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No. 384

PREMIER'S NOTICE

OFFICE OF THE PREMIER

No. 37

17 November 1998

It is hereby notified that the Premier has assented to the following Act, which is hereby published for general information:

No. 10 of 1998: Mpumalanga Nature Conservation Act, 1998

MPUMALANGA NATURE CONSERVATION ACT, 1998

ACT

To consolidate and amend the laws relating to nature conservation within the Province and to provide for matters connected therewith.

(English Text signed by the Premier)

(Assented to on 28 October 1998)

CHAPTER 1**INTRODUCTORY PROVISIONS**

1. Definition. In this Act, unless the context otherwise indicates -

"**angle**" means the catching of fish by the use of a line and fish-hook, whether or not a rod is used, and includes the use of a landing-net or keep-net to land and keep fish caught by means of a line and fish-hook;

"**artificial lure or spoon**" means a device which by the simulation of life or by the colour or appearance thereof may delude or lure fish into seizing such device;

"**biltong**" means game meat which has been dried for the purpose of preservation or which is in the process of being dried;

"**Board**" means the Eastern Transvaal Parks Board established by section 2 of the Eastern Transvaal Parks Board Act, 1995 (Act No. 6 of 1995);

"**boat**" means any vessel or other device propelled by a motor, air screw, sail or oars and which is suitable or used for the conveyance of any person on or in waters, and includes an amphibian vessel, hovercraft or barge towed by such vessel or other device;

"**catch**", in relation to -

(a) a wild animal, exotic animal or invertebrate, includes to -

- (i) use any means or method to take or to catch or to attempt to take or to catch such animal alive;
- (ii) search for, to pursue, to drive, to lie in wait, to lure or to allure, to poison with the intent to catch or to injure or to kill such animal in the process of catching;

(b) fish, includes to use any means or method to take or to attempt to take fish, whether alive or dead, to injure, to poison or to kill;

"**cave**" means a natural geologically formed void or cavity beneath the surface of the earth;

"**cave-formation**" means any natural matter formed in a cave and includes a wall, floor or ceiling of a cave, flow-stone, drapery, column, stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, any other crystalline mineral formation, tufadam, breccia, clay or mud formation or a concretion thereof;

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"chief executive" means the chief executive officer of the Board appointed in terms of section (3)(b) of the Eastern Transvaal Parks Board Act, 1995 (Act No. 6 of 1995);

"client" means any person not normally resident in the Republic and who pays or rewards any other person for or in connection with the hunting of a wild animal or an exotic animal;

"closed season" means a period contemplated in section 52;

"committee of the Board" means a committee of the Board appointed in terms of section 5, and includes the tender committee appointed in terms of section 10, of the Eastern Transvaal Parks Board Act, 1995 (Act No. 6 of 1995);

"conservancy" means an area declared to be a conservancy in terms of section 85 (1)(e);

"Conservation ranger" means a person appointed as such in terms of section 3 (1)(c);

"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

"director of professional hunting school" means any person who presents and conducts a prescribed course to educate and assess prospective professional hunters and hunting outfitters.

"day" means the period from half an hour before sunrise to half an hour after sunset on the same day;

"elephant tusk" an unprocessed incisor or part thereof in or from the upper jaw of an elephant;

"endangered species" means a species of fauna or flora contemplated in section 81;

"Executive Council" means the Executive Council of the Province as contemplated in section 132 of the Constitution;

"exotic animal" means any live vertebrate, including a bird and reptile but excluding a fish, belonging to a species which is not a recognised domestic species and the natural habitat of which is not in the Republic of South Africa and includes the egg of such animal;

"export" means to transfer any species, part or derivative thereof as listed in this Act from any position or place in the Province in any manner to any other position or place outside of the borders of the Province to another Province in the Republic of South Africa or country outside the borders of the Republic of South Africa.

"fish" -

(a) includes aquatic fauna generally, excluding mammals and birds, whether indigenous or exotic and whether alive or dead, and the ova or spawn thereof;

(b) in relation to angling, means only those species of water-fauna commonly known as fish;

"fisheries" includes all waters and the fish therein;

"fishing tackle" means any fishing gear, apparatus or other device or any part thereof normally used for catching fish;

"game" means any specially protected game, protected game, ordinary game or protected wild animal, whether alive or dead, contemplated in section 4(1);

"game dealer" means any person capturing, transporting, selling or keeping game or any other wild animal for commercial purposes.

