Maritime Safety Authority as being safe and suitable for this purpose;
  - (d) the permit holder may only use the vessel 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 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.
- (6) In addition to the compulsory conditions contemplated in subregulation (1), white shark cage diving permits 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;
  - (b) the permit holder may conduct a white shark viewing operation with the same vessel and the same permit issued for white shark cage diving.
  - (c) 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 in the manner provided for in the permit in relation to chumming;
  - (d) 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;

- (e) chumming may only be conducted within the areas stipulated in the permit, and in the manner as determined by the issuing authority;
- (f) white shark cage diving may only be undertaken on a vessel and with a cage certified by the South African Maritime Safety Authority as being safe and suitable for this purpose;
- (g) the permit holder may only use the 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 conditions applicable to captive breeding facilities, temporary holding facilities or commercial exhibition facilities**

26. (1) A permit issued in respect of a captive breeding facility, temporary holding facility or a commercial exhibition facility must be issued subject to a condition that the permit holder must—
- (a) prevent hybridisation and/or inbreeding;
  - (b) keep a studbook, where appropriate; and
  - (c) provide information relating to paragraphs (a) and (b) above of this regulation in writing to the issuing authority within 3 months after the end of each calendar year.
- (2) Notwithstanding the provision of subregulation (1)(a), inbreeding may be permitted in a captive breeding facility if it is vital for the survival of a listed threatened or protected species in the wild, and if provided for in a Biodiversity Management Plan.
- (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 lions (*Panthera leo*) or leopards (*Panthera pardus*) 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 at least 2 months prior to travelling to such province.

#### **Compulsory conditions applicable to sanctuaries**

27. A permit issued in respect of a sanctuary must be subject to the condition that the permit holder—
- (a) must take adequate 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.

#### **Validity of permits**

28. (1) A permit issued for live specimens of listed threatened or protected species is only valid within the area of jurisdiction of the issuing authority or for the specific locality where the restricted activity involving the specimen of a listed threatened or protected species will be carried out, as the case may be.
- (2) Notwithstanding the provision of subregulation (1), the following permits involving live specimens are valid throughout the Republic—
- (a) a permanent possession permit;
  - (b) a standing permit issued to falconers, only as far as it relates to—
    - (i) specimens that have been adequately marked; and
    - (ii) the possession and conveyance of the specimens contemplated in subregulation (2)(b)(i);
  - (c) a standing permit issued to the National Council of Societies for the Prevention of Cruelty to Animals;
  - (d) a permit issued to officials of provincial conservation authorities involved in the—
    - (i) enforcement of the provisions of the Biodiversity Act and these Regulations;
    - (ii) translocation of listed threatened or protected species; and
    - (iii) management of damage-causing animals; and
  - (e) a permit to catch fresh water fish by means of angling.

- (3) A permit issued for dead or processed specimens of listed threatened or protected species, or products or derivatives derived from listed threatened or protected species, is valid throughout the Republic.

#### **Period of validity of permits**

29. (1) A permit may be issued with a period of validity not exceeding 12 months, except a—
- (a) standing permit, which may be issued for a period not exceeding—
    - (i) 48 months to an organ of state or the management authority of a protected area; or
    - (ii) 36 months to a registered captive breeding facility; registered sanctuary, registered temporary holding facility, registered scientific institution, registered commercial exhibition facility; registered nursery, registered game farm; registered wildlife trader, registered wildlife products trader, registered taxidermist, registered wildlife translocator, registered freight agent, registered falconer and a veterinarian;
  - (b) specific ordinary permit, namely a permanent possession permit, which may be issued for a period not exceeding 50 years; and
  - (c) boat based whale and dolphin watching permit and a white shark cage diving permit, which may be issued for a period not exceeding 5 years.
- (2) Notwithstanding the provision of subregulation (1), 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 terminated by the employer or by the permit holder.

### **Part 5**

#### **Elephant ivory and rhinoceros horn**

##### **Requirements for permits authorising 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 11(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

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- (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 authorise possession of the elephant ivory, an official of the 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 terms of other relevant legislation, such application must also be accompanied by proof of such marking.
- (6) The issuing authority, if satisfied that the possession of the raw elephant ivory contemplated in subregulation (4) 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 referred to in subregulation (8).
- (7) In the case of an application in respect of which the elephant ivory has already been marked in terms of other relevant legislation, 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 referred to in subregulation (6).

