PROVINCIAL NOTICE 3 OF 2017

NORTH WEST BIODIVERSITY MANAGEMENT ACT, NO 4 OF 2016

[ASSENTED TO _____]

[DATE 26 MAY 2016]

(The English text is the official text of the Act)

ACT

To provide for the management and conservation of the North West Province's biophysical environment and protected areas within the framework of the National Environmental Management Act, 1998 (Act No 107 of 1998); to provide for the protection of species and ecological-systems that warrant provincial protection; to provide for the sustainable use of indigenous biological resources; and to provide for matters connected therewith.

PREAMBLE

WHEREAS in fulfilling the rights contained in section 24 of the Constitution of the Republic of South Africa, 1996, the North West Provincial Government must, through legislation, create a legal basis for –

(a) the management, conservation and sustenance of South Africa's biodiversity, its components and genetic resources; and

(b) the achievement of the progressive realisation of those rights.

WHEREAS the application of this Act must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act.

WHEREAS Part A of Schedule 4 of the Constitution of the Republic of South Africa, 1996, lists conservation matters as a functional area of concurrent national and provincial legislative competence.

WHEREAS the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004 as amended) and the national environmental management principles set out in section 2 of the National Environmental Management Act, are still applicable to and enforceable in the North West Province.

AND WHEREAS in order to regulate matters specific to the North West Province which are not adequately regulated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004 as amended) and the National Environmental Management Act, there needs to be legislation on matters specific to the North West Province.

BE IT THEREFORE ENACTED by the Provincial Legislature of the Province of North West, as follows: —

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CHAPTER 1
INTERPRETATION, OBJECTIVES AND APPLICATION OF ACT

Definitions

1. In this Act, unless the context indicates otherwise –

"**alien species**" means alien species as defined in section 1(1)(a) of the Biodiversity Act;

"**applicable legal requirements**" means –

(a) all legislation and instruments mentioned in section 88(3) of the National Biodiversity Act;

(b) any national norms and standards issued in terms of section 9(1) of the Biodiversity Act, section 7 of this Act or section 11 of the Protected Areas Act which apply to the implementation of this Act;

(c) any Codes of Practice published by the South African Bureau of Standards incorporated into this Act in terms of section 100; and

(d) any specific requirements of this Act;

"**applicant**" means a person who has lodged or submitted a permit or registration application;

"**artificially propagated species**" means a listed 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;

"**aquaculture**" means the managed production, either through an intervention in the breeding process, or through stocking, feeding or predator control programmes for aquatic biota;

"**aquatic biota**" means –

(a) any organism that depends on an aquatic environment for its survival, including fish, invertebrates, amphibians, aquarium plants or other aquatic organisms, and

(b) parts thereof, such as the carcass, egg, ova, spawn, flesh (fresh or cured), skin, tooth, bone, shell, scale, claw, nail, fin, tail, ear, flower, seed, cone, fruit, bulb, tuber, stem, root or any other part or derivative of such organism;

"**aquatic system**" –

(a) means any area associated with rivers, streams, wetlands, marsh, sponges, peat lands, creeks, lakes, pans, karst systems (dolomitic systems) or any other natural or man-made water impoundment; and

(b) includes any such area whether wet or dry;

"**Biodiversity Act**" means the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004 as amended);

"**biological diversity**" or "**biodiversity**" means the "biological diversity" or "biodiversity as defined in section 1(1) of the Biodiversity Act;

"**bred in captivity**" or "**captive bred**" means a specimen that was born and bred in a controlled environment;

"**captive breeding operation**" means a facility where specimens of a listed and non-listed species are bred in a controlled environment for –

(a) conservation purposes; or

(b) commercial purposes;

"**canned hunt**" means a hunt in which a live specimen of a captive bred animal, bred in an intensive wildlife management system, is released in a confined semi intensive or extensive wildlife management system of the size less than 1500 hectares for the purpose of hunting the animal within a period which is less than one month;

"**CITES species**" means species listed in the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

concluded in Washington, D.C. on 3 March, 1973, as amended in Bonn on 22 June 1979;

"**commercial exhibition facility**" means a facility, including but not limited to zoological gardens, aquariums, travelling exhibitions, that keep listed or non-listed species for display purposes;

"**commercial purposes**", in relation to a restricted activity involving a specimen of a listed species, means the consumptive and non-consumptive use derived from a restricted activity with the primary aim of obtaining economic benefit, including profit in cash or in kind, and is directed towards trade, exchange or another form of economic use or benefit;

"**competent authority**" means the competent authority as defined in section 1(1) of the Biodiversity Act;

"**components**" means the components as defined in section 1(1) of the Biodiversity Act;

"**control**" means control as defined in section 1(1) of the Biodiversity Act

"**controlled environment**" means an enclosure designed to hold specimens of a listed and non-listed 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;

(ii) artificial housing; or

(iii) health care; and

(c) may facilitate the intensive breeding or propagation of a listed or non-listed species, but excludes fenced land on which self-sustaining wildlife populations of that species are managed in an extensive wildlife management system;

"**culling**"–

(a) in relation to a specimen of a species in a protected area, means an operation executed by an official of, or other person designated by, the management authority of the area to kill a specific number of

specimens in order to manage that species in accordance with the management plan of the area; or

(b) in relation to a specimen of a species on a game farm, or any other property, means an operation executed by the landowner or other person designated by the landowner, to kill a specific number of specimens of a species within the game farm, or any other property in order to manage that species on the farm or land;

"**damage causing animal**" means an individual of listed species that, when interacting with human activities, there is substantial proof that it–

(a) causes losses to stock or to other wild specimens under reasonable care;

(b) causes excessive damage to cultivated trees, crops, natural flora or other property;

(c) presents a threat to human life; or

(d) is present in such numbers that agricultural grazing is materially depleted;

"**darting**" in relation to a live specimen of a species, means to shoot a specimen with a projectile loaded with a tranquillising, narcotic, immobilising, or similar agent for the restraint of an animal, or a projectile specially designed for the gathering of tissue;

"**department**" means the department in the Provincial Government of North West responsible for environmental services;

"**derivative**" means a derivative as defined in section 1(1) of the Biodiversity Act;

"**ecosystem**" means an ecosystem as defined in section 1(1) of the Biodiversity Act;

"**environmental management officer**" means a person authorised in terms of section 61 to enforce the provisions of this Act, and includes employees of the Department designated as Environmental Management Inspectors for enforcement of Biodiversity legislation;

"**export**" in relation to the Province, means to convey out or transfer out, or attempt to convey out or transfer out, from a place within the Province to another Province or to a place outside the Republic of any species or specimen;

"**extensive wildlife management system**" means a system that is large enough, and suitable for the management of self-sustaining wildlife populations in a natural environment which requires minimal human intervention in the form of –

(a) the provision of water;

(b) the supplementation of food in times of drought

(c) the control of parasites; or

(d) the provision of health care.

"**extra-limital species**" means any species that is not known to historically occur naturally within the geographical distribution of the North West Province, but indigenous to the Republic;

"**game**", means any mammal or bird that is used for consumptive purposes;

"**Game farm**" means a semi-intensive or extensive wildlife management system on which a specimen occurs;

"***Gazette***" means the Provincial *Gazette* of the North West Province;

"**genetic material**" means genetic material as defined in section 1(1) of the Biodiversity Act;

"**genetic resource**" means genetic resource as defined in section 1(1) of the Biodiversity Act;

"**gintrap**" means gintrap as defined in section 1(1) of the Biodiversity Act;

"**habitat**" means habitat as defined in section 1(1) of the Biodiversity Act;

"**honorary environmental management officer**" means a person appointed by the Responsible Member in terms of section 62;

"**hunt**" in relation to a species, includes –

(a) to intentionally kill such species by any means, method or device whatsoever;

(b) to capture such species by any means, method or device whatsoever with the intent to kill;

(c) to search for, lie in wait for, pursue, shoot at, tranquillise or immobilise such species with the intent to kill; or

(d) to lure by any means, method or device whatsoever, such species with the intent to kill, but excludes the culling of a species in a protected area or on a game farm, or the culling of a species that has escaped from a protected area and 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 for, or in connection with, the hunting of a species;

"**hunting organisation**" means any organisation that represents hunters, and that has an accepted constitution and code of conduct that provides for disciplinary actions, should a member not adhere to the code of conduct of the organisation to which he or she is a member;

"**hunting-outfitter**" means a person who –

(a) presents or organises the hunt of a wild or captive animal specimen for a hunting client; and

(b) is the holder of a registration certificate issued in terms of Chapter 8;

"**hybridisation**" means cross-breeding as defined in Regulation 1(1) of the TOPS Regulations, pertaining to both ordinary and specially protected species;

"**import**" in relation to the Province. –

(a) means to convey or introduce into the Province any species or specimen; and

(b) includes the conveyance into the Province for re-export to a place outside the Province of any species or specimen;

"**indigenous biological resource**" means indigenous biological resources as defined in section 1(1) of the Biodiversity Act;

"**indigenous species**" means any species that occurs, or historically occurred naturally in a free ranging state within the North West Province.

"**intensive wildlife management system**" means a system that is not large enough for the management of self-sustaining wildlife populations in a natural environment, and requires human intervention in the form of –

(a) the provision of water;

(b) the complete supplementation of food

(c) the control of parasites; or

(d) the provision of health care;

(e) the animals cannot naturally obtain their own food and require provisioning, and are in a captive environment.

"**introduction**", means introduction as defined in section 1(1) of the Biodiversity Act;

"**introduction from the sea**" means introduction from the sea as defined in section 1(1) of the Biodiversity Act;

"**invasive species**" means invasive species as defined in section 1(1) of the Biodiversity Act;

"**invertebrate**" means any living or dead invertebrate in any stage of its life cycle, including any part or derivative of an invertebrate;

"**IUCN Red List status**" means IUCN Red List status as defined in regulation 1(1) of the TOPS Regulations;

"**juristic persons**" means a body of persons, corporation, a partnership or other legal entity that is recognized by law as a subject of rights and duties.

"**kept in captivity**" or "**captive kept**" in relation to a specimen of a listed or non-listed species, means that the species is kept in a controlled environment for a purpose other than –

(a) transfer or transport;

(b) quarantine; or

(c) veterinary treatment;

"**Landowner**" means the natural or juristic person reflected as the registered owner in the Deeds Registry, or his or her nominated representative;

"**licence**" means a license issued under this Act;

"**listed large predator**" means a specimen of any of the following listed species –

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

"**listed species**" means any species listed in terms of this Act.

"**listed threatened or protected species**" means "listed threatened or protected species" as defined in terms of section 56(1) of the Biodiversity Act;

"**management authority**", means management authority as defined in section1 of the Protected Areas Act;

"**management plan**" in relation to a protected area, game farm and any other property, means a management plan as referred to in section 41 of the Protected Areas Act, those in relation to the keeping of dangerous game, and for listed species as required under TOPS;

"**mark**" means to mark as defined in Regulation 1(1) of the TOPS Regulations, pertaining to both ordinary and specially protected species;

"**minister**" means minister as defined in the Biodiversity Act, 2004;

"**municipality**" means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"**National Environmental Management Act**" or "**NEMA**" means the National Environmental Management Act, 1998 (Act 107 of 1998 as amended);

"**national environmental management principles**" means the principles referred to in section 2 of the National Environmental Management Act.