"honorary nature conservator" means an honorary nature conservator appointed in terms of section 3(1)(b);

"hunt", in relation to -

(a) a problem animal, means to hunt, to shoot at, to kill, to pursue, to capture or to search in an organized manner for;

(b) any other animal, means to hunt, to shoot at, to kill, to capture, to pursue, to search or to lie in wait for or use any other means, method or device with the intent to kill or to shoot, to disturb wilfully or to collect or destroy the eggs of a bird or reptile;

"hunting-outfitter" means any person who presents or organizes the hunting of a wild animal or an exotic animal for reward;

"hunting-rights" means the power of an owner of land to hunt or to allow the hunting of a wild animal or an exotic animal in terms of the provisions of Chapter 2 of this Act on land of which he or she is the owner;

"import" means for the purpose of this Act, all wild animals or rare species consigned to, or brought into the Province, and shall be deemed to have been imported into the Province:

- (a) in the case of wild animals and rare species consigned to a place in the Province in an aircraft, at the time when such aircraft on the flight in question, first came within the control area of the airport authority at that place, or at the time of the landing of such wild animals or rare species at the place of actual discharge thereof in the Province if such aircraft did not on that flight call at the place to which the wild animals or rare species were consigned or if such wild animals or rare species were discharged before arrival of such aircraft at the place to which such wild animals or rare species were consigned in the Province;
- (b) in the case of wild animals or rare species not consigned to a place in the Province but brought thereto by and landed therein from an aircraft, at the time when such wild animals or rare species were so landed;
- (c) in the case of wild animals or rare species brought into the Province overland, at the time when such wild animals or rare species entered the Province;
- (d) in the case of wild animals or rare species brought into the Province by post, at the time of importation in terms of paragraph (a), (b) or (c) according to the means of carriage of such wild animals or rare species;

"indigenous plant" means any plant, herb, shrub or tree, whether alive or dead, indigenous to the Republic, whether it is or has been cultivated or whether or not it is growing in the wild state, or has for some time not been growing in the wild state, and includes the flower, seed, cone, fruit, bulb, tuber, stem or root or other part of such a plant, herb, shrub or tree, but excluding a plant, herb, shrub or tree declared to be a weed in terms of any law or improved by selection or cross-breeding;

"invader weeds and plants" means a plant contemplated in section 80(1)(a);

"invertebrate" means all species of wildlife that do not have an internal skeleton, whether alive or dead, of which the habitat is either temporarily or permanently in the Republic, and includes any part of an invertebrate and any stage in the life cycle thereof;

"keep", in relation to a wild animal, exotic animal or invertebrate, means to keep live, to exercise control over, to supervise or to confine by a fence, wall, natural boundary or other obstruction or any combination of such fence, wall, natural boundary or obstruction, or to maim or otherwise incapacitate such animal to such an extent that it cannot maintain its natural way of life;

"land used by the Board for purposes of this Act" means any land or water resorting under the control or management of the Board in terms of this Act or any other law, and any like phrase has a corresponding meaning;

"live fish" in relation to natural bait, means live aquatic fauna commonly known as fish;

"natural bait" means any animal or vegetable substance, whether alive or dead but excluding live fish, used in angling to allure fish by virtue of the edibility, smell or taste thereof;

"nature conservator" means a -

- (a) nature conservator appointed in terms of section 3(1)(a);
- (b) member of the South African Police Service;

"nature reserve" means an area declared to be a nature reserve in terms of section 85(1)(a);

"night" means the period from half an hour after sunset on any day to half an hour before sunrise on the following day;

"non-spinning artificial fly" means a fish-hook with one point and one barb to which anything inedible by fish is attached and which cannot rotate when fastened to a line and drawn through water and to which no device which can rotate is attached;

"occupier", in relation to land or land on which waters are situated, means, for the purpose of -

- (a) Chapter 4 of this Act, the owner or, where the land is leased, the lessee;
- (b) any other Chapter of this Act, the person who actually occupies the land and is in control thereof;

"officer or employee of the Board" means any person employed by the Board in terms of section 15(3)(d) of the Eastern Transvaal Parks Board Act, 1995 (Act No. 6 of 1995), and includes any person seconded to the Board, and any like words have a corresponding meaning;

"open season" means a period contemplated in section 7(1)(a);

"ordinary game" means a wild animal contemplated in section 4(1)(c);

"owner", in relation to land or land on which waters are situated, means the -

- (a) person registered as the owner thereof in a deeds registry;
- (b) *bona fide* purchaser thereof prior to the registration of the deed of transfer in his, her or its name, but after the contract of sale has been concluded, to the exclusion of the person contemplated in paragraph (a);
- (c) lawful heir of the person contemplated in paragraph (a) or the purchaser contemplated in paragraph (b), as the case may be, at the death of such person or purchaser or, where the land is subject to a usufruct, the usufructuary;
- (d) lessee of the land who has entered into a lease for a period of not less than 10 years or for the natural life of the lessee or any other person referred to in the lease, or the person to whom the land has been allotted in terms of the laws on land settlement subject to the right to purchase that land;
- (e) trustee, curator, liquidator or judicial manager, or any person appointed in terms of any law to act temporarily or provisionally in such capacity, who is lawfully in control of such land where the owner, as contemplated in paragraph (a), (b), (c) or (d), is a -
 - (i) natural person, and the estate of such owner has been surrendered for the benefit of his or her creditors, sequestrated or placed under curatorship; or
 - (ii) body corporate, and is being wound-up or has been placed under judicial management;
- (f) in the case of a public area or road reserve of any public road, the authority in whom the control and management thereof vests;