#### **Requirements for permits authorising 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 11(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 terms of other relevant legislation, such application must also be accompanied by proof of such marking.
- (4) Prior to the issuance of a permit to authorise possession of the rhinoceros horn an official of the 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 issuing authority to have the rhinoceros horn marked.
- (6) The issuing authority, if satisfied that the possession of the rhinoceros horn is lawful, must—
- (a) mark the rhinoceros horn contemplated in subregulation (5) 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 microchip number, in the database referred to in regulation 32(5) below.
- (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 terms of other relevant legislation, 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 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) Tissue samples 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.

- (3) The tissue samples contemplated in subregulation (2) 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 referred to in regulation 31(6) of these Regulations, and who has been adequately trained in the collection of 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 samples; or
  - (d) the environmental management inspector who is responsible for investigating the unlawful killing of the rhinoceros contemplated in subregulation (2)(c), and who has been adequately trained in the collection of samples.
- (4) The samples contemplated in subregulation (2) 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.
- (5) 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, SANCTUARIES, TEMPORARY HOLDING FACILITIES, SCIENTIFIC INSTITUTIONS, COMMERCIAL EXHIBITION FACILITIES, NURSERIES, GAME FARMS, WILDLIFE TRADERS, WILDLIFE PRODUCTS TRADERS, TAXIDERMISTS, WILDLIFE TRANSLOCATORS, FREIGHT AGENTS, FALCONERS, BOAT-BASED WHALE AND DOLPHIN OPERATORS AND WHITE SHARK CAGE DIVING OPERATORS**

##### **Part 1**

##### **Registration of persons or facilities**

**Compulsory registration of captive breeding facilities, sanctuaries, temporary holding facilities, scientific institutions, commercial exhibition facilities, nurseries, game farms, wildlife traders,**

**wildlife products traders, taxidermists, wildlife translocators, freight agents, falconers, boat-based whale and dolphin watching operators and white shark cage diving operators**

**33.** (1) No person may operate—

- (a) a captive breeding facility, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, or nursery; or
- (b) as a wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent, falconer, boat-based whale and dolphin watching operator or white shark cage diving operator;

unless such person is registered with the issuing authority in terms of this Chapter.

(2) The registration of a person or a facility 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 issuing authority may register the game farm contemplated in subregulation (1), and issue a registration certificate if it—

- (a) is satisfied that the owner of the game farm is also the holder of a certificate of adequate enclosure; and
- (b) has conducted a basic assessment with regards to the suitability of the habitat for the specific species involved.

**Where to submit registration applications**

**35.** (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 is the issuing authority in respect of a specific application for registration, the application must be submitted to the relevant provincial conservation authority.

**Submission of registration applications**

- 36.** (1) A person applying for registration must submit to the relevant issuing authority an application 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;
  - (iv) sex;
  - (v) size; and
  - (vi) 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.
- (5) 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 boat-based whale and dolphin watching operators and white shark cage diving operators.

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

37. In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration of a captive breeding facility or a commercial exhibition 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;
  - (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;
  - (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 or temporary holding facility**

38. (1) In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration of a sanctuary or a temporary holding facility must include the following information—
- (a) a description and schematic diagram of the facility to house the current and expected stock;
  - (b) security measures to prevent escapes or thefts;
  - (c) food production or supply;
  - (d) removal of waste; and
  - (e) availability of veterinary services.
- (2) In addition to the information contemplated in subregulation (1), an application for the registration of a temporary holding facility must include information relating to—
- (a) the number and size of keeping enclosures; and
  - (b) to the extent applicable, rearing enclosures and egg incubators.
- (3) 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**

39. 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 currently in propagation (only relevant listed threatened or protected species);
  - (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, wildlife products trader, taxidermist or freight agent**

40. In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration of a wildlife trader, wildlife products 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**

41. (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 facilities for the temporary holding of game during translocation, the information contemplated in regulation 38(1) and (2) of these Regulations must be submitted with the application.

**Additional information required for the registration as a falconer**

42. In addition to the information contemplated in regulation 36(2) of these Regulations, an application for the registration as a falconer must include the following information—
- (a) evidence of legal acquisition; and
  - (b) information relating to record keeping.

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

43. 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.