"**National Threatened or Protected Species Regulations**" or "**TOPS Regulations**" means the National Environmental Management: Biodiversity Act, 2004: Threatened or Protected Species regulations published in Government Notice R152 of 23 February 2007 as amended;

"**Nature reserve**" means a nature reserve as defined in section 1 of the Protected Areas Act;

"**norms and standards**" means any norms and standards issued in terms of –

(a) section 9 of the Biodiversity Act or section 7 of this Act to the extent that they apply to –

(i) restricted activities involving listed species and non-listed; or

(ii) registered captive breeding operations, commercial exhibition facilities, game farms, nurseries, scientific institutions, sanctuaries, rehabilitation facilities or wildlife traders; or

(b) section 11 of the Protected Areas Act, to the extent that they apply to restricted activities involving listed species in a protected areas;

"**nursery**" means a facility where plant species are sold, artificially propagated or multiplied for commercial purposes;

"**nursery possession permit**" means a "nursery possession permit" as defined in regulation 1(1) of the TOPS Regulations;

"**organ of state**" has the meaning assigned to it in section 239 of the Constitution;

"**permit**" means a permit issued in terms of Chapter 8;

"**prescribe**" means prescribe by regulation in terms of section 64, and notice;

"**professional hunter**" means a person who conducts a hunt, or accompanies a hunting client in order to enable such hunting client to hunt a specimen or offers or agrees to escort, assist, or guides a foreign client to hunt an animal specimen for reward;

"**professional hunting school**" means an institution registered in terms of this Act, responsible for –

(a) the presentation of a prescribed curriculum to educate prospective professional hunters and hunting outfitters; and

(b) the conducting of examinations to evaluate prospective professional hunters and hunting-outfitters;

"**protected area**" means a protected area as defined in section 1 of the Protected Areas Act;

"**Protected Areas Act**" means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

"**protected environment**" means a protected environment as defined in section 1 of the Protected Areas Act;

"**protected species**" means protected species as defined in section 1(1) of the Biodiversity Act;

"**provincial 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 on such permit;

"**provincial registration certificate**" means a registration certificate issued in terms of Chapter 8;

"**provincial 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 specimen

on such permit, and that is valid for a longer specified period than an ordinary permit;

"**Public Finance Management Act**" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"**re-export**" means re-export as defined in section 1(1) of the Biodiversity Act;

"**registered wildlife trader**" means a person who is registered by the Issuing Authority in terms of Chapter 8 to hawk, peddle, barter, exchange, offer, advertise, expose or have in his or her possession for the purpose of exhibition, display, sale, hawking, peddling, bartering or exchanging, any listed species and include taxidermists;

"**registered wildlife translocator**" means a person who is registered in terms of Chapter 8 to capture or catch, convey, move, translocate or otherwise temporarily keep in an approved temporary keeping facility any specimen of a wild or captive animal;

"**registered game farm**" means a game farm registered in terms of Chapter 8;

"**rehabilitation facility**" means a registered facility equipped for the temporary keeping of live specimens for –

(a) treatment and recovery purposes, in the case of sick or injured species;

(b) rearing purposes, in the case of young orphaned species;

with the overall intent to release the species into a suitable location and for enhanced survival;

"**responsible Member**" means the Member of the Executive Council responsible for environmental services in the North West Province;

"**restricted activity**" – in relation to a specimen of listed species, means –

(a) hunting, catching, capturing, or killing any living specimen by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, luring, alluring, discharging a missile, obstructing

free passage or injuring with intent to hunt, catch, capture or kill any such specimen;

(b) gathering, collecting or plucking any such specimen;

(c) picking parts of, or cutting, chopping off, uprooting, damaging or destroying of any such specimen;

(d) importing into the Province, including introducing from the sea, any such specimen;

(e) exporting from the Province, including re-exporting from the Province, any such specimen:

(f) having in possession or exercising physical control over any such specimen;

(g) growing, breeding or in any other way propagating any such specimen, or causing it to multiply;

(h) conveying, moving or otherwise translocating any such specimen;

(i) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any such specimen;

(j) damaging, disturbing or destroying the breeding site or habitat of any such specimen; or

(k) any other prescribed activity which involves a specimen of a listed species;

"**risk assessment**" means risk assessment as defined in regulation 1(1) of the TOPS Regulations pertaining to specially protected species;

"**SANBI**" means "SANBI" as defined in section 1(1) of the Biodiversity Act;

"**sanctuary**" means sanctuary as defined in regulation 1(1) of the TOPS Regulations, pertaining to both ordinary and specially protected species;

"**scientific institution**" means a scientific institution as defined in regulation 1(1) of the TOPS Regulations;

"**semi-intensive wildlife management system**" means a system where the animals are partially reliant on management to provide food, and they are not fully self-sustaining wildlife populations, but are in a natural environment, and requires human intervention in the form of –

(a) the provision of water;

(b) the partial supplementation of food, with access to natural grazing and browse

(c) the control of parasites; or

(d) the provision of health care;

(e) the animals can naturally obtain limited quantities of their own food and require some provisioning of food.

"**species**" means "species" as defined in section 1(1) of the Biodiversity Act;

"**specimen**" in relation to a specimen of listed species, means –

(a) any living or dead animal, plant or other organism;

(b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;

(c) any derivative of any animal, plant or other organism; or

(d) any goods which –

(i) contain a derivative of an animal, plant or other organism; or

(ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;

"**taxidermy**" means the art of preparing, stuffing, and mounting of a specimen, including the dipping and packing of any skin, horn or any similar derivative of vertebrates for displaying purposes or other sources of study;

"**taxidermist**" means a person who, as a profession, prepares; stuff and mounts skins, horns or any other derivative of vertebrates for displaying purposes or other sources of study;

"TOPS" means as Threatened or Protected Species Regulations as published under Biodiversity Act;

"**the Act**" means the North West Biodiversity Management Act, and includes any Regulations issued in terms of a provision of this Act and "**this Act**" has a corresponding meaning;

"**trade**" includes for commercial purposes, the import into the province, export from the province, trading within the province, which includes selling or

otherwise trading in, buying, receiving, giving, donating, bartering or accepting as a gift, or in anyway acquiring or disposing of any specimen;

"**watercourse**" means –

(a) a river or spring;

(b) a natural channel in which water flows regularly or intermittently; and

(c) a wetland, lake or dam into which, or from which, water flows; and includes, where relevant, its bed and banks;

"**wild populations**" means wild populations as defined in regulation 1(1) of the TOPS Regulations, pertaining to both listed and non-listed species;

"**wild specimen**" means wild specimen as defined in regulation 1(1) of the TOPS Regulations pertaining to both listed and non-listed species.

Purpose of Act

2. The purpose of this Act is to provide for –

(a) the management, promotion and protection of the biological diversity in the Province and the components of such biological diversity;

(b) the use of biological resources in a sustainable manner;

(c) the registration of captive breeding operations, commercial exhibition facilities, game farms, nurseries, scientific institutions, sanctuaries; rehabilitation facilities, wildlife traders, wildlife translocators, professional hunters, hunting outfitters and hunting schools in the Province;

(d) the prohibition of specific restricted activities involving specific listed species;

(e) the protection of wild and captive populations of listed species;

(f) the consolidation of biodiversity legislation in the Province;

(g) the prevention of unauthorised introduction and spread of alien and listed invasive species to ecosystems and habitats where they do not naturally occur;

(h) the management and control of alien species and listed invasive species to prevent or minimise harm to the environment and to biodiversity in particular;

(i) the eradication of alien and listed invasive species from ecosystems and habitats where they may harm such ecosystems or habitats;

(j) the protection of habitat of all listed specially protected and ordinary species;

(k) the regulation of the issuing of permits and licences authorising –

(i) restricted activities involving specimens of –

(aa) listed species in terms of section 13(1);

(bb) CITES listed species;

(cc) extra-limital species in terms of section 28(1);

(dd) listed invasive species in terms of section 30(1);

(ii) restricted activities involving aquatic systems in terms of section 12;

(iii) restricted activities involving vegetation within 32 metres from the high watermark on either side of a watercourse in terms of section 10;

(vi) activities regulated in terms of a notice published in terms of section 25(1)(b); and

(l) the regulation of the registration of persons and facilities in terms of section 38.

State's trusteeship of biological diversity

3. In fulfilling the rights contained in section 24 of the Constitution, the state through its organs that implement legislation applicable to biodiversity, must –

(a) manage, conserve and sustain South Africa's biodiversity and its components and genetic resources; and

(b) implement this Act to achieve the progressive realisation of those rights.

Application of Act

4.(1) This Act applies to natural, juristic persons and their activities affecting biological diversity and its components in the North West Province.

(2) This Act binds all organs of state in the provincial and local spheres of government.

National environmental management principles

5. The application of this Act must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act.

Conflicts with other legislation

6. In the event of any conflict between a section of this Act and –

(a) other provincial legislation in force immediately prior to the date of commencement of this Act, the section of this Act prevails if the conflict specifically concerns the management of biodiversity;

(b) national legislation, the conflict must be resolved in terms of section146 of the Constitution; and

(c) a municipal by-law, the section of this Act prevails.

Norms and standards

7.(1) The responsible Member may, by notice in the *Gazette* –

(a) publish norms and standards for the achievement of any of the objectives of this Act, including for the –

(i) management and conservation of the Province's biological diversity and its components;

(ii) restriction of activities which impact on biodiversity and its components;

(b) set indicators to measure compliance with those norms and standards; and

(c) amend any notice issued in terms of paragraph (a) or (b).

(2)(a) Before publishing a notice in terms of subsection (1), the responsible Member must follow a consultative process in accordance with sections 66 and 67; and

(b) A consultative process referred to in paragraph (a) need not be applied to a non-substantial change to the notice.

(3) The Norms and standards contemplated in subsection (1), may apply –

(a) throughout the Province;

(b) in a specific area only; or

(c) to a specific category of biodiversity only.

(4) Different norms and standards may be published for –

(a) different areas; or

(b) different categories of biodiversity.

(5) The Norms and Standards or compliance indicators issued in terms of the Biodiversity Act are deemed to have been issued in terms of this Act and apply *with the necessary changes* in the Province.

CHAPTER 2
BIODIVERSITY ADVISORY BODIES

Establishment of Biodiversity Advisory Bodies

8.(1) The responsible Member may, by notice in the *Gazette*, establish one or more Biodiversity Advisory Bodies for the Province to –

(a) advise the responsible Member on any matter relating to the implementation of this Act;

(b) monitor and make recommendations on any matter relating to biodiversity and nature conservation in the province;

(c) monitor any matter that may affect biodiversity and nature conservation in the province;

(d) monitor and advise on any regulatory development on biodiversity and Nature conservation in the province;

(e) liaise with any stakeholder, both national and interprovincial on any matter relating to biodiversity and conservation in the province;

(f) advise the responsible Member on any policy development that may have an impact on this Act.