"pick" includes to gather, to cut off, to chop off, to uproot, to damage, to burn or to destroy in any manner;

"poison" includes any poison, preparation or chemical used to catch, to immobilize, to sterilize, to kill or to harm physically a wild animal, exotic animal or invertebrate, and any like word has a corresponding meaning;

"prescribe" means to prescribe by regulation;

"premises" includes land, any building, structure or dwelling place, whether mobile, temporary or otherwise, or any vehicle, conveyance, boat or aircraft;

"problem animal" means a wild animal contemplated in section 44(1);

"professional hunter" means any person who offers or agrees to escort any other person for reward in order to enable the latter to hunt a wild animal or an exotic animal;

"protected game" means a wild animal contemplated in section 4(1)(b);

"protected plant" means a plant contemplated in section 69(1)(a);

"protected wild animal" means a wild animal contemplated in section 4(1)(d);

"Province" means the Province of Mpumalanga as contemplated in section 103(1)(e) of the Constitution;

"public road" means a road, outspan, resting place or watering place to which the public or a section thereof has a right of access;

"public sale" means a sale -

- (a) at a public market;
- (b) by a butcher who is the holder of a licence contemplated in section 23(1)(b);
- (c) by the holder of a permit contemplated in section 23(1);

"rare species" means a species of fauna or flora contemplated in section 81;

"relative" means the parent, brother, sister, spouse, child, step-child, grandchild, son-in-law or daughter-in-law of the owner or occupier of land;

"Responsible Member" means the Member of the Executive Council responsible for environmental affairs, including nature conservation in the Province;

"rhinoceros horn" an unprocessed horn or part thereof of a rhinoceros;

"sell" means to sell, to barter, to offer for sale, to display for sale, or to give or to offer at a valuable consideration, and "buy" shall be construed accordingly;

"set-line" means a line and fish-hook which, when used for catching fish, is not under the direct charge of any person but is fastened to anything, but excluding a line and fish-hook fixed to a reel and rod lying loose on the ground or resting on a fork or a stand;

"specially protected game" means a wild animal contemplated in section 4(1)(a);

"specially protected plant" means a plant contemplated in section 69(1)(b);

"stock" means a horse, mule, ass, bull, cow, ox, heifer, calf, sheep, goat, pig or poultry;

"sustainable use area" means an area declared to be a sustainable use area in terms of section 85(1)(e);

"testing-team" means a testing-team contemplated in section 41(4);

"this Act" includes the Schedules thereto, as well as regulations made thereunder.

"waters" means the waters in rivers, streams, creeks, lakes, pans, vleis, dams, reservoirs, furrows, canals and ponds;

"weapon" means a firearm or other weapon or implement with which a projectile can be so propelled that it can kill, injure or immobilize a wild animal or exotic animal, the ammunition for a firearm and any projectile for use in connection with such other weapon or implement and any chemical or preparation for use in connection with such projectile;

"wild animal" means any vertebrate, including a bird and a reptile but excluding a fish, belonging to a species which is not a recognized domestic species and the natural habitat of which is either temporarily or permanently in the Republic and any sub-species thereof occurring in Africa and includes the carcass, egg, flesh (whether fresh or cured), biltong, hide, skin, thong, tooth, tusk, bone, horn, shell, scale, claw, nail, hoof, paw, tail, ear, hair, feather or any other part of such vertebrate, including any part of such vertebrate which has been processed into a final product.

2. Administration of Act. The Board shall be responsible for the administration of the provisions of this Act.

3. Appointment of nature conservators, honorary nature conservators and conservation rangers. (1) The Board may appoint -

- (a) any of its suitably qualified officers and employees as nature conservators;
- (b) any other persons as honorary nature conservators; and
- (c) any of its suitably qualified officers and employees as conservation rangers,

to exercise the powers and perform the functions conferred, entrusted or imposed upon or to them by this Act or any other law.

(2) The requirements to be eligible for appointment in terms of subsection 1(a) or (c) shall be as prescribed.

(3) The Board shall furnish every nature conservator and honorary nature conservator appointed in terms of subsection (1) with a certificate of appointment.

(4) A nature conservator shall wear such uniform as approved by the Board.

CHAPTER 2

WILD ANIMALS

4. Specially protected game, protected game, ordinary game and protected wild animals. (1) The wild animals referred to in -

- (a) Schedule 1 to this Act are specially protected game;
- (b) Schedule 2 to this Act are protected game;
- (c) Schedule 3 to this Act are ordinary game; and
- (d) Schedule 4 to this Act are protected wild animals.