#### **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, or other activities, that 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 36 of these Regulations and the relevant information contemplated in regulations 36 to 45 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, sanctuary, temporary holding 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, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, nursery, game farm, or specimens associated with operating as a wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent or falconer;
  - (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;
  - (b) any applicable legal requirements are not complied with, or
  - (c) a captive breeding facility, temporary holding facility or commercial exhibition facility to which the application relates does not contribute to improving the conservation status of wild populations of listed threatened or protected species.
- (2) The issuing authority must refuse to register a game farm for listed threatened or protected species that are not included on the certificate of adequate enclosure issued by the provincial issuing authority.
- (3) In addition to the circumstances contemplated in subregulation (2), the issuing authority must refuse to register the game farm for the following species—

- (a) African wild dog (*Lycaon pictus*);
- (b) Cheetah (*Acynonix jubatus*);
- (c) Leopard (*Panthera pardus*);
- (d) Spotted hyena (*Crocuta crocuta*);
- (e) Black-footed cat (*Felis nigripes*);
- (f) Brown hyena (*Parahyaena brunnea*);
- (g) Serval (*Leptailurus*);
- (h) Bat-eared fox (*Otocyon megalotis*); and
- (h) Cape fox (*Vulpes chama*).

### 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 not issue any registration certificate with retrospective effect.

### **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, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, nursery or game farm will be conducted from, or where the registered wildlife trader, wildlife products trader, taxidermy, wildlife translocator, freight agent, falconer, boat-based whale and dolphin watching operator or white shark cage diving operator will operate from;
  - (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 unauthorised 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 registration certificate holder is bound by any norms and standards that apply to the registered captive breeding facility, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, nursery, game farm, wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent, falconer, boat-based whale and dolphin watching operator or white shark cage diving operator, 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) A registration certificate issued to a captive breeding facility, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, nursery, wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent, falconer, boat-based whale and dolphin watching operator or white shark cage diving operator is valid throughout the Republic, provided that the species and purpose in respect of which it was issued, remain the same.
- (2) 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. A registration certificate may be issued with a period of validity not exceeding—
- (a) 48 months to an organ of state;
  - (b) 36 months to a captive breeding facility; sanctuary, temporary holding facility, scientific institution, commercial exhibition facility; nursery, game farm; wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent and falconer; or
  - (c) 5 years to a person who conducts a boat-based whale and dolphin watching operation or a white shark cage diving operation.

## CHAPTER 4

### DUTIES OF HOLDERS OF PERMITS AND REGISTRATION CERTIFICATES

#### Duties of permit holders

54. (1) The holder of any permit contemplated in regulation 5 of these Regulations must—
- (a) comply with all the conditions as specified on the permit by the issuing authority;
  - (b) obtain a permit from the 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;
  - (c) obtain a permit from the 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
  - (d) 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 25(2) of these Regulations, and must submit a written report on the information to the issuing authority at the end of each calendar year.
- (3) 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.
- (4) The holder of a hunting permit must—
- (a) have all relevant documentation authorising 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 comply with all the conditions of the registration certificate.
- (2) If any norms and standards apply to a registered captive breeding facility, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, nursery, game farm, wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent, falconer, boat-based whale and dolphin watching operator or white shark cage diving operator, the holder of the registration certificate must comply with such norms and standards.
- (3) The holder of a registration certificate issued in respect of a captive breeding operation, temporary holding facility and a commercial exhibition facility must—
- (a) prevent hybridisation and/or inbreeding;
  - (b) keep a studbook, where appropriate; and
  - (c) provide information relating to subregulation (3)(a) and (b) of these Regulations in writing to the issuing authority within 3 months after the end of each calendar year.
- (4) The holder of a registration certificate in respect of a commercial exhibition facility must, if it is a travelling exhibition, inform the issuing authority of the Province to which the commercial exhibition facility will be going at least 2 months prior to travelling to such Province.
- (5) The holder of a registration certificate issued in respect of a sanctuary—
- (a) must take adequate 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.

## CHAPTER 5

### RENEWAL, AMENDMENT AND CANCELLATION OF PERMITS AND REGISTRATION CERTIFICATES

#### Part 1

#### Renewal and amendment of permits and registration certificates

##### Renewal of permits and registration certificates

56. (1) The holder of a permit or registration certificate must apply in writing, prior to the lapsing of such permit or registration certificate, to the issuing authority that issued the permit or registration certificate for the renewal of such permit or registration certificate, if he or she intends to continue the carrying out of the restricted activity to which the permit relates or if he or she intends to continue to conduct the facility or operation to which the registration certificate relates.
- (2) An application referred to 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, if the restricted activity applied for is hunting.
- (3) Notwithstanding the provision of subregulation (1), boat based whale and dolphin watching permits and white shark cage diving permits are not renewable and are subject to an allocation process. On the expiry of the validity period of the permit, the Minister will invite persons to submit new applications.
- (4) If a new allocation process has not been completed in terms of subsection (3) a boat-based whale and dolphin watching permit and white shark cage diving permit may be renewed for a period not exceeding two years.
- (5) Notwithstanding the provision of subregulation (3), a boat-based whale and dolphin watching permit or a white shark cage diving permit may be renewed, 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, and with all previous permit conditions.