(2) The powers and functions of a Biodiversity Advisory Body must be prescribed in the notice contemplated in subsection (1).

CHAPTER 3
PROTECTED AREAS AND ECOSYSTEMS

Part1:
Nature Reserves and Protected Environments

Declaration of nature reserves and protected environments

9.(1) Any nature reserve or protected environment declared by the responsible Member in terms of the Protected Areas Act is deemed to be a nature reserve or protected area declared in terms of the Act.

(2) Nature reserves declared in terms of provincial legislation before or after the promulgation of the Protected Areas Act are deemed to have been declared in terms of the Act.

Part 2:
Threatened or Protected Ecosystems and Habitat Protection

Protection of threatened or protected ecosystems

10.(1) The responsible Member may, by notice in the *Gazette*, publish a provincial list of ecosystems and bioregions in the province that are threatened and in need of protection in terms of the Act.

(2) Any sensitive habitat identified, listed and regulated by the Minister in terms of the Biodiversity Act as bioregions or threatened or protected ecosystems is deemed to be identified, listed or regulated in terms of the Act.

(3) The provisions of the Biodiversity Act relating to bioregions and threatened or protected ecosystems apply with the necessary changes to provincial bioregions and threatened or protected ecosystems.

Protection of riparian habitat

11.(1) The responsible Member may, by notice in the *Gazette*, issue directives for the protection of riparian habitat in terms of the Act.

(2) The notice contemplated in subsection (1) may be updated from time to time in the *Gazette* by the responsible Member.

Protection of aquatic systems

12.(1) The responsible Member may by notice in the *Gazette* –

(a) issue a directive for the protection of aquatic systems in terms of the Act;

(b) publish a list of aquatic ecosystems in need of protection;

(c) declare certain water courses as conservation sensitive areas with restrictions of fishing activities,

(2) The notice contemplated in subsection (1) may be updated from time to time in the *Gazette* by the responsible Member.

CHAPTER 4
PROTECTION OF SPECIES

Part 1:
Restricted activities involving listed threatened or protected species

Listing of species in need of provincial protection

13.(1) The provisions of section 56(1) of the Biodiversity Act applies with the necessary changes in respect of the listing of species that are in need of provincial protection.

(2) In addition to the species contemplated in schedule 2 and 3 of this Act, the responsible Member may, by notice in the *Gazette*, publish a further list of –

(a) **specially protected species**, includes all indigenous species of animals and plants that are potentially threatened, exploited and economically important, and those that are listed under Section 56(1) of the Biodiversity Act, as well as under the National Forests Act of 1998 (Act No 84 of 1998), and those to receive additional protection beyond that of the ordinary species in the province;

(b) **ordinary species**, includes all common, widely distributed, indigenous species of vertebrates of the province that are not otherwise listed in any other categories, and that are to receive nominal protection.

(3) The responsible Member may, by notice in the Gazette –

(a) review the list in schedules 2 and 3, as well as any list published in terms of subsection

(1); or

(b) assign any species, in the list contemplated in subsection (1), within the province to a higher conservation category.

(4) Notwithstanding the provisions of subsection (1), the list published in terms of section 12(1)(d) of the National Forest Act and its necessary changes apply for the purposes of the Act.

Maintaining sustainable yield of viable populations of listed species

14.(1) The responsible Member may annually determine and publish in the Gazette –

(a) an open annual hunting season, off-take limits, bag limits, and license fees for hunting in the province in respect of listed species;

(b) a list of game birds with bag limits, as well as the license fees for hunting in the province in respect of listed species;

(c) a list of ordinary fish species, minimum sizes and numbers of fish, as well as the license fees for angling in the province in respect of listed species;

(d) a list of specially protected fish species for mandatory catch and release purposes only, and/or with bag limits in the province in respect of listed species;

(e) allocation of the off-take limit for listed game species to be hunted during open season.

(2) Notwithstanding the provision of subsection 1(a), and in the case of no hunting season for the following year being proclaimed, the responsible Member shall with due cause shown, publish such decision by notice in the Gazette.

(3) The hunting off-take and bag limits set in terms of subsection 1(a) do not apply to listed species culled in protected areas in accordance with the management plans of the respective area.

Restricted activities involving listed specially protected species

15.(1) Any person who intends to carry out a restricted activity involving a specimen of listed specially protected species must do so by means of a permit issued in terms of Chapter 8

(2) Permits contemplated in subsection (1) may differentiate between different categories of applicants and may impose different validity periods.

(3) No person may import, introduce into the province from another country, export or re-export from the Province to another country a specimen of any listed species in the Appendices of the CITES without a permit issued in terms of Chapter 8.

Exemptions

16.(1) Section 15(1) does not apply to a specimen of a listed specially protected species conveyed from outside the Province in transit through the Province to a destination outside the Province.

(2) Specimens contemplated in subsection (1), must be accompanied by the export and import authorisations from the relevant provincial nature conservation authorities.

(3) Subject to the provisions of subsection (4), the responsible Member may, by notice in the Provincial *Gazette*, exempt from the provisions of section 15 –

(a) any species specified in the notice;

(b) any species of a category specified in the notice; or

(c) any specimen or derivative of any species specified in the notice.

(4) A notice contemplated in subsection (3) may not contain any species, or a specimen or derivative of a species that is listed in Appendices of CITES.

(5) Any person may carry out an exempted restricted activity involving a specimen of a listed species without a permit contemplated in section 15(1).

(6) The following persons, or categories of persons, are exempted from the restriction contemplated in section 15(1) and (3), involving specimens of listed species, applicable to the extent indicated below –

(a) members of the South African Police Services, South African Revenue Services, customs division, and any other law enforcement agencies appointed to enforce the Criminal Procedure Act, in relation to the carrying out of restricted activities, such as the acquisition, receipt, possession, transport, disposal, confiscation and the subsequent handling of such specimens in the execution of their official duties;

(b) veterinarians, for the darting, transporting only to and from, the treatment facility, and temporary keeping in such a treatment facility, of specimens of listed species, subject to the condition that the restricted activity, for which purpose the specimen is darted, must be lawful.

(7) In addition to the exemptions contemplated in this section, the responsible Member may place conditions to such exemptions.

Restricted activities on land owned by person other than applicant

17.(1) Subject to the provisions of section 15(1) and (2), if the restricted activity applied for is to be carried out on private or state-owned land and the applicant is not the owner of the land, the applicant must, in the case of a listed species, obtain and submit the written consent of the landowner to undertake the proposed restricted activity on that land, when applying for a permit.

(2) Notwithstanding the provisions of subsection (1), the landowner's written consent is not required if the application concerns a damage causing animal that poses a threat to human life.

Application affecting rights of other persons

18.(1) If the granting of an approval for a permit will affect the rights of a specific person, the applicant must give notice of the application to that person.

(2) Upon submission of an application for approval of a permit and registration the Applicant must also furnish proof of the notice contemplated in subsection (1).

(3) A person notified of an application in terms of subsection (1) must within 10 working days of having been notified of such application, submit to the Issuing Authority, in writing, any objections that he or she has against the application.

Additional requirements for possession of elephant ivory and rhinoceros horn

19.(1) The relevant provisions as prescribed by the Minister and stipulated in regulation 70 of the TOPS Regulations or notices, apply with the necessary changes in respect of provisions relating to the possession of elephant ivory and rhinoceros horn.

(2) The loss through theft or any other means of elephant ivory or rhinoceros horn marked and registered in terms of this section must be reported within 48 hours to the South African Police Services and the Issuing Authority.

Amendment of notices

20. (1)The responsible Member may, by notice in the *Gazette*, amend or withdraw any notice published in terms of section 13(2) or 16(3).

(2) The amendment or withdrawal contemplated in subsection (1) shall comply with the provisions of section 66.

Part 2:
Prohibited activities involving listed species

Prohibited activities involving listed large predators, White rhinoceros (*Ceratotherium simum)* or and Black rhinoceros (*Diceros bicornis).*

21. The relevant provisions prescribed by the Minister and stipulated in the TOPS Regulations apply with the necessary changes in respect of prohibited activities involving listed large predators, White rhinoceros (*C. simum)* and Black rhinoceros (*D. bicornis*).

Prohibited activities involving listed *Encephalartos* (Cycads) species

22. The relevant provisions as prescribed by the Minister and stipulated in the National Threatened or Protected Species Regulations or Notices, apply with the necessary changes in respect of prohibited activities involving listed *Encephalartos* species.

Prohibited activities involving listed species

23.(1) The following are prohibited activities involving listed species –

(a) the hunting of listed species, that is a canned hunt;

(b) the hunting of listed species in an intensive wildlife management system;

(c) the hunting of listed species under the influence of any tranquilising, narcotic, immobilising or similar agent;

(d) the hunting of listed species released in an area adjacent to a holding facility where listed species are bred; and

(e) the hunting of listed species by making use of a gin trap;

(f) the hunting of listed species, unless the owner of the land on which the animal is to be hunted provides an affidavit or other written proof indicating the period for which the species to be hunted has been on that property, if that species was not born on that property;

(g) the breeding in captivity of listed large predator, White rhinoceros (*C. simum)* and Black rhinoceros (*D. bicornis*), unless the prospective breeder provides a written undertaking that that such species will not be bred, sold, supplied or exported for hunting activities that are considered prohibited activities in terms of paragraphs (a) to (e) of this subsection;

(h) the carrying out of any restricted activity contemplated in sections 15 and 24 without a permit issued in terms of Chapter 8.

(2) In addition to the prohibitions contemplated in subsection (1), the responsible Member may, by notice in the *Gazette*, prohibit the carrying out of any activity –

(a) which is of a nature that may negatively impact on the survival of a listed species; and

(b) which is specified in the notice, or prohibit the carrying out of such activity without a permit issued in terms of Chapter 8.

Part 3:
Restricted activities involving ordinary species

Restricted activities involving ordinary species

24.(1) Any person who intends to carry out a restricted activity involving a specimen of ordinary species must do so by means of a permit or licence issued in terms of Chapter 8.

(2) Notwithstanding the provisions of subsection (1), ordinary species listed under schedule 4 may be hunted by means of a landowner's written consent only.

Exemptions from complying with provisions of section 24

25.(1) The responsible Member may, by notice in the *Gazette*, exempt from the provisions of section 24 –

(a) any species specified in the notice;

(b) any species of a category specified in the notice; or

(c) any specimen or derivative of any species specified in the notice.

(2) Any person may carry out a restricted activity involving a specimen of an exempted species without a permit or license mentioned in section 24(1).

Part 4:
Damage causing animals

Provisions relating to damage causing animals

26.(1) The relevant provisions as prescribed by the Minister and stipulated in the TOPS Regulations or Notices apply with the necessary changes in respect of the provisions relating to damage causing animals.

(2) The provisions of subsection (1) apply in respect of ordinary species.

(3) Notwithstanding the provisions of subsection (1), the Issuing Authority may issue a permit to hunt a damage causing animal of a species by a hunting client.

(4) Subject to the provisions of the Act and any prohibitions imposed by the Biodiversity Act, the responsible Member may take steps that may be necessary or expedient to destroy, reduce, remove or eliminate, either generally or in a particular manner, any listed species which may be harmful or detrimental to biodiversity.