(2) The Responsible Member may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 1, 2, 3 or 4 to this Act.

5. Hunting of specially protected game. (1) Subject to the provisions of this Act, no person shall hunt specially protected game: Provided that upon the written application of the owner of land a permit may be issued to -

- (a) the owner;
- (b) any other person indicated by the owner in the application,

which authorizes the holder to hunt the species, number and sex of specially protected game mentioned in the permit on the land of the owner.

(2) When any person has wounded or has presumably wounded an elephant or a rhinoceros, he or she shall report it within 24 hours at the police station or the office of the nature conservator nearest to the place where the elephant or rhinoceros was wounded or was presumably wounded.

(3) Any person who contravenes or fails to comply with subsection (1) or (2) shall be guilty of an offence and liable on conviction, in the case of a contravention of -

- (a) subsection (1), to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed;
- (b) subsection (2), to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

6. Hunting of protected game. (1) Subject to the provisions of this Act, no person shall hunt protected game: Provided that upon the written application of the owner of land a permit may be issued to -

- (a) the owner;
- (b) any other person indicated by the owner in the application,

which authorizes the holder to hunt the species, number and sex of protected game referred to in the permit on the land of the owner.

(2) When any person has wounded or has presumably wounded a hippopotamus, he or she shall report it within 24 hours at the police station or the office of the nature conservator nearest to the place where the hippopotamus was wounded or was presumably wounded.

(3) Any person who contravenes or fails to comply with subsection (1) or (2) shall be guilty of an offence and liable on conviction, in the case of a contravention of -

- (a) subsection (1), to a fine or to imprisonment for a period not exceeding 5 years or to both a fine and such imprisonment;
- (b) subsection (2), to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

7. Hunting of ordinary game. (1) Subject to the provisions of this Act, no person shall hunt ordinary game: Provided that -

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- (a) the Responsible Member may by notice in the *Provincial Gazette* declare a period to be an open season during which the persons or category of persons referred to in the notice may, subject to the provisions of this Act, hunt the species and sex of ordinary game referred to therein in the area defined therein;
- (b) the owner of land may hunt ordinary game on land of which he or she is the owner during an open season;
- (c) a relative of the owner of land may with the prior written permission of the owner hunt ordinary game on the land of the owner during an open season, and that relative shall carry the permission with him or her while he or she so hunts on that land;
- (d) the holder of a licence which authorizes him or her to do so may, with the prior written permission of the owner of land, hunt ordinary game on the land of the owner during an open season;
- (e) the owner or occupier of land may hunt ordinary game on land of which he or she is the owner or occupier at any time during the day while it is damaging cultivated trees or cultivated crops;
- (f) upon the written application of the owner of land a permit may be issued to -
 - (i) the owner;
 - (ii) any other person indicated in the application,

which authorizes the holder to hunt the species, number and sex of ordinary game referred to in the permit on the land of the owner during a period other than an open season.

(2) The written permission contemplated in paragraphs (c) and (d) of the proviso to subsection (1) shall contain:

- (a) the name and residential address of the person granting it;
- (b) the date on which it is granted;
- (c) a description of the land on which the game may be hunted;
- (d) the name and residential address of the person to whom it is granted and the relationship, if any, to the person granting it;
- (e) particulars of the number, species and sex of the game that may be hunted;
- (f) the date on which or period during which the game may be hunted;
- (g) the signature of the person -
 - (i) granting it;
 - (ii) to whom it is granted.

(3) If the Responsible Member does not declare an open season referred to in subsection 1(a), there shall be no open season.

(4) Any person who contravenes or fails to comply with subsection (1), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

8. Hunting of protected wild animals. (1) Subject to the provisions of this Act, no person shall hunt a protected wild animal: Provided that -

(a) upon the written application of the owner of land a permit may be issued to -

(i) the owner;

(ii) any other person indicated by the owner in the application,

which authorizes the holder to hunt the species, number and sex of protected wild animals referred to in the permit on the land of the owner;

(b) the owner of land, or his or her relative or an occupier of that land, to whom the owner has granted written permission to hunt on his or her land, which permission shall be carried by that relative or occupier with him or her while he or she so hunts on that land, may hunt -

(i) a buffalo if cattle are kept on that land;

(ii) any other protected wild animal during the day or night while it is causing or is about to cause damage to stock or is in the immediate vicinity of the carcass of stock which it has or apparently has killed.

(2) When any person has killed or wounded or has presumably wounded a buffalo, lion, leopard or cheetah in the circumstances contemplated in paragraph (b) of the proviso to subsection (1), he or she shall report it within 24 hours at the police station or the office of the nature conservator nearest to the place where the buffalo, lion, leopard or cheetah was killed or wounded or was presumably wounded.