#### **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 63 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 has deteriorated or the legislation has changed, the issuing authority may request a risk assessment to be submitted prior to considering the renewal of the permit.
- (5) If in terms of subregulation (1) the issuing authority decides to renew the permit, it must issue a new permit.

#### **Consideration of and decision on renewal of registration certificate applications**

58. (1) On receipt of an application for renewal of a registration certificate in terms of regulation 56 of these Regulations, an issuing authority must—

- (a) consider the application in accordance with the provisions of Part 2 of Chapter 3 of these Regulations; and
  - (b) make a decision in accordance with the provisions of Part 3 of Chapter 3 of these Regulations.
- (2) When considering an application for the renewal of a registration certificate, the issuing authority must consider, in accordance with regulation 63 of these Regulations, whether it has previously cancelled any registration certificates of the applicant.
- (3) Notwithstanding the provisions of subregulation (1), the issuing authority must only consider renewing a registration certificate if—
- (a) the holder of the registration certificate has complied with regulation 55 of these Regulations and all conditions of the registration certificate;
  - (b) there is no evidence that the holder of the registration certificate conducted his or her facility, or operated in a manner which is detrimental to the species to which the registration certificate relates; and
  - (c) the conservation status of the species to which the registration certificate relates has not deteriorated, or the applicable legal requirements that affect the continuation of the registration certificate have not changed.
- (4) If the conservation status of the species has deteriorated the issuing authority may request a risk assessment to be submitted prior to considering the renewal of the registration certificate.
- (5) If the issuing authority decides in terms of subregulation (1) to renew the registration certificate, the issuing authority must issue a new registration certificate.

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

- 59.** (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 the issuing authority's own initiative in accordance with regulation 62 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**

60. (1) The holder of a permit or registration certificate may at any time apply to the issuing authority for an amendment of the permit or registration certificate.

- (2) An application in terms of subregulation (1) must be—
  - (a) on an official application form determined by, and obtainable from, the issuing authority and containing, 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**

61. (1) On receipt of an application submitted in terms of regulation 60 of these Regulations, the issuing authority must—

- (a) promptly decide on the application if the application is for a non-substantive amendment to 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**

- 62.** (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 and registration certificates**

- 63.** (1) An issuing authority may cancel a permit or registration relating to a captive breeding facility, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, nursery, game farm, wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent, falconer, boat-based whale and dolphin watching operator or white shark cage diving operator 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, sanctuary, temporary holding facility, scientific institution, commercial exhibition facility, nursery or game farm is managed, or the wildlife trader, wildlife products trader, taxidermist, wildlife translocator, freight agent, falconer, boat-based whale and



- dolphin watching operator or white shark cage diving operator 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) An issuing authority considering the cancellation of a permit or registration certificate in terms of subregulation (1) and (2) must—
- (a) notify the holder of 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.

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

64. (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 11 or 36 of these Regulations.

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

65. (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 the amendment of such permit or registration certificate, which amendment must not unreasonably be withheld by the issuing authority.

#### **Lost or stolen permits and registration certificates**

66. 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**

67. (1) The 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) The 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 organisations

68. (1) Any association or organisation representing persons or facilities involved in the utilisation 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**

- 69.** The code of responsible conduct and good practices of any recognised association or organisation contemplated in regulation 68(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 utilisation 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 organisation.

#### **Withdrawal of recognition of associations or organisations**

- 70.** (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 68(2)(e) of these Regulations.
- (2) The Director-General of the Department must—
- (a) notify the association or organisation in writing that withdrawal of its recognition is being considered, together with the reasons for the proposed withdrawal; and
  - (b) afford the association or organisation a reasonable opportunity to submit written representations regarding the proposed withdrawal of its recognition.