(5) The responsible member may in consultation with the member of executive council for finance, establish provincial compensation fund to compensate a person who has experienced damage caused by a damage causing animal.

(6) In a case where a damage causing animal originates from a protected area, the management authority of such protected area may be liable for compensating a person who has experience damage caused by a damage causing animal.

(7) In a case where a damage causing animal originates from a property of a private person, the landowner may be liable for the damage caused and compensation to a person who has experience damage caused by a damage causing animal.

CHAPTER 5
SPECIES AND ORGANISMS POSING POTENTIAL THREATS TO BIODIVERSITY

Part 1:
Management of alien species posing potential threats to biodiversity

Management of alien species posing potential threats to biodiversity

27.(1)The provisions of Chapter 5 of the Biodiversity Act apply with the necessary changes in respect to the management of alien species posing potential threats to biodiversity.

(2) For the purpose of this Chapter, **'specimen'** has the meaning assigned to it in paragraphs (a) and (b) of the definition of 'specimen' in section 1 of the Act.

Part 2
Extra-limital

List of extra-limital species

28.(1) The responsible Member may, by regulations, publish a provincial list of extra-limital species in respect of which this Chapter must be applied in the province.

(2) Any list published in terms of subsection (1) must be reviewed by the responsible Member every five years.

Restricted activities involving listed extra-limital species

29.(1) The provisions of section 71 of the National Biodiversity Act apply with the necessary changes in respect of restricted activities involving listed specially protected and ordinary animal species.

(2) Provisions of Chapter 8 of the Act apply with the necessary changes, in respect of restricted activities involving provincial listed extra-limital species

Part 3:
Listed invasive species

List of invasive species

30.(1) The responsible Member may, in consultation with the Minister in terms of section 70(1)(b), (2) and (3) of the Biodiversity Act, by notice in the *Gazette*, publish a provincial list of invasive species in respect of which this Chapter must be applied in the Province

(2) Any list published in terms of subsection (1) must be reviewed by the responsible Member every five years.

(3) Any list contemplated in subsection (1) as published in terms of the Biodiversity Act is deemed to be published in terms of this Act and applies with the necessary changes in the Province.

Restricted activities involving listed invasive species

31. The provisions of section 71 of the Biodiversity Act apply with the necessary changes in respect of restricted activities involving listed invasive species.

Amendment of notices

32.(1)The responsible Member may, by notice in the *Gazette*, amend or withdraw any notice published by him or her in terms of section 40 (1) of the Biodiversity Act.

(2) The amendment or withdrawal contemplated in subsection (1) shall comply with the provisions of section 66.

Duty of care relating to listed invasive species

33. The provisions of section 73 of the Biodiversity Act apply with the necessary changes in respect of duty of care relating to listed invasive species.

Requests for directives to competent authorities

34. The provisions of section 74 of the Biodiversity Act apply with the necessary changes in respect of requests for directives to the competent authorities.

Control and eradication of listed invasive species

35. The provisions of section 75 of the Biodiversity Act apply with the necessary changes in respect of control and eradication of listed invasive species.

Invasive species control plans of organs of state

36. The provisions of section 76 of the Biodiversity Act apply with the necessary changes in respect of Invasive species control plans by organs of state.

Invasive species status reports

37. The provisions of section 77 of the Biodiversity Act apply with the necessary changes in respect of Invasive species status reports.

CHAPTER 6
REGISTRATION OF CAPTIVE BREEDING OPERATIONS, COMMERCIAL EXHIBITION FACILITIES, GAME FARMS, NURSERIES, SCIENTIFIC INSTITUTIONS, SANCTUARIES, REHABILITATION FACILITIES, WILDLIFE TRADERS, WILDLIFE TRANSLOCATORS, TEMPORARY HOLDING FACILITIES, FREIGHT AGENTS, FALCONERS, TAXIDERMISTS, PROFESSIONAL HUNTERS, HUNTING OUTFITTERS, AND PROFESSIONAL HUNTING SCHOOLS

Part 1:
Compulsory registration requirements

Compulsory registration requirements

38.(1) The provisions of the TOPS Regulations apply with necessary changes in relation to Compulsory Registration of captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility temporary holding facilities, taxidermy, or to act as a wildlife trader, wildlife

translocator, freight agent, falconer, professional hunter, hunting outfitter or a professional hunting school involving specimens of any listed species.

(2) A holder of a compulsory registration certificate may conduct a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility, temporary holding facilities, taxidermy, game farm, or act as a wildlife trader, wildlife translocator, freight agent, falconer, professional hunter, hunting outfitter or a professional hunting school involving specimens of any listed species.

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(3) Notwithstanding the provision of subsection (2) a registration made in terms of Chapter 7 of the Biodiversity Act is deemed to have been made in terms of this Act

Application affecting rights of other persons

39.(1) If the granting of an approval for a registration application will affect the rights of a specific person, the applicant must give notice of the application to that person.

(2) Upon submission of an application for approval of a registration, the Applicant must also furnish proof of the notice contemplated in subsection (1).

(3) A person notified of an application in terms of subsection (1) must within 15 working days of having been notified, submit to the Issuing Authority, in writing, any objections that he or she has against the application.

Part 2:

Considerations, conditions and essential requirements for registration certificates

Factors to be taken into account by Issuing Authority

40.(1)When considering a registration application, the Issuing Authority must take into account –

(a) all applicable legal requirements in order to ensure that any decision with respect to the registration is consistent with those requirements;

(b) whether the species to which the application relates is listed in terms of section 13 of the Act as specially protected species;

(c) the purpose for which the captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility, wildlife trader, is conducted;

(d) that all species bred or kept in captivity must be micro-chipped or marked, where appropriate, each specimen of a listed species at the captive breeding operation, commercial exhibition facility, game farm, nursery, sanctuary or rehabilitation facility or traded with by the wildlife trader; and

(e) in the case of an application for the registration of a game farm, whether the game farm is fenced in accordance with the prescribed fencing specifications in terms of the Regulations.

Consideration of and decision on applications

41.(1) On receipt of an application lodged in terms of section 53 (1), the Issuing Authority must order an inspection of the premises in respect of which the application has been lodged.

(2) Upon completion of the inspection contemplated in subsection (1), a written recommendation on whether the application must be granted or refused must be submitted to the Issuing Authority.

(3) If the recommendation contemplated in subsection (2) is to grant the application, any conditions on which the application must be granted, must be stipulated by the official who conducted such an inspection.

Compulsory conditions for registration of captive breeding operations, commercial exhibition facilities and rehabilitation facilities

42.(1) The relevant provisions as prescribed by the Minister and stipulated in the National Threatened or Protected Species Regulations or Notices apply with the necessary changes in respect of provisions relating to the compulsory conditions for the registration of captive breeding operations, commercial exhibition facilities and rehabilitation facilities

(2) The provisions of subsection (1) apply with the necessary changes in respect of non-listed species.

(3) The registration of captive breeding operations, commercial exhibition facilities and rehabilitation facilities must be subject to a condition that the person to whom the registration is granted must comply with the minimum fencing specification as prescribed by the issuing authority.

(4) Non compliance with the condition contemplated in subsection (1), (2) and (3) constitutes an offence.

Additional compulsory conditions for registration of commercial exhibition facilities

43.(1) A registration in respect of a commercial exhibition facility must, in addition to any other conditions the Issuing Authority may impose, be subject to a condition that the person to whom the registration is granted must comply with the provisions of the latest version of the South African National Standard's Code of Practice as in SANS: Translocation, Zoo and Aquarium Practice.

(2) Non-compliance with the condition contemplated in subsection (1) constitutes an offence.

Compulsory condition for registration of sanctuaries

44.(1) A registration certificate issued in respect of a sanctuary for listed specially protected and ordinary animal species must be subject to the condition that no breeding will be allowed in the sanctuary.

(2) Non-compliance with the condition contemplated in subsection (1) constitutes an offence.

Compulsory condition for registration of wildlife translocators

45.(1) A registration certificate may only be issued in respect of a wildlife translocator if the Issuing Authority is of the opinion that the applicant possesses the necessary knowledge, ability, skill and experience, and subject to a condition that they comply with the latest version of the relevant South African National Standards' Code of Practice:

(2) Non-compliance with the condition contemplated in subsection (1) constitutes an offence.

Registration of professional hunting schools, hunting outfitters and professional hunters.

46.(1) The responsible Member may register an appropriately qualified person with the requisite training, skills, knowledge, experience, and ability as a director of school, hunting outfitter or professional hunter.

(2) The responsible member may on good cause shown dispense with the provisions of subregulation (1).

Minimum requirements for registration of professional hunters and hunting outfitters

47. A registration certificate may only be issued in respect of a professional hunter or a hunting outfitter if the applicant –

(a) possesses the necessary knowledge, ability, skill and experience;

(b) is of and above the age of 18 years;

(c) in the case of a hunting outfitter, if the applicant can provide the prescribed services and conveniences; and

(d) is a South African citizen or holder of a permanent residence permit.

Appointment of advisors for evaluation of hunting outfitters and professional hunters

48.(1) The responsible Member may appoint such number of persons as he or she may deem expedient to advise him or her whether a professional hunter or hunting outfitter complies with the prescribed requirements.

(2) The responsible Member may consult any person, organisation or institution with regard to any matter he or she deems necessary to enable him or her to perform his or her functions.

CHAPTER 7
GENERAL

Movement of species

49.(1) The responsible Member may in a prescribed manner determine -

(a) the season for mass game capture,

(b) the season for which game auctions must be conducted.

(2) The list under schedule 5 may, by notice in a Gazette be reviewed, by the Responsible Member.

Leaving or making of openings in certain fences

50. No person may on land upon which listed species are found or likely to be found and which is fenced in such a manner that such animals cannot readily escape, make an opening in the fence so designed that such animals entering the land through the opening, cannot easily find the opening to escape.

CHAPTER 8
REGISTRATION CERTIFICATES, PERMITS, AND LICENSES

Part 1:
Registration system, the issuing of permits and licenses

Issuing authorities

51.(1) The responsible Member is the issuing authority for registration certificates and permits issued in terms of the Act for all listed species.

(2) Notwithstanding the provisions of subsection (1), the responsible Member may provide provincial open season hunting permit books to landowners and tribal authorities who would further sell provincial open season hunting permits to their hunting clients for hunting during open season as declared in terms of section 14(1)(a).

Types of permits

52. The following permits apply in terms of the Act –

(a) provincial ordinary permit;

(b) provincial standing permit; and

(c) provincial registration certificate.

Persons who may apply for permits and registration certificates

53.(1) Any person may apply for a permit or registration certificate by lodging an application with the Issuing Authority on the prescribed form.

(2) An issuing Authority may –

(a) request the applicant to furnish any additional information, including a risk assessment before it considers the application;

(b) require the applicant to comply with such reasonable conditions as it may impose before it grants the application;

(c) issue the permit unconditionally or issue it subject to conditions; or

(d) refuse a permit.