(3) Any person who contravenes or fails to comply with subsection (1) or (2) shall be guilty of an offence and liable on conviction, in the case of a contravention of -

(a) subsection (1), to a fine or to imprisonment for a period not exceeding 4 years or to both a fine and such imprisonment;

(b) subsection (2), to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

9. Hunting in nature reserves. (1) Subject to the provisions of this Act, no person shall hunt game in a nature reserve: Provided that -

(a) upon the written application of the owner of land in a nature reserve a permit may be issued to -

(i) the owner;

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- (ii) any other person indicated by the owner in the application,

which authorizes the holder to hunt the species, number and sex of game referred to in the permit on the land of the owner;

- (b) the owner of land to whom a permit has been issued in terms of paragraph (a) may grant to the holder of a licence which authorizes him or her to hunt ordinary game, permission in writing to hunt, subject to the provisions of the permit, the ordinary game referred to in the licence on the land of the owner during an open season.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 4 years or to both a fine and such imprisonment.

(3) Notwithstanding the provisions of subsection (2), any person convicted of a contravention of subsection (1) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

10. Hunting during night. (1) Subject to the provisions of this Act, no person shall hunt game during the night, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 4 years or to both a fine and such imprisonment.

(3) Notwithstanding the provisions of subsection (2), any person convicted of a contravention of subsection (1) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

11. Hunting of game with certain weapons. (1) Subject to the provisions of this Act, no person shall hunt game with -

- (a) a weapon which can, after it has been discharged, automatically reload and fire when the trigger thereof is pulled or held in a discharged position;
- (b) a weapon discharging a rimfiring cartridge of 0,22 of an inch or smaller calibre;
- (c) a weapon firing a bullet not smaller than 0,375 of an inch, if such game is specially protected game;
- (d) a shotgun;
- (e) an air-gun,
- (f) a weapon fitted with a silencer or any other device which is intended to mute the sound thereof when it is fired;

unless he or she is the holder of a permit which authorizes him or her to do so: Provided that -

- (i) any person may hunt a hare or a bird with a shotgun or a weapon discharging a rimfiring cartridge of 0,22 of an inch calibre;
- (ii) the owner of land or his or her relative may with his or her permission hunt game, excluding specially protected game, with any firearm on the land of the owner.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

12. Prohibited acts with certain devices or means. (1) Subject to the provisions of this Act, no person shall, on land on which any wild animal is found or is likely to be found -

- (a) bring or be in possession of a snare, trap, gin, net, bird-lime, trap-cage or other device or means intended or suitable for the hunting or catching of a wild animal;
- (b) construct a pitfall or holding pen:

Provided that a -

- (i) snare, trap, gin, net, bird-lime, trap-cage or other device or means contemplated in paragraph (a);
- (ii) pitfall or holding pen contemplated in paragraph (b),

may be brought, possessed or constructed by -

- (aa) the owner of land or his or her relative with his or her permission on the land of the owner;
- (bb) the occupier of land on land of which he or she is occupier;
- (cc) a trader on the premises on which he or she conducts business;
- (dd) any other person on any land if he or she has obtained the prior written permission of the owner or occupier of such land.

(2) The proviso to subsection (1) shall not apply in respect of land on which specially protected game is found or is likely to be found.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

13. Hunting of protected wild animals under certain circumstances. (1) Subject to the provisions of this Act, no person shall hunt a protected wild animal which -

- (a) is under the influence of a tranquillising, narcotic, immobilising or similar agent;
- (b) has been lured by -
 - (i) a simulation or recording of the natural sound made by an animal;

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- (ii) a sound made by man;
- (iii) bait; or
- (c) has been confined to a cage or an enclosure the area of which is less than 1000 hectares and from which it cannot readily escape,

unless he or she is the holder of a permit which authorizes him or her to do so: Provided that the owner of land, or his or her relative or an occupier of that land, to whom the owner has granted written permission to hunt on his or her land, which permission shall be carried by that relative or occupier with him or her while he or she so hunts on that land, may hunt a spotted hyaena, cheetah, leopard or lion, lured as contemplated in paragraph (b)(iii) and which is in the immediate vicinity of the carcass of stock which it has or apparently has killed.

(2) When any person has killed or wounded or has presumably wounded a spotted hyaena, cheetah, leopard or lion in the circumstances contemplated in the proviso to subsection (1), he or she shall report it within 24 hours at the police station or the office of the nature conservator nearest to the place where the spotted hyaena, cheetah, leopard or lion was killed or wounded or was presumably wounded.

(3) Any person who contravenes or fails to comply with subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

14. Hunting on or from a public road. (1) Subject to the provisions of this Act, no person shall hunt or catch any wild animal or exotic animal on or from a public road: Provided that the -

- (a) owner of land or his or her relative may on a public road traversing the land of the owner;
- (b) occupier of land may on a public road traversing the land of which he or she is the occupier,

hunt or catch game, a wild animal which is not game or an exotic animal, if the owner, relative or occupier is otherwise lawfully entitled to hunt or catch such game or animal.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

15. Entering upon land with weapons and conveyance of firearms. (1) No person shall enter upon or be on land upon which game is found or is likely to be found while he or she is in possession of a weapon, unless he or she has a lawful reason or has obtained the written permission of the owner or occupier of the land beforehand to do so.