**CHAPTER 7****PROHIBITION OF SPECIFIC RESTRICTED ACTIVITIES UNDER CERTAIN CIRCUMSTANCES****Translocation of a listed threatened or protected animal species prohibited under certain circumstances**

71. (1) The issuing authority must refuse to issue a permit to translocate or move a threatened or protected animal species if the application relates to the translocation of a specimen to an extensive wildlife system that is a protected area, and—
- (a) such extensive wildlife system falls outside the natural distribution range of that animal species; or
  - (b) the genetic make-up or integrity—
    - (i) of the species to be translocated to the extensive wildlife system has in any way been compromised; or
    - (ii) of the species already occurring in the extensive wildlife system will be, or has the potential of being, compromised in any way.
- (2) Notwithstanding the provision of subregulation (1)(a), a permit may be issued for the translocation of a specimen of a listed threatened or protected animal species to an extensive wildlife system that is a protected area, where the extensive wildlife system falls outside the natural distribution area of that animal species, if such translocation is necessary for the enhancement of the conservation status of that animal species.
- (3) The issuing authority must refuse to issue a permit if the application relates to the translocation of a specimen of a listed threatened or protected animal species to or from an extensive wildlife system or controlled environment if there is a risk of—
- (a) transmitting a disease; or
  - (b) hybridisation with other species already occurring in that extensive wildlife system or controlled environment.
- (4) The issuing authority may refuse a permit application for the translocation of a specimen of a listed threatened or protected animal species to an extensive wildlife system that is not a protected area, if—

- (a) such extensive wildlife system falls outside the natural distribution range of that animal species;  
and
- (b) the translocation may be detrimental to—
  - (i) the translocated species;
  - (ii) the species already occurring in that extensive wildlife system; or
  - (iii) the ecosystem of that area.

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

72. (1) The issuing authority must issue a permit authorising the hunting of a specimen of a threatened or protected species subject to the condition that the holder thereof may not hunt the specimen—
- (a) in a controlled environment;
  - (b) while such specimen is under the influence of any tranquilising, narcotic, immobilising 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 of leopard and hyena, in which case dead bait may be used;
  - (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 conditions contemplated in subregulation (1), the issuing authority must issue a permit authorising the hunt of a listed large predator, white rhinoceros (*Ceratotherium simum simum*), black rhinoceros (*Diceros bicornis*), Nile crocodile (*Crocodylus niloticus*) or African elephant (*Loxodonta africana*), subject to the condition that the holder thereof may not hunt the animal by means of or by the use of a bow and arrow.
- (3) The issuing authority must refuse to issue a permit for the hunting 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**

73. The issuing authority must issue a permit authorising the catching of a specimen of a listed threatened or protected species subject to the condition that the holder thereof may not catch the specimen by means of—
- (a) snares;
  - (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
  - (f) any device other than those contemplated in paragraphs (a), (b), (c), (d) or (e) above, that does not conform to the requirements of applicable norms and standards.

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

74. (1) The issuing authority must issue a permit to a commercial exhibition facility 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) The issuing authority must issue a permit to a commercial exhibition facility 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 is being unable to be released back into the wild.

**Import, export, re-export or introduction from the sea of a listed threatened or protected species prohibited under certain circumstances**

75. The issuing authority must issue a permit relating to the import, export, re-export or introduction from the sea of a listed threatened or protected species that is also included in the Annexures of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, subject to the condition that the holder thereof may not import, export, re-export or introduce from the sea, such specimen if it is not also authorised in terms of the CITES Regulations, 2010.

**CHAPTER 8**

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

**Culling of listed threatened or protected species**

76. (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), and who is the holder of a permit issued in terms of the Biodiversity Act.
- (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**

77. (1) A specimen of a listed threatened or protected animal species may be darted only by the holder of a permit issued in terms of the Biodiversity Act.
- (2) The holder of a permit may dart a specimen of a listed threatened or protected species only in the following circumstances—
- (a) to treat a sick or injured animal;
  - (b) to apply medical procedures;
  - (c) to carry out a disease control procedure;
  - (d) for conservation or scientific purposes; or
  - (e) for management purposes, including but not limited the translocation or marking of such specimen.
- (3) The holder of a permit contemplated in subregulation (1) refers to—
- (a) a veterinarian registered with the South African Veterinary Council;
  - (b) a person other than a veterinarian contemplated in paragraph (a) above, if authorised—
    - (i) by a permit issued in terms of the Medicines and Related Substances Control Act, Act No. 101 of 1965; and
    - (ii) in writing by the South African Veterinary Council; or
  - (c) a person authorised by the issuing authority, as far as it relates to a listed threatened or protected marine species.
- (4) A veterinarian contemplated in subregulation (3)(a) must be present when a specimen of a listed threatened or protected species is darted by a person contemplated in subregulation (3)(b).
- (5) The holder of a permit may dart a specimen of a listed threatened or protected species on foot, or from a motorised vehicle, aircraft or vessel.