(3) In order to be valid, a decision of the Issuing Authority to issue or refuse a permit or a registration certificate or to issue it subject to conditions, must be consistent with –

(a) the applicable provisions of the Act;

(b) the national environmental management principles;

(c) the provincial biodiversity framework;

(d) any other relevant plans adopted or approved in terms chapter 3 of the Biodiversity Act;

(e) any applicable international agreement binding on the Republic;

(f) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and

(g) any requirements that may be prescribed.

(4) If compulsory conditions are prescribed for any kind of permit, an Issuing Authority may not issue a permit of that kind other than subject to those conditions

(5) If the application is rejected, the Issuing Authority must give reasons for the decision and explain his/her right of appeal in writing to the applicant.

(6) Notwithstanding provisions of subsection (1), the issuing authority may defer a decision to issue a permit wherein the applicant, owner or intended recipient of the specimen of a listed species applied for is under investigation for the contravention or failure to comply with any provision of the Act, until such time that the investigation is concluded and –

(a) no prosecution in respect of such contravention or failure is instituted against the applicant concerned;

(b) the applicant concerned is acquitted or found guilty, if a prosecution in respect of such contravention or failure has been instituted, or

(c) the applicant concerned has been convicted by court of law of an offence in respect of such contravention or failure and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.

(7) Only the following persons may apply for provincial standing permits –

(a) the management authority of a protected area, for a provincial standing permit authorising restricted activities involving specimens of a listed species and within the protected area that are necessary for their management in accordance with the management plan of the area;

(b) a person conducting a registered captive breeding operation, for a standing permit authorising restricted activities involving specimens of a listed species kept or bred at that captive breeding operation that are necessary for the purpose for which that captive breeding operation is registered;

(c) a person conducting a registered nursery, for a provincial standing permit authorising restricted activities involving specimens of a listed cultivated or artificially propagated at that nursery that are necessary for the purpose for which that nursery is registered;

(d) the operator of any registered sanctuary or registered rehabilitation facility, for a standing permit authorising restricted activities involving specimens of a listed species brought to that sanctuary or rehabilitation facility that are necessary for their treatment or care;

(e) the operator or head of a registered scientific institution or a person approved in writing by such an institution, for a provincial standing permit authorising restricted activities involving specimens of listed species;

(f) the operator or head of a registered commercial exhibition facility, for a provincial standing permit authorising restricted activities involving specimens of a listed species under the care of the exhibitor that are necessary for the purpose for which the commercial exhibition facility is registered;

(g) a registered wildlife trader, for a provincial standing permit authorising him or her to operate as a wildlife trader in listed species; or

(h) a registered wildlife translocator for a provincial standing permit authorising him or her to operate as a wildlife translocator in listed species.

(i) a registered game farm for a provincial standing permit with exemption or without exemption to operate as a game farm for listed species.

(8) The provision of subsection (7) do not apply to species listed under Section (56) of the Biodiversity Act

(9) The Issuing Authority may cancel the permit or registration certificate if –

(a) the permit or registration certificate was issued as a result of misleading or false representation by the applicant or a person acting on behalf of the applicant;

(b) the permit or registration certificate is inconsistent with any of the requirements outlined in subsection (3); or

(c) the applicant, permit holder or holder of a registration certificate has contravened or failed to comply with–

(i) any condition of the permit;

(ii) any provision of this Act or other law governing the permitted activity; or

(iii) any international law governing the permitted activity.

(10) The Issuing Authority may cancel the permit or registration of a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility, wildlife trader, wildlife translocation, professional hunter, hunting outfitter or professional hunting school if –

(a) the permit or registration certificate holder has breached a condition subject to which the permit was issued or registration was registered;

(b) the operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary or rehabilitation facility is managed, or a wildlife trader, wildlife translocator, is operating, in a manner which is –

(i) detrimental to the specimens being bred, reared, propagated, or kept at such operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility, wildlife trading premises, wildlife translocation methods;(ii) not in accordance with any information provided to the responsible Member or

(c) there is a change in the conservation status of the relevant species being bred, propagated or kept by a permit holder or at such facility that affects the continuation of the permit or registration.

Renewal of permits and provincial registration certificates

54.(1)The holder of a permit or provincial registration certificate may, before the expiry of the period for which a permit or provincial registration certificate was issued, apply in writing to the Issuing Authority, in a prescribed form, for the renewal of that permit or provincial registration certificate.

(2) An application referred to in subsection (1) must be accompanied by the prescribed processing fee as determined by the Issuing Authority.

Exercising or performing of powers, functions or duties of owner where more than one person, partnership or other body holds land

55. Where land is held by –

(a) more than one person in undivided shares;

(b) a partnership;

(c) a body corporate or incorporate,

the powers, functions or duties which an owner of land may exercise or perform in terms of the provisions of the Act, must be exercised or performed on behalf of such persons, partnership or body by a person nominated by such persons, partnership or body.

Amendment of permits or registration certificates

56.(1) The Issuing Authority may amend a permit or registration certificate –

(a) on application by the holder of the permit or registration certificate; or

(b) on the Issuing Authority's own initiative.

(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.

Licences

57.(1) In addition to provisions of section 14(1), the Responsible Member is the issuing authority for licenses issued in terms of the Act for all listed species.

(2) Notwithstanding the provisions of subsection (1), the Responsible Member may delegate the issuing of certain licenses to accredited organizations appointed in terms of the Act.

(3) The fees for licenses sold by accredited organization contemplated in subsection (2) shall be determined by the provincial treasury.

Part 2:
Appeals

Appeals to be lodged with responsible Member

58.(1) A person who feels aggrieved by the decision in terms of the Act and its Regulations may lodge, with the Responsible Member, an appeal against the decision within twenty (20) working days after having been informed of the decision.

(2) The provisions of the national appeal regulations published under NEMA applies with its necessary changes in respect of the procedure to lodge and the processing of an appeal against a decision taken in terms of the Act and its Regulations.

(3) The responsible Member must either –

(a) consider and decide on the appeal; or

(b) designate a panel of persons to consider and decide on the appeal.

(4) An appeal does not suspend the decision against which the appeal is lodged unless the responsible Member or appeal panel considering the appeal directs otherwise.

(5) If the Responsible Member appoints the appeal panel as in subsection 3(b), the decision of the appeal panel shall be deemed final.

CHAPTER 9
ENFORCEMENT AND ADMINISTRATION OF ACT

Part 1:
Delegations

Delegations by responsible Member and Issuing Authority

59.(1) The responsible Member may, in writing, delegate any power or function conferred, entrusted or imposed upon the responsible Member under the Act, except the power to make Regulations, to the Issuing Authority with or without the authority to delegate further.

(2) Any delegations by the responsible Member or Issuing Authority in terms of subsection (1) must be recorded in writing on the delegation list.

(3) An official of the Department may exercise a power or a duty in terms of the Act only to the extent that that power or duty has been delegated or sub-delegated in

writing by the Responsible Member or the Issuing Authority, as the case may be, as recorded in the delegation list.

Part 2:
Appointment of External Advisors, Organizations and Environmental Management Officers

Appointment of External Advisors and Organizations

60.(1) The responsible Member may appoint external specialist advisors on matters relating to biodiversity conservation on such terms and conditions as he or she may deem fit.

(2)The responsible Member may appoint external accredited organisations for the purposes of executing certain functions in terms of the Act as he or she may deem fit.

(3) The powers, functions and qualification criteria of an accredited organization contemplated in subsection (2), will be prescribed by the Responsible Member.

(4) The responsible Member may consult any person, organisation or institution with regard to any matter he or she deems necessary to enable him or her to perform his or her functions.

Appointment of Environmental Management Officers

61. Provisions of Part B, section 31C read with section 31D(1)(e) of NEMA apply with the necessary changes in respect of appointment of environmental management officers, application and enforcement of the Act.

Appointment of Honorary Environmental Management Officers

62.(1) The responsible Member may –

(a) appoint a qualifying private individuals as Honorary Environmental Management Officers; and

(b) issue certificates of appointment to such officers.

(2) The powers of a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No 51 of 1977) and the power contemplated in section 31H, 31I and 31J of NEMA apply with the necessary changes to an Honorary Environmental Management Officer appointed in terms of subsection (1).

(3) Upon appointment of an honorary environmental officer, the responsible Member must issue a certificate outlining the powers contemplated in subsection (2).

(4) The responsible Member must, in addition to the certificate contemplated in subsection (3), issue an identity card to an honorary environmental officer.

(5) An honorary environmental officer must at all times, during the performance of his or her duties, be in possession of the identity card contemplated in subsection (4), and must upon request produce such an identity card.

(6) The honorary environmental officer may not exceed the powers outlined in his or her appointment certificate.

(7) Any non-compliance with the provisions outlined in the certificate constitutes an offence in terms of this Act and may render the honorary environmental officer liable for damages arising out of his or her conduct.

Prescribed standards

63. The responsible Member may prescribe –

(a) qualification criteria for Honorary Environmental Management Officers; and

(b) training that must be completed by Honorary Environmental Management Officers.

Part 3:
Regulations and Incorporation of Standards

Regulations by responsible Member

64.(1)The responsible Member may make regulations relating to any matter that may be necessary to facilitate the implementation of the Act.

(2) The responsible Member may prescribe –

(a) the qualification criteria for the registration of professional hunters, hunting outfitters and professional hunting schools by notice in the *Gazette*;

(b) the qualification criteria for
honorary environmental management officers by notice in the *Gazette*;

(c) the services and conveniences that must be provided by hunting outfitters.

(d) the fencing requirements for game farms; and

(e) the format for, and applicable fees, for applications for permits, licenses

and registration certificates.

(3) The responsible Member may make regulations on –

(a) matters relating to hunting in the province;

(b) the matters relating to capture and translocation of species in the province;

(c) matters relating to possession and keeping of species and specimens in the province; and

(d) matters relating to the management of extra-limital species in the province.

(4) Any regulation with direct fiscal implications may be made only with the concurrence of the Responsible Member of Finance.

(5) Before publishing any regulations in terms of subsection (1), or any amendment to the regulations, the Responsible Member must follow a consultative process in accordance with sections 66 and 67 of the Act.

(6) Any regulation made in terms of the Biodiversity Act is deemed to be published in terms of the Act and applies with the necessary changes in the Province.

Incorporation of standards by reference

65.(1) The responsible Member may by notice in the *Gazette* incorporate in the Regulations any standard without stating the text thereof, by mere reference to the number, title and year of issue of that standard or to any particulars by which that standard is sufficiently identified.

(2) Any standard incorporated in the regulations under subsection (1) is for the purposes of the Act, insofar as it is not inconsistent with it, deemed to be a Regulation.

(3) A notice under subsection (1) comes into operation on a date specified in the notice, but not before the expiry of 30 days after the date of publication of the notice.

(4) If any standard is at any time after the incorporation thereof in the regulations amended or replaced, the notice incorporating that standard in the regulations is, unless otherwise stated therein, deemed to refer to that standard as so amended or replaced, as the case may be.

(5) For purposes of this section 'standard' means any code of practice, compulsory specification, specification, standard or standard method adopted by the South

African National of Standards, as defined in section 1 of the National Standards Act, 1993 (Act 29 of 1993).