(2) No person shall convey a firearm on a public road traversing land on which game is found or is likely to be found: Provided that -

- (a) the owner or occupier of such land or any person who is authorized in terms of this Act to hunt or catch a wild animal or an exotic animal on such land may convey a firearm;

- (b) any person may convey a handgun, or a firearm whereof the barrel, bolt, chamber, tube or magazine is not loaded, in a thoroughly closed gunbag, guncase or gunholder designed and made for that purpose,

on such road.

(3) For the purpose of subsection (1) "land" shall not include a public road and for the purpose of subsection (2) "handgun" shall mean a revolver or pistol intended for self-defence and designed or suited for carrying in a holster on the body of a person.

(4) Any person who contravenes or fails to comply with subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

16. Catching of game. (1) Subject to the provisions of this Act, no person shall catch game: Provided that -

- (a) upon the written application of the owner of land a permit may be issued to -
 - (i) the owner;
 - (ii) any other person indicated by the owner in the application,

which authorizes the holder to catch the species, number and sex of game referred to in the permit on the land of the owner;

- (b) any person who assists the holder of a permit contemplated in paragraph (a) to catch the game referred to in such permit may catch such game on the instructions of the holder of the permit.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

(3) Notwithstanding the provisions of subsection (2), any person convicted of a contravention of subsection (1) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

(4)(a) No person shall capture, transport or keep game or any other wild animal for commercial purposes unless he or she is in possession of a game dealers licence issued by the Board.

- (b) A game dealers licence -
 - (i) shall be valid for a period of 12 months;
 - (ii) may be renewed annually; and
 - (iii) shall not be transferable.

(5) Every licensed game dealer shall keep a register, in the prescribed format, of all game and other wild animals which he captures, buys, sells, breeds, exchanges or barter, disposes of and of those which die.

(6) Any person who contravenes or fails to comply with any provision of this section or any provision, restriction or condition of a licence granted in terms of this section, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period of not exceeding 2 years or to both a fine or such imprisonment.

17. Leaving or making of openings in certain fences. (1) Where land is fenced in such manner that the game found or likely to be found thereon cannot readily escape from such land, no person shall leave, make or cause to be made in the fence an opening so designed that game entering upon such land through the opening cannot easily find the opening to escape through it, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

18. Hunting or catching of wild animals in certain manners. (1) Subject to the provisions of this Act, no person shall hunt or catch a wild animal with the aid of, by means of or by the use of -

- (a) a snare, trap, gin, net, bird-lime, pitfall, holding pen, trap-cage or similar device, means or method;
- (b) a bow and arrow or similar weapon or any other weapon discharging an arrow or dart;
- (c) a dog;
- (d) an aircraft;
- (e) a setgun or similar device,

unless he or she is the holder of a permit which authorizes him or her to do so: Provided that -

- (i) the owner of land or his or her relative with his or her permission may, on the land of the owner, or the occupier of land may, on land of which he or she is the occupier, hunt or catch a wild animal with the aid of, by means of or by use of a trap or trap-cage where it is -
 - (aa) in the immediate vicinity of the carcass of stock which it has or apparently has killed;
 - (bb) about to cause damage to stock;
- (ii) any person may, with the aid of, by means of or by the use of any of such weapons contemplated in paragraph (b) as the Responsible Member may prescribe, hunt any of such species of wild animals as the Responsible Member may likewise prescribe;
- (iii) a dog may be used for the -
 - (aa) lawful hunting of a bird;

(bb) pursuit of a wild animal which has been wounded during the lawful hunting thereof;

(iv) a problem animal may be hunted or caught with the aid of, by means of or by the use of a trap, gin, pitfall or dog.

(2) The proviso to subsection (1) shall not apply in respect of land on which specially protected game is found or is likely to be found.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

(4) Notwithstanding the provisions of subsection (3), any person convicted of a contravention of subsection (1) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

19. Hunting or catching of exotic animals and wild animals which are not game. (1) Subject to the provisions of this Act, no person shall hunt or catch an exotic animal or a wild animal which is not game on land of which he or she is not the owner, unless he or she has obtained the written permission of the owner of the land on which he or she hunts or catches the exotic or wild animal beforehand and carries the permission with him or her when he or she hunts or catches it.