**Translocation of live listed threatened or protected terrestrial animal species**

78. (1) The translocation of a specimen of a listed threatened or protected terrestrial species does not require the prior issuing of a permit in terms of the Biodiversity Act, for the purpose of translocation, provided that—

- 
- (a) such translocation has been exempted in terms of a Notice issued in terms of section 57(4) of the Biodiversity Act;
- (b) in the case of the translocation of specimens within their natural distribution range—
- (i) translocation is done from game farm to game farm, 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, and measures to address such risks, have been identified as part of the registration of the game farm;
  - (iii) translocation is done by a registered wildlife translocator; and
  - (iv) the wildlife translocator contemplated in subparagraph (iii) keeps a register of such translocation; and
- (c) in the case of the translocation of specimens outside their natural distribution range—
- (i) translocation is done from game farm to game farm, where—
    - (aa) both game farms have been registered 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, and measures to address such risks, have been identified as part of the registration of the game farm;
  - (iii) translocation is done by a registered wildlife translocator, who is a member of a recognised wildlife ranching or wildlife translocation association;
  - (iv) the wildlife translocator contemplated in subparagraph (iii) keeps a register of such translocation; and
  - (v) a risk assessment contemplated in regulation 14(2) is conducted at the cost of the applicant, 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 inside or outside its natural distribution range requires the prior issuance of a permit if any of the conditions contemplated in subregulation (1) cannot be met.

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

79. (1) A permit to authorise possession, or the exercising of physical control, and release of a specimen of a listed threatened or protected fish species is not required if such specimen is released alive in the water from where it has been caught by means of angling.
- (2) Specimens of listed threatened or protected fish species may be lured, for the purpose of angling, by means of—
- (a) dead bait; or
- (b) smell.
- (3) Conditions relating to the number and size of specimens of each listed threatened or protected fresh water fish species to which possession or exercising physical control applies are subject to the provisions of applicable provincial legislation.

**Hunting of listed threatened or protected species**

80. 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.

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

81. (1) The issuing authority may not issue more than one permit to a particular hunting client to authorise the hunt of a white rhinoceros for trophy purposes, in a period of 12 months.
- (2) The holder of a permit authorising the hunt of a black or white rhinoceros may only hunt a rhinoceros 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*)**

82. (1) The owner of a live black or white rhinoceros may sell the live rhinoceros only if such owner is in possession of—
- (a) a permit issued in terms of Chapter 7 of the Biodiversity Act; and

- (b) a DNA certificate for each individual rhinoceros, issued by the issuing authority.
- (2) The DNA certificate issued for a particular black or white rhinoceros, must accompany such rhinoceros when it is sold by the owner thereof.

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

83. (1) A person may only carry out a restricted activity involving a wild or captive elephant, if 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) temporary holding facility, in the case of—
        - (aa) the treatment and recovery of an ill or injured elephant;
        - (bb) a genuine orphan calf, subsequent to its release in an extensive wildlife system; or
        - (cc) 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) The issuing authority must issue a permit for the capture of a wild elephant subject to the condition that it 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.
- (5) The issuing authority must refuse to issue a permit for the translocation of an elephant, 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 boat-based whale and dolphin watching and white shark cage diving**

- 84.** (1) A person may not conduct a business involving boat-based whale or dolphin watching, or advertise boat-based whale or dolphin watching, without a permit issued in terms of Chapter 7 of the Biodiversity Act.
- (2) A person may not—
- (a) attract white sharks;
  - (b) conduct a business involving white shark cage diving;
  - (c) advertise, or cause to be advertised, white shark cage diving operations or services; or
  - (d) advertise, or cause to be advertised, boat-based white shark viewing operations or services;
- without a permit issued in terms of Chapter 7 of the Biodiversity Act.
- (3) 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.
- (4) The areas where boat-based whale or dolphin watching is permissible, is listed in Annexure 4 to these Regulations.

- (5) The areas where white shark cage diving is permissible, is listed in Annexure 5 to these Regulations.