Part 4:
Consultation process

Consultation

66.(1) before exercising a power, which is subject to the provisions of this section and section 100 of the Biodiversity Act, the responsible Member must follow a consultative process contemplated in subsection (2) and section 67.

(2) In following the consultative process contemplated in subsection (1), the responsible Member must,–

(a) consult with all organs of state whose areas of responsibility may be affected by the exercise of such power; and

(b) allow public participation in the process in accordance with section 100 of the Biodiversity Act.

Public participation

67. The responsible Member must give notice of the proposed exercise of the power referred to in section 64 –

(a) in the *Gazette*; and

(b) allow 30 days for submission of written comments.

CHAPTER 10
OFFENCES AND PENALTIES

Offences

68.(1) A person is guilty of an offence if that person contravenes or fails to comply with or contravenes provisions of –

(a) Sections, 15(1) and (3), 19(2), 21, 22, 23, 24, 29, 31, 33, 35, 38, 42, 43, 44, 45 and 50;

(b) a notice published in terms of sections 29 and 30;

(c) a directive issued in terms of section 34; or

(d) a compliance notice issued in terms of section 61(2).

(2) A person who is the holder of a permit is guilty of an offence if that person –

(a) performs the activity for which the permit was issued otherwise than in accordance with any conditions subject to which the permit was issued; or

(b) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of paragraph (a).

(3) A person registered to conduct a captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or operates as a wildlife trader, wildlife translocator, temporary holding facilities, freight agents, falconers, taxidermists, professional hunter, hunting outfitter or professional hunting school is guilty of an offence if that person –

(a) conducts such captive breeding operation, commercial exhibition facility, game farm, nursery, scientific institution, sanctuary, rehabilitation facility or operates as a wildlife trader, wildlife translocator, temporary holding facility, freight agents, falconers, taxidermists, professional hunter, hunting outfitter or professional hunting school without a registration certificate issued in terms of Chapter 8 or in a manner that is not in accordance with any condition subject to which registration was granted; or

(b) fraudulently alters any certificate of registration issued in terms of Chapter 8.

(4) A landowner is guilty of an offence if –

(a) that person fraudulently alters any permit issued in terms of Chapter 8;

(b) allows prohibited activities to take place on a particular land; or

(c) any conditions of the registration certificate, standing permit or ordinary permits issued in terms of Chapter 8 of this Act or Chapter 7 of the Biodiversity Act were contravened.

(5) A person who owns or operates a registered nursery is guilty of an offence if –

(a) that person fraudulently alters any nursery possession permit issued in terms of Chapter 8 of this Act or Chapter 7 of the Biodiversity Act; or

(b) any conditions of the registration certificate, standing permit or nursery possession permits issued in terms of this Act or Chapter 7 of the Biodiversity Act were contravened.

(6) A person who operates as a registered wildlife trader is guilty of an offence if –

(a) that person fraudulently alters any permit issued in terms of Chapter 8 of this Act or Chapter 7 of the Biodiversity Act; or

(b) any conditions of the registration certificate, standing permit or permits issued in terms of this Act or the Biodiversity Act were contravened.

(7) A person is guilty of an offence if permitting or allowing any other person to undertake any restricted activity, which is an offence in terms of the Act.

(8) A person is guilty of an offence if that person –

(a) fraudulently alters any permit or registration certificate issued in terms of this Act or the Biodiversity Act;

(b) fabricates or forges any document for the purpose of passing it as a permit or registration certificate;

(c) passes, uses, alters or has in his or her possession any altered or false document purporting to be a permit or registration certificate; or

(d) knowingly makes any false statement or report for the purpose of obtaining a permit or registration certificate.

(9) A person is guilty of an offence if that person –

(a) hinders or interferes with an environmental management officer in the execution of that officer's official duties;

(B) pretends to be an environmental management officer, or the interpreter or assistant of such an officer;

(c) furnishes false or misleading information when complying with a request of an environmental management officer; or

(d) fails to comply with a request of an environmental management officer.

(10) For the purposes of this section, Schedule 2 to the Criminal Procedure Act, 1977 (Act 51 of 1977) apply with the necessary changes.

Penalties

69. A person convicted of an offence in terms of section 68, is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine or imprisonment.

CHAPTER 11
MISCELLANEOUS

Repeal of laws

70. The laws set out in the Schedule 1 hereto, are hereby repealed to the extent indicated in the third column of the said Schedule.

Savings

71.(1) Anything done in terms of the laws repealed by Section 104 of the Biodiversity Act, which may or must be done in terms of this Act, must be regarded as having been done in terms of the Act.

(2) Exemptions, permits, registration certificates and any other authorisations issued in terms of the TOPS Regulations which were valid immediately before the date on which these regulations took effect, are deemed to be issued in terms of the Act.

(3) Despite the repeal of the Ordinances listed in the First Schedule to the Act, any application for a permit made in terms of such repealed Ordinances that was not decided when this Act took effect, must be proceeded with in terms of this Act as if such application was an application in terms of the Act.

Short title and commencement

72. This Act is called the North West Biodiversity Management Act, 2016, and takes effect on a date determined by the responsible Member, by notice in the *Gazette*.

SCHEDULE 1

Repeal of Laws
(Section 92)

Number and year of law	Title	Extent of repeal
Ordinance No. 19 of 1974	Cape Nature and Environmental Conservation Ordinance, 1974	The whole, to the extent applicable to the North West province.
Act No. 3 of 1973	Bophuthatswana Nature Conservation Act of 1973	The whole, to the extent applicable to the North West province.
Ordinance No. 12 of 1983	Transvaal Nature Conservation Ordinance 1983	The whole, to the extent applicable to the North West province.
Ordinance No. 26 of 1957	Cape Problem Animal Control Ordinance	The whole, to the extent applicable to the North West.

SCHEDULE 2

LIST OF SPECIALLY PROTECTED SPECIES

(Section 13 of Act)

CLASS MAMMALIA			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
Aardvark	*Orycteropus afer*	Thakadu	Erdvark
Aardwolf	*Proteles cristatus*	Thukhwi	Maanhaarjakkals
African Civet	*Civettictis civetta*	Tshipalore	Siwetkat
African Clawless Otter	*Aonyx capensis*	Lenyebi	Groototter
African Marsh Rat	*Dasymys incomtus*		Waterrot
All Bat species except for the Cape Serotine Bat *Neoromicia capensis*	Order Chiroptera	Mamanthwane	Vlermuise
Bat-eared Fox	*Otocyon megalotis*	Motlhose	Bakoorvos
Black-tailed Tree Rat	*Thallomys nigricauda*		Swartstertboomrot
Blesbok	*Damaliscus pygargus phillipsi*	Nônê	Blesbok
Blue Wildebeest	*Connochaetes taurinus*	Kgôkông	Blouwildebees
Buffalo	*Syncerus caffer*	Nare	Buffel
Bushbuck	*Tragelaphus scriptus*	Serôlô	Bosbok
All Dormouse species	Family Myoxidae	Mokomane	Waaierstertmuise
All Cat or Felid species	Family Felidae	Dikatse	Katte
Dwarf Mongoose	*Helogale parvula*	Lefswekete	Dwergmuishond
Eland	*Taurotragus oryx*	Phôhu	Eland
All Elephant Shrews or Sengis	Family Macroscelididae	Intufi	Klaasneuse
Giraffe	*Giraffa camelopardalis*	Thutlwa	Kameelperd
Gemsbok	*Oryx gazella*	Kukama	Gemsbok
All Golden Moles	Family Chrysochloridae	Serunya	Gouemolle
Grey Rhebok	*Pelea capreolus*	Phele	Vaalribbok
Hippopotamus	*Hippopotamus amphibius*	Kubu	Seekoei
Klipspringer	*Oreotragus oreotragus*	Kololo	Klipspringer
Kreb's Fat Mouse	*Steatomys krebsii*		Krebs se vetmuis
Maquassie Musk Shrew	*Crocidura maquassiensis*		Maquassie-skeerbek
Mountain Reedbuck	*Redunca fulvorufula*	Phele	Rooiribbok
Plains Zebra	*Equus zebra*	Pitse	Bontsebra
All Red Rock Rabbits	*Pronolagus* sp.	Tlhôlwê	Rooiklipkonyne
Red Hartebeest	*Alcelaphus buselaphus*	Kgama	Rooihartebees
Sable Antelope	*Hippotragus niger*	Pôtôkwane	Swartwitpens
South African Galago	*Galago moholi*	Mogwele	Nagapie
Striped Weasel	*Poecilogale albinucha*	Nakêdi	Slangmuishond
Waterbuck	*Kobus ellipsiprymnus*	Motumoga	Waterbok
White-tailed Rat	*Mystromys albicaudatus*		Witstertmuis
Woosnam's Desert Rat	*Zelotomys woosnami*	Sekuthê	Woosnam se woestyn rot

CLASS AVES			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
African Finfoot	*Podica senegelensis*		Watertrapper
African Sacred Ibis	*Threskiornis aethiopicus*		Skoorsteenveër
African Skimmer	*Rhynchops flavirostris*		Waterploeër
Barn Owl	*Tyto alba*	Lerubise	Nonnetjie-uil
Bronzewinged Courser	*Rhinoptilus chalcopterus*		Bronsvlerkdrawwertjie
Burchell's Courser	*Cursorius rufus*		Bloukopdrawwertjie
All Buzzards, Eagles, Goshawks, Hawks, Sparrowhawks, Kites and Vultures and other raptors in the family	Family Accipitridae		Roofvoëls
Caspian Plover	*Charadrius asiaticus*		Asiatiese Strandkiewiet
Caspian Tern	*Sterna caspia*		Reusesterretjie
Chestnut-banded Plover	*Charadrius pallidus*		Rooibandstrandkiewiet
Cloud Cisticola	*Cisticola textrix*		Gevlekte Klopkloppie
Common Whitethroat	*Sylvia communis*		Witkeelsanger
Cuckoo Finch	*Anomalospiza imberbis*		Koekoekvink
Dwarf Bittern	*Ixobrychus stumii*		Dwergrietreier
Eurasian Bittern	*Botaurus stellaris*	Kgapu	Grootrietreier
European Roller	*Coracias garrulous*	Letlêrêtlêrê	Europese Troupant
Fairy Flycatcher	*Stenostira scita*		Feevlieëvanger
All Falcons and Kestrels	Family Falconidae		Valke
All Flamingoes	Family Phoenicopteridae		Flaminke
Giant Kingfisher	*Megaceryle maximus*	Mmatlhapi	Reusevisvanger
Greater Painted Snipe	*Rostratula benghalensis*		Goudsnip
Great Sparrow	*Passer motitensis*		Grootmossie
Green-capped Eremomela	*Eremomela scotops*		Donkerwangbossanger
Grey-headed Gull	*Larus cirrocephalus*		Gryskopmeeu
Grey Plover	*Pluviolis squatarola*		Grysstrandkiewiet
All Grebes except the Little Grebe *Tachybaptis ruficollis*	Family Podicipedidae		Dobbertjies
Half-collared Kingfisher	*Alcedo semitorquata*	Mmatlhapi	Blouvisvanger
Lesser Black-backed Gull	*Larus fuscus*		Kleinswartrugmeeu
Maccoa Duck	*Oxyura maccoa*		Bloubekeend
Melodious Lark	*Mirafra cheniana*	Sebotha	Spotlewerik
Meyers Parrot	*Poicephalus meyeri*		Bosveldpapegaai
Mountain Wagtail	*Motacilla clara*		Bergkwikkie
All Nightjars	Family Caprimulgidae		Naguile
Olive-tree Warbler	*Hippolais olivetorum*		Olyfboomsanger
Orange River White-eye	*Zosterops pallidus*		Gariepglasogie
Pacific Golden Plover	*Pluviolis fulva*		Asiatiese Goue Strandkiewiet
All Pelicans	Family Pelecanidae		Pelikane