(2) The written permission contemplated in subsection (1) shall contain -

(a) the name and residential address of the person granting it;

(b) the date on which it is granted;

(c) a definition of the land on which the exotic or wild animals may be hunted or caught;

(d) the name and residential address of the person to whom it is granted and the relationship, if any, to the person granting it;

(e) particulars of the number, species and sex of the exotic or wild animals that may be hunted or caught;

(f) the date on which or period during which the exotic or wild animals may be hunted or caught;

(g) the signature of the person -

(i) granting it; and

(ii) to whom it is granted.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

20. Responsible Member may cause wild animals or exotic animals to be hunted or caught.

(1) Where a wild animal or an exotic animal -

- (a) is causing damage to cultivated trees or cultivated crops;
- (b) is present in such numbers that grazing is materially damaged;
- (c) is likely to constitute a danger to human life;
- (d) is causing damage to property to such an extent that the destruction of the animal is necessary;
- (e) is wounded or injured;
- (f) should be hunted in the interest of nature conservation,

the Responsible Member may instruct an officer or employee of the Board or authorize any other person to hunt or to catch the wild animal or exotic animal: Provided that the Responsible Member shall prior to issuing such an instruction or authorisation take such steps as may be reasonable in the circumstances to consult with the owner or occupier of the land on which such animal is to be found.

(2) The officer or employee instructed in terms of subsection (1) to hunt or catch a wild animal or an exotic animal or any other person so authorized may, with due regard to the provisions of section 14 of the Constitution, 1996, enter upon any land to hunt or catch the animal.

(3) Any person who wilfully obstructs, hinders or interferes with the officer or employee in the execution of an instruction or any other person in the exercise of a power given or granted in terms of subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

21. Poisoning of game or wild animals which are not game. (1) Subject to the provisions of this Act, no person shall poison game or hunt a wild animal which is not game by making use of a device for shooting poison or making use of poison, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

(3) Notwithstanding the provisions of subsection (2), any person convicted of a contravention of subsection (1) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

22. Possession of elephant tusks and rhinoceros horns. (1) Subject to the provisions of this Act, no person shall possess an elephant tusk or a rhinoceros horn unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment.

23. Sale of game. (1) Subject to the provisions of this Act, no person shall sell game, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that -

- (a) the owner of land may sell live game, or the meat (whether fresh, processed or cured (including biltong)) or carcass of game which he or she has hunted or caught in terms of this Act on land of which he or she is the owner, or cause it to be sold at a public sale;
- (b) a butcher who is the holder of a licence issued in terms of this Act may sell the meat or a carcass sold to him or her in terms of paragraph (a);
- (c) a trader may, on the premises on which he or she conducts business, sell biltong sold to him or her in terms of paragraph (a) or (b).

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

(3) Notwithstanding the provisions of subsection (2), any person convicted of a contravention of subsection (1) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

24. Purchase of game. (1) No person shall purchase game except from a person who sells it lawfully.

(2) Any person selling game shall deliver to the purchaser, together with the game, a document containing -

- (a) the name and address of the seller;
- (b) the date on which the game is sold; and
- (c) a description of the game sold.

(3) No person shall receive game sold to him, unless the seller has delivered to him or her a document as contemplated in subsection (2).

(4) Any person to whom game has been sold shall carry the document contemplated in subsection (2) with him or her when he or she conveys such game and shall retain such document in his or her possession for the period during which such game remains in his or her possession.

(5) Any person who contravenes or fails to comply with subsection (1), (2) or (3) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

25. Donation of game. (1) No person shall donate game other than game hunted or acquired lawfully.

(2) Any person donating game shall deliver to the donee, together with the game, a document containing -

- (a) the name and residential address of the donor;

- (b) the date on which and the address where the game is delivered;
- (c) a description of the game donated;
- (d) particulars of the manner in which the game came into possession of the donor;
- (e) the name and residential address of the donee; and
- (f) the signature of the donor.

(3) No person shall receive game as a donation, unless the donor has delivered to him or her a document as contemplated in subsection (2).

(4) Any person to whom game has been donated shall carry the document contemplated in subsection (2) with him or her when he or she conveys such game and shall retain such document in his or her possession for the period during which such game remains in his or her possession.

(5) Any person who contravenes or fails to comply with subsection (1), (2), (3) or (4) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

26. Picking up or removal of game. (1) No person shall pick up or remove game which has not been hunted or caught lawfully or which has been killed or caught, or apparently killed or caught, by an animal or bird of prey, unless he or she has obtained the written permission of the owner or occupier of the land on which such game was found beforehand or, where the owner or occupier is not available, of the official in charge of the police station or office of the nature conservator nearest to the land on which the game was found.

(2) For the purpose of subsection (1) "land" shall include a public road.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

27. Receipt, possession, acquisition or handling of dead game. (1) Any person who -

- (a) receives dead game knowing that it was not hunted or acquired lawfully;
- (b) is found in possession of dead game in respect of which there is a reasonable suspicion that it was not hunted or acquired lawfully and is unable to give a satisfactory account of such possession;
- (c) in any manner acquired or receives into his or her possession or handles dead game without having reasonable cause, proof of which shall be on him, for believing at the time of such acquisition, receipt or handling that such game was hunted or acquired lawfully,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

(2) For the purpose of subsection (1) "dead game" shall not include dead game purchased at a public sale.