**Written authorization by the issuing authority to carry out certain activities involving listed threatened or protected marine species**

85. (1) The issuing authority may, to achieve the objectives of disease control, or for the conservation and management of listed threatened or protected species of seabirds, shorebirds and seals, authorise in writing any of the following 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 authorising any of the activities contemplated in subsection (1) the issuing authority must give preference to authorising those activities which effectively achieve the objectives of conservation and management with the least disruptive impact on listed threatened or protected species of seabirds, shorebirds and seals and their habitats.
- (3) The issuing authority must refuse to authorise the killing 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.

**CHAPTER 9****MANAGEMENT OF LISTED THREATENED OR PROTECTED SPECIES THAT ARE DAMAGE-CAUSING ANIMALS****Duty of care**

86. (1) Every person has a general duty of care to take reasonable measures to 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, or group of individuals, of a listed threatened or protected species is a damage-causing animal, or are damage-causing animals, that have, or have, as the case may be, caused—
- (a) substantial/ disproportionate loss to stock or other wild specimens; or
  - (b) damage that has a substantial/ disproportionately detrimental effect.
- (5) The issuing authority must take the following factors into consideration when determining whether an individual, or group of individuals, of a listed threatened or protected species is a damage-causing animal, or are damage-causing animals, as the case may be—
- (a) actual or potential 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**

- 87. (1)** In the case of a damage-causing animal originating from privately owned land or a protected area, the following management measures must be considered by the issuing authority or the management authority of the protected area—
- (a) capture and relocation of the damage-causing animal by the issuing authority or the management authority of the protected area;
  - (b) killing the damage-causing animal by the issuing authority or the management authority of the protected area, by using the methods contemplated in subregulations (8), (9) and (10), if so required; or
  - (c) the management measures contemplated in paragraphs (a) and (b) above by any other person, by using the methods contemplated in subregulations (8), (9) and (10), if so required.
- (2) 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 86(6) of these Regulations.
- (3) The person contemplated in subregulation (1)(c)—
- (a) must be in possession of a permit issued by the issuing authority;
  - (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.
- (4) Notwithstanding the provisions of regulation 4 and subregulation (3)(a) of these Regulations a person may kill a damage-causing animal without a permit in an emergency or life-threatening situation.
- (5) If a person kills a damage-causing animal in the circumstances contemplated in subregulation (4), 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.
  
- (6) The issuing authority must evaluate the evidence 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.
  
- (7) 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 (6)(b) in writing to the Department as soon as reasonably possible.
  
- (8) Notwithstanding the provisions of regulations 72 and 73 of these Regulations the issuing authority, the management authority of the protected area or the person contemplated in subregulation 1(c) may kill a damage-causing animal by any of the following means, if so specified on the permit—
  - (a) poison as specified in norms and standards relating to the management of damage-causing animals;
  - (b) a firearm suitable for hunting purposes, which may be fitted with a silencer;
  - (c) from a motorised vehicle; or
  - (d) from an air craft.
  
- (9) A damage-causing animal may be captured by means of darting.
  
- (10) Notwithstanding the provisions of regulations 72 and 73 of these Regulations the issuing authority, the management authority of a protected area or the person contemplated in subregulation 1(c) 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; or
  - (d) flood or spot lights.

## CHAPTER 10

### SCIENTIFIC AUTHORITY

#### Part 1

#### Establishment, composition and operating procedures

##### Establishment of the Scientific Authority

88. 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

89. (1) The Scientific Authority consists of—
- (a) two members to represent the Department;
  - (b) one member to represent each provincial conservation authority;
  - (c) one member to represent South African National Parks;
  - (d) one member to represent SANBI;
  - (e) one member to represent the natural history museums; and
  - (f) one member to represent the National Zoological Gardens.
- (2) The Minister appoints the members of the Scientific Authority.
- (3) The Director-General must request each provincial conservation authority, South African National Parks, SANBI, the natural history museums or the National Zoological Gardens, as the case may be, to nominate persons for appointment to the Scientific Authority in accordance with subregulation (1).

##### Chairperson and deputy chairperson

90. (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**

91. 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**

92. 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**

93. Whenever a vacancy arises in the membership of the Scientific Authority, the Minister must fill the vacancy in accordance with regulation 89(3) of these Regulations.

**Meetings of the scientific authority**

94. (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**

95. 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**

96. A member of the Scientific Authority or another person co-opted in terms of regulation 95 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**

97. The Scientific Authority determines its own internal procedures.

### **Quorum and decisions**

98. (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 89 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**

99. 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.