All Phalaropes	Family Phalaropidae		Fraaiingpote
All Pratincoles	Family Glaerolidae		Sprinkaanvoële
Pygmy Kingfisher	*Ispidina picta*		Dwervisvanger
All Rails, Crakes, and Flufftails, except the Black Crake *Amaurornis flavirostris*	Family Rallidae		Riethane en Vleikulkens
Redbilled Hornbill	*Tockus erythrorhynchus*	Kôrwe	Rooibekneushoring voël
Red-billed Oxpecker	*Buphagus erythrorhynchus*	Kala	Rooibekrenostervo ël
Red-throated Wryneck	*Jynx ruficollis*		Draaihals
River Warbler	*Locustella fluviatilis*		Sprinkaansanger
Sand Martin	*Riparia riparia*		Europese Oewerswael
Secretarybird	*Sagittarius serpentarius*		Sekretarisvoël
Shelley's Francolin	*Scleroptila shelleyi*		Laeveldpatrys
Sickle-winged Chat	*Cercomela sinuate*		Vlaktespekvreter
Short-clawed Lark	*Mirafra chuana*		Kortkloulewerik
Short-tailed Pipit	*Anthus brachyurus*		Kortstertkoester
Sociable Weaver	*Philetairus socius*		Versamelvoël
Stark's Lark	*Spizocorys starki*		Woestynlewerik
All Snipes, Godwits, Curlews, Whimbrels, Shanks, Sandpipers and Ruffs	Family Scolopacidae		Snippe, Griete, Wulpe, Ruiters, Strandlopers en Kemphane
All Storks	Family Ciconiidae	Lekôlôlwane	Ooievare
Tree Pipit	*Anthus trivialis*		Boomkoester
Typical Owls	Family Strigidae		Uile
White-backed Duck	*Thalassornis leuconotus*		Witrugeend
White-backed Night Heron	*Gorsachius leuconotus*		Witrugnagreier
White-bellied Korhaan	*Eupodotus afer*	Mokagatwê	Witpenskorhaan
White-breasted Cormorant	*Phalacrocorax lucidus*	Timêlêtsane	Witborsduiker
White-fronted Plover	*Charadrius marginatus*		Vaalstrandkiewiet
Wing-snapping Cisiticola	*Cisticola ayresii*		Kleinste Klopkloppie
Yellow-throated Sandgrouse	*Pterocles gutturalis*		Geelkeelsandpatry s

CLASS AMPHIBIA			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
All Pygmy Toads	*Poyntonophrynus* sp.		Dwergskuwepadda s
All Bullfrogs	*Pyxicephalus* sp.	Letlametlo	Brulpaddas

CLASS REPTILIA			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
Eastern Tiger Snake	*Telescopus semiannulatus*		Gewone Tierslang
All Chameleons	*Chamaeleo spp.*		Verkleurmannetjie
All Flat Lizards	*Platysaurus sp.*		Platakkedisse
Giant Plated Lizard	*Gerrhosaurus validus*		Panserakkedis
All Grass Lizards	*Chamaesaura sp.*		Grasakkedisse
All Girdled Lizards	*Cordylus sp.*		Gordelakkedisse
Striped Harlequin Snake	*Homoreselaps dorsalis*		Kousbandjies
Horned Adder	*Bitis caudalis*		Horingadder
Kalahari Tent Tortoise	*Psammobates oculiferus*		Kalahari Skilpad
Lobatse Hinged Tortoise	*Kinixys lobatsiana*		Lobatse Skarnierskilpad
All Monitor Lizards or Leguaans	*Varanus sp.*		Likewane
Spotted House Snake	*Lamprophis guttatus*		
All Thick-toed Geckos	*Pachydactylus sp.*		

CLASS PISCES			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
African Longfin Eel	*Anguilla mossambica*		Geelbek- paling
All Barbs	*Barbus* sp.		Barbe
Mozambique Tilapia	*Oreochromus mossambicus*		
All Yellowfish	*Labeobarbus* sp.		Geelvisse

CLASS ARACHNIDA			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
Aelurillus Jumping Spider	*Aelurillus cristatopalpus*		
Wafer-lid Trapdoor Spider	*Ancylotrypa brevicornis*		
Roodeplaat's Wafer-lid Trapdoor Spider	*Ancylotrypa rufescens*		
Johannesburg's Anyphops Wall Spider	*Anyphops longipedatus*		
Mafekeng's Tube-web Spider	*Ariadna similis*		
Ngome's Long-jawed Ground Spider	*Austrachelas merwei*		
Horned Baboon Spiders	*Ceratogyrus* spp.		
Hanglip's Tree Sheet-web Spider	*Cyatholipus isolatus*		
Free States's Igloo Zodariid Spider	*Diores femoralis*		
All Eusparassus Huntsmen	*Eusparassus sp.*		
All Carcass Beetles	Family Trogidae		
Shield-bum Trapdoor Spider	*Galeosoma coronatum*		
Potchefstroom's Shield-bum	*Galeosoma crinitum*		

Trapdoor Spider			
Rustenburg's Shield-bum Trapdoor Spider	*Galeosoma pluripunctatum*		
Robert's Shield-bum Trapdoor Spider	*Galeosoma robertsi*		
Round Shield-bum Trapdoor Spider	*Galeosoma scutatum*		
Flat Rock Scorpions	*Hadogenes* spp.		
Common Baboon Spiders	*Harpactira* spp.		
North West's Idiops Trapdoor Spider	*Idiops pullus*		
Makapan's Langona Jumping Spider	*Langona manicata*		
Rustenburg's Lycosa Wolf Spider	*Lycosa gigantean*		
Wonderboompoort's Trapdoor Spider	*Moggridgea paucispina*		
Creeping Scorpions	*Opisthacanthus sp.*		
All Burrowing Scorpions	*Opistophthalmus sp.*		
Free State's Pseudicius Jumping Spider	*Pseudicius gracilis*		
Golden Baboon Spiders	*Pterinochilus* spp.		
Conradi's Rhene Jumping Spider	*Rhene konradi*		
Kimberley's Setaphis Ground Spider	*Setaphis sexmaculata*		
Kroonstad's Cork-lid Trapdoor Spider	*Stasimopus coronatus*		
Venterskroon's Cork-lid Trapdoor Spider	*Stasimopus gigas*		
Griswold's Cork-lid Trapdoor Spider	*Stasimopus griswoldi*		
Cork-lid Trapdoor Spider	*Stasimopus nigellus*		
Robert's Cork-lid Trapdoor Spider	*Stasimopus robertsi*		

CLASS INSECTA			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
Roodepoort Copper	*Aloeides dentatis maseruna*		
African Honey Bee	*Apis mellifera*		
Charaxes Butterflies	*Charaxes* sp.		
Lilac Tip	*Colotis celimene amina*		
Tiger Beetles	*Dromica* spp.		
All Dung Beetles	*Garreta* sp., *Gymnopleuris* sp., *Heteronitis* sp., *Onitis* sp., *Sisyphus* sp., *Copris* sp., *Heliocopris* sp., *Catharsius* sp., *Anachalcos* sp., *Proagoderus* sp., *Kheper* sp., *Pachylomerus* sp., *Aphodius* sp. and *Coptorhina* sp.		
Goliath Beetle	*Goliathus albosignatus*		
All Fruit Chafer Beetles	*Ichnestoma* spp.		

Morant's Blue	*Lepidochrysops hypopolia*		
Free State Blue	*Lepidochrysops letsea*		
Highveld Blue	*Lepidochrysops praeterita*		
Potchefstroom Blue	*Lepidochrysops procera*		
All Monster Tiger Beetles	*Manticora* spp.		
Tiger Beetle	*Megacephala regalis*		
Marsh sylph	*Metisella meninx*		
All Carcass Beetles	Family Trogidae		
Roodepoort Copper	*Aloeides dentatis maseruna*		
African Honey Bee	*Apis mellifera*		
Charaxes Butterflies	*Charaxes* sp.		
Lilac Tip	*Colotis celimene amina*		

KINGDOM PLANTAE			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
	Aloe braamvanwykii		
	Anacampseros dicapitata		
	Barleria media		
	Blepharis angusta		
All species of the Genus	*Brachystelma* sp.		
	Ceropegia insignis		
	Ceropegia stentiae		
	Cineraria austrotransvaalensis		
	Cineraria exilis		
	Cleome conrathii		
	Commelina bella		
	Cynodon polevansii		
	Delosperma leendertziae		
	Dicliptera magaliesbergensis		
	Drimia sanguinea		
All species	*Euphorbia* sp., except *Euphorbia ingens*		
All Ferns, except the Bracken Fern *Pteridium aquilinum*	Division Pteridophyta		
Fairy Elephant's Foot	*Frithia pulchra*		
	Gladiolus filiformis		
	Gnaphalium nelsonii		
	Indigofera commixta		
	Kniphofia typhoides		
	Ledebouria atrobrunnea		
	Ledebouria confusa		
	Lessertia phillipsiana		
	Lithops leslei subsp. *leslei*		
	Lobelia cuneifolia var *ananda*		
	Miraglossum laeve		

	Nerine gracilis		
	Nuxia glomerulata		
	Rennera stellata		
	Searsia maricoana		
	Senecio holubii		
Tambotie	*Spirostachys africana*	Morukuru	Tambotie
	Sporobolus oxyphyllus		
	Stenostelma umbelluliferum		

SCHEDULE 3

LIST OF ORDINARY SPECIES

(Section 13 of Act)

These include the following species:

All species of fish, with the exception of the following:

Sharp-toothed Catfish	*Clarias gariepinus*

All species of amphibians, with the exception of the following:

All Toads of the Genus	*Amietophyrynus*
All Platannas and Clawed Frogs of the Genus	*Xenopus*

All species of reptiles.