## CHAPTER 11

### TRANSITIONAL PROVISIONS

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

- 100.** (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 permits, including game farm hunting permits, nursery possession permits and personal effects permits, or registration certificates 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 those Regulations be regarded as having been issued in terms of these Regulations, and remain valid until expiry date.
- (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.

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

- 101.** (1) An application for a permit or registration certificate submitted in terms of the previous Regulations and which is pending when these Regulations take 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**

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

## CHAPTER 12

### OFFENCES AND PENALTIES

#### Offences

**103.** (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.

(2) The owner of a registered nursery or game farm, or a registered wildlife products trader is guilty of an offence if such owner of a registered nursery or game farm, or such registered wildlife products trader issues a nursery possession permit, game farm hunting permit or personal effects permit, as the case may be, in conflict with the conditions subject to which the nursery possession permits, game farm hunting permits or personal effects permits have been purchased.

(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

**104.** (1) A person convicted of an offence in terms of regulation 103 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 previous Regulations

**105.** The following previous Regulations are hereby repealed—

- (a) Threatened or Protected Species Regulations, 2007, published in Government Notice No. R.152, *Gazette* No. 29657 of 23 February 2007;
- (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.

**Short title and commencement**

- 106.** These regulations are called the Threatened or Protected Species Regulations, 2013, and take effect on a date determined by the Minister by notice in the *Gazette*.

**ANNEXURE 1  
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>POSSESSION</b>	<b>PERMANENT POSSESSION</b>
<b>ORDINARY</b>	<b>STANDING</b>
<b>RENEWAL</b>	<b>AMENDMENT</b>

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

<b>CAPTIVE BREEDING OPERATION</b>	<b>SANCTUARY</b>	
<b>TEMPORARY HOLDING FACILITY</b>	<b>SCIENTIFIC INSTITUTION</b>	
<b>COMMERCIAL EXHIBITION FACILITY</b>	<b>NURSERY</b>	
<b>GAME FARM</b>	<b>WILDLIFE TRADER</b>	
<b>WILDLIFE PRODUCTS TRADER</b>	<b>TAXIDERMIST</b>	
<b>WILDLIFE TRANSLOCATOR</b>	<b>FREIGHT AGENT</b>	
<b>FALCONER</b>		

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:


F. Property where restricted activity will take place  
 (if not the same as provided in B):

<b>PHYSICAL ADDRESS:</b>	<b>POSTAL ADDRESS</b>

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

<b>NAME OF SELLER:</b>	<b>NAME OF PURCHASER:</b>
<b>PHYSICAL ADDRESS</b>	<b>PHYSICAL ADDRESS (PURCHASER/</b>

<b>(SELLER/ TRANSPORT FROM):</b>	<b>TRANSPORT TO):</b>

H. Species Involved:

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

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)

<b>HUNTING OUTFITTER</b>	<b>PROFESSIONAL HUNTER</b>
<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

<b>WEAPON</b>	<b>METHOD</b>

J. Additional Information for Standing Permits

<b>REGISTRATION NUMBER:</b>	
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.....  
Signature of applicant

.....  
Date

K. Official Use

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

L. Period of Validity of Permit

<b>FROM: (dd/mm/year)</b>	<b>TO: (dd/mm/year)</b>

## **ANNEXURE 2**

### **APPLICATIONS FOR RENEWAL OR AMENDMENT OF PERMITS OR REGISTRATION**

#### **CERTIFICATES OF CAPTIVE BREEDING FACILITIES, SANCTUARIES, TEMPORARY HOLDING FACILITIES, SCIENTIFIC INSTITUTIONS, COMMERCIAL EXHIBITION FACILITIES, NURSERIES, GAME FARMS, WILDLIFE TRADERS, WILDLIFE PRODUCTS TRADERS, TAXIDERMISTS, WILDLIFE TRANSLOCATORS, FREIGHT AGENTS AND FALCONERS**

- 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**

<b>PERMIT</b>	<b>FEE</b>
Ordinary permit – new permit, 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 or registration certificate	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, <i>Gazette</i> No. 33518 of 10 September 2010

## ANNEXURE 4

## AREAS, AND NUMBER OF PERMITS PER AREAS, 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 5****AREAS, AND NUMBER OF PERMITS PER AREAS, FOR WHITE SHARK CAGE DIVING**

<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