All species of birds, with the exception of the following:

Cape Sparrow	*Passer melanurus*,
Pied Crow	*Corvus albus*, and
Red-billed quelea	*Quelea quelea*

All species of mammals, with the exception of the:

Multimammate Mouse	*Mastomys*

SCHEDULE 4

LIST OF ORDINARY SPECIES TO BE HUNTED WITH LANDOWNER'S WRITTEN CONSENT

(Section 24(2) of Act)

CLASS MAMMALIA			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
Black-backed jackal	*Canis mesomelas*	Phokoje	
Bushpig	*Potamochoerus larvatus*		
Greater Canerat	*Thryonomus swinderianus*		
All Hares of the genus *Lepus*	*Lepus* spp.		
Porcupine	*Hystrix africaeaustralis*		
Red-knobbed Coot	*Fulica cristata*		
Rock Hyrax	*Procavia capensis*		
Scaly-throated finch	*Sporopipes squamifrons*		
All Squirrels of the Family Sciuridae	*Paraxerus cepapi* and *Xerus inauris*		
Springhare	*Pedetes capensis*		
Warthog	*Phacochoerus africana*		
All Bulbuls of the Genus *Pycnonotus*	*Pycnonotus spp*		
All Mousebirds of the Family *Coliidae*	*Coliidae* spp.		
All Weavers of the Genus *Ploceus*	*Ploceus spp.*		
Red-winged Starling	*Onychognathus mori*		
Red Bishop	*Euplectes orix*		

SCHEDULE 5

LIST OF SPECIES FOR CAPTURE AND CONVEYANCE BY MEANS OF A PRESCRIBED GAME MOVEMENT REGISTER

(Section 49(1)(b) of Act)

CLASS MAMMALIA			
Column 1	**Column 2**	**Column 3**	**Column 4**
English common name	**Scientific Name**	**Setswana**	**Afrikaans**
Blesbok	*Damaliscus pygargus phillipsi*	Nônê	Blesbok
Blue Wildebeest	*Connochaetes taurinus*	Kgôkông	Blouwildebees
Common Duiker	*Sylvicapra grimmia*	Photi	Gewone Duiker
Eland	*Taurotragus oryx*	Phôhu	Eland
Giraffe	*Giraffa camelopardalis*	Thutlwa	Kameelperd
Gemsbok	*Oryx gazella*	Kukama	Gemsbok
Impala	*Aepyeros melampus*	Phala	Rooibok
Kudu	*Tragelaphus strepsiceros*	Thôlô	Koedoe
Mountain Reedbuck	*Redunca fulvorufula*	Phele	Rooiribbok
Plains Zebra	*Equus zebra*	Pitse	Bontsebra
Red Hartebeest	*Alcelaphus buselaphus*	Kgama	Rooihartbees
Springbok	*Antidorcas marsupialis*	Tshêpê	Springbok
Steenbok	*Raphicerus campestris*	Phuduhudu	Steenbok

MEMORANDUM ON THE OBJECTS OF THE NORTH WEST BIODIVERSITY BILL, 2015

1. BACKGROUND

1.1 Section 24 of the Constitution of the Republic of South Africa, 1996, 1996, accords everyone the right –

(a) to an environment that is not harmful to their health or well-being; and

(b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures –

(i) prevent pollution and ecological degradation;

(ii) promote conservation;

(iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

1.2 This Act seeks to give effect to the provisions of section 24(a) and (b)(i) and (ii) of the Constitution of the Republic of South Africa, 1996, 1996.

1.3 The Bill further seeks to enable the North West Provincial Government to, through legislation, create a legal basis for –

(a) the management, conservation and sustenance of South Africa's biodiversity, its components and genetic resources; and

(b) the achievement of the progressive realisation of those rights.

1.4 The application of this Bill is guided by the national environmental management principles set out in section 2 of the National Environmental Management Act.

1.5 Part A of Schedule 4 of the Constitution of the Republic of South Africa, 1996, lists conservation matters as a functional area of concurrent national and provincial legislative competence.

1.6 Notwithstanding the fact that the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004 as amended) and the national environmental management principles set out in section 2 of the National Environmental Management Act, are applicable to and enforceable in the North West Province, the reality is that, in order to regulate matters specific to the North West which are not adequately regulated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), the National Environmental

Management: Biodiversity Act, 2004 (Act No.10 of 2004 as amended) and the National Environmental Management Act, there needs to be legislation on matters specific to the North West Province, hence the promulgation of this Bill.

1.7 In a nutshell the Bill seeks –

(a) to provide for the management and conservation of the North West Province's biophysical environment and protected areas within the framework of the National Environmental Management Act, 1998 (Act 107 of 1998) and the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004);

(b) to provide for the protection of species and ecological-systems that warrant provincial protection;

(c) to provide for the sustainable use of indigenous biological resources; and

(d) to provide for matters connected therewith.

2. CHAPTER BY CHAPTER EXPLANATION

In summary, the Bill provides as follows –

Clause 1

Clause 1 provides for the definition of terms used in the Bill.

Clause 2

Clause 2 provides for the Purpose of Act

Clause 3

Clause 3 provides for the State's trusteeship of biological diversity

Clause 4

Clause 4 provides for the Application of Act

Clause 5

Clause 5 provides for the National environmental management principles

Clause 6

Clause 6 provides for conflict with other legislation

Clause 7

Clause 7 provides for the Norms and standards

Clause 8

Clause 8 provides for the establishment of Biodiversity Advisory Bodies

Clause 9

Clause 9 provides for the declaration of nature reserves and protected environments

Clause 10

Clause 10 provides for the protection of threatened or protected ecosystems

Clause 11

Clause 11 provides for the protection of riparian habitat

Clause 12

Clause 12 provides for the protection of aquatic systems

Clause 13

Clause 13 provides for the listing of species that are in need of provincial protection

Clause 14

Clause 14 provides for the maintenance of sustainable yield of viable populations of listed species

Clause 15

Clause 15 provides for rrestricted activities involving listed specially protected species

Clause 16

Clause 16 provides for eexemptions

Clause 17

Clause 17 provides for restricted activities on land owned by person other than applicant

Clause 18

Clause 18 provides for the application affecting rights of other persons

Clause 19

Clause 19 provides for the Additional requirements for possession of elephant ivory and rhinoceros horn

Clause 20

Clause 20 provides for the amendment of notices

Clause 21

Clause 21 provides for pprohibited activities involving listed large predators, White rhinoceros (*Ceratotherium simum)* or and Black rhinoceros (*Diceros bicornis).*

Clause 22

Clause 22 provides for pprohibited activities involving listed *Encephalartos* (Cycads) species

Clause 23

Clause 23 provides for pprohibited activities involving listed species

Clause 24

Clause 24 provides for rrestricted activities involving ordinary species

Clause 25

Clause 25 provides for the eexemptions from complying with provisions of section 24

Clause 26

Clause 26 provides for the provisions relating to damage causing animals

Clause 27

Clause 27 provides for the Management of alien species posing potential threats to biodiversity

Clause 28

Clause 28 provides for the list of extra-limital species

Clause 29

Clause 29 provides for rrestricted activities involving listed extra-limital species

Clause 30

Clause 30 provides for the list of invasive species

Clause 31

Clause 31 provides for the restricted activities involving listed invasive species

Clause 32

Clause 32 provides for the amendment of notices

Clause 33

Clause 33 provides for the duty of care relating to listed invasive species

Clause 34

Clause 34 provides for rrequests for directives to competent authorities

Clause 35

Clause 35 provides for the control and eradication of listed invasive species

Clause 36

Clause 36 provides for the invasive species control plans of organs of state

Clause 37

Clause 37 provides for the Invasive species status reports

Clause 38

Clause 38 provides for the compulsory registration requirements

Clause 39

Clause 39 provides for aapplications affecting rights of other persons

Clause 40

Clause 40 provides for factors to be taken into account by Issuing Authority

Clause 41

Clause 41 provides for the consideration of and decision on applications

Clause 42

Clause 42 provides for the compulsory conditions for registration of captive breeding operations, commercial exhibition facilities and rehabilitation facilities

Clause 43

Clause 43 provides for the additional compulsory conditions for registration of commercial exhibition facilities

Clause 44

Clause 44 provides for the compulsory condition for the registration of sanctuaries

Clause 45

Clause 45 provides for the compulsory conditions for the registration of wildlife translocators

Clause 46

Clause 46 provides for the registration of professional hunting schools, hunting outfitters and professional hunters

Clause 47

Clause 47 provides for the minimum requirements for registration of professional hunters and hunting outfitters

Clause 48

Clause 48 provides for the appointment of advisors for evaluation of hunting outfitters and professional hunters

Clause 49

Clause 49 provides for the movement of species

Clause 50

Clause 50 provides for the leaving or making of openings in certain fences

Clause 51

Clause 51 provides for the Issuing authorities

Clause 52

Clause 52 provides for the types of permits

Clause 53

Clause 53 provides for ppersons who may apply for permits and registration certificates

Clause 54

Clause 54 provides for the renewal of permits and provincial registration certificates

Clause 55

Clause 55 provides for the exercising or performing of powers, functions or duties of owner where more than one person, partnership or other body holds land

Clause 56

Clause 56 provides for the amendment of permits or registration certificates

Clause 57

Clause 57 provides for the Licence applications

Clause 58

Clause 58 provides for a to be lodged with the responsible Member

Clause 59

Clause 59 provides for the delegations by responsible Member and Issuing Authority

Clause 60

Clause 60 provides for the appointment of External Advisors and Organizations

Clause 61

Clause 61 provides for the appointment of Environmental Management Officers

Clause 62

Clause 62 provides for the appointment of Honorary Environmental Management Officers

Clause 63

Clause 63 provides for the prescribed standards

Clause 64

Clause 64 provides for the regulations by responsible Member

Clause 65

Clause 65 provides for the iincorporation of standards by reference

Clause 66

Clause 66 provides for Consultation

Clause 67

Clause 67 provides for ppublic participation

Clause 68

Clause 68 provides for the offences

Clause 69

Clause 69 provides for ppenalties

Clause 70

Clause 70 provides for the repeal of laws

Clause 71

Clause 71 provides for the protection and preservation of any act committed in terms of any law repealed through promulgation of this Act

Clause 72

Clause 72 provides for the Short title and commencement

SCHEDULE 1

SCHEDULE 1 provides for a list of all laws to be repealed

SCHEDULE 2

SCHEDULE 2 provides for a list of specially protected species

SCHEDULE 3

SCHEDULE 3 provides for a list of ordinary species

SCHEDULE 4

SCHEDULE 4 provides for a list of ordinary species

SCHEDULE 5

SCHEDULE 5 provides for a list of ordinary species to be captured by means of a prescribed game movement register

4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

4.1 Since it would be a new Act, the financial implications are estimated at around R35m excluding the general annual black book amount for Biodiversity Management Directorate of at least R45m and the required R25m for erection of holding facilities for confiscated and DCA game.

4.2 The R35m would amount for all preparatory and implementation requirements of the Act and such further excludes the realignment of the structure to conform to the budget structure, which would now accommodate the new Directorate that deals with Protected Areas Regulations and Management as well the provisioning for Biodiversity Scientific Manager to oversee scientific investigations and biodiversity monitoring.

4.3 The above R25m amount could be displaced to Department of Public Work sand Roads as it involves the identification of suitable site and erection of new wildlife holding facility (impounded) for all wild animals confiscated from offenders and those resulting as Damage Causing Animals (DCA) in terms of the Act.

5. DEPARTMENTS/ BODIES/ PERSONS CONSULTED

The Bill has been drafted in consultation with –

5.1 The Portfolio Committee;

5.2 The members of the NW Wildlife Forum;

5.3 The Legal Advisors to the NW Provincial Legislature;

5.4 The Industry; and

5.5 Office of the Chief State Law Advisor.

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