28. Conveyance of dead game. (1) No person shall convey dead game: Provided that dead game may be conveyed by -

- (a) the owner of the land if he or she has hunted the game in terms of this Act or by any person on his or her behalf who shall carry with him or her, when he or she conveys that game, a document from the owner which shall contain the following particulars:
 - (i) the name and address of the owner;
 - (ii) a description of the land on which the game was hunted;
 - (iii) the number and species of game to be conveyed;
 - (iv) the destination of the game;
 - (v) the name of the person who conveys the game; and
 - (vi) the signature of the owner and the date on which the owner signed the document;
- (b) a relative of the owner of land who has hunted it on the land of the owner with the written permission of the owner and who carries the permission with him or her when he or she conveys it;
- (c) any person who has hunted or caught it in terms of a licence, permit or exemption and who carries the licence, permit or exemption with him or her when he or she conveys it;
- (d) any person who has purchased it lawfully and who carries the document contemplated in section 24(2) with him or her when he or she conveys it;
- (e) any person to whom it has been donated and who carries the document contemplated in section 25(2) with him or her when he or she conveys it;
- (f) any person who has picked it up and who carries the permission contemplated in section 26(1) with him or her when he or she conveys it;
- (g) any person who has imported such game which is not an endangered species or a rare species from any place outside the Province and carries documentary proof of the hunting, purchase or donation thereof with him or her when he or she conveys it;
- (h) any person who has imported such game which is an endangered species or a rare species into the Province -
 - (i) from any place, excluding another province, and carries a permit issued in terms of section 82(1) with him or her when he or she conveys it;
 - (ii) from another province and carries documentary proof of the hunting, purchase or donation thereof with him or her when he or she conveys it;

- (i) any person who has hunted or caught it in terms of a permission contemplated in section 37(2) and who carries the permission with him or her when he or she conveys it.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

29. Keeping or conveyance of live game. (1) Subject to the provisions of this Act, no person shall keep or convey live game, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

30. Conveyance or keeping of live wild animals or exotic animals in certain conditions. (1) No person shall convey or cause a live wild animal or exotic animal to be conveyed in conditions which are unhygienic or in which such animal may be injured or in circumstances which are detrimental for the survival of such wild animal or exotic animal.

(2) Any person keeping in captivity any wild animal or exotic animal shall -

- (a) provide it daily with its natural food;
- (b) provide it with clean drinking water at all times;
- (c) provide it with adequate water for bathing according to its natural habits;
- (d) make adequate provision for it to sleep according to its natural habits;
- (e) if it is kept in an enclosure, provide an enclosure which affords adequate ventilation and light, as well as shelter against heat, cold and inclement weather and such minimum space as may be prescribed by regulation under this Act or, if such animal is kept in captivity under the authorisation of any permit, as may be specified therein;
- (f) keep the enclosure in which it is kept in a clean and hygienic condition at all times;
- (g) ensure that it is not unnecessarily disturbed.

(3) No person shall trim, sever or clip the wing or wing feathers of any bird which is a wild animal or keep on a rope, cord or chain, or anything serving a similar purpose, any wild animal, which he or she has in his or her possession or keeps in captivity.

(4) Any person who contravenes or fails to comply with subsection (1), (2) or (3) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

31. Importing of live wild animals. (1) No person shall import a live wild animal into the Province, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

32. Exporting or removal of wild animals from Province. (1) No person shall export or remove a wild animal from the Province, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that any person may export or remove to any other province the carcass or fresh meat of a wild animal which has been hunted lawfully, or biltong which has been acquired lawfully.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

(3) Notwithstanding the provisions of subsection (2), any person convicted of a contravention of subsection (1) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

33. Prohibited acts with certain live wild animals. (1) No person shall keep, possess, sell, donate or receive as a donation or convey a live wild animal referred to in Schedule 5 to this Act, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) The Responsible Member may, by notice in the *Provincial Gazette*, amend, substitute or repeal Schedule 5 to this Act.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

34. Prohibited acts with exotic animals. (1) No person shall -

- (a) import into the Province or convey or set free therein a live exotic animal;
- (b) convey, keep, possess, sell, purchase, donate or receive as a donation a live exotic animal referred to in Schedule 6 to this Act,

unless he or she is the holder of a permit which authorizes him or her to do so: Provided that any person may convey in the Province an exotic pet animal or exotic bird, excluding such animal or bird referred to in Schedule 6 to this Act.

(2) The Responsible Member may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 6 to this Act.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

35. Prohibited acts with certain invertebrate. (1) No person shall collect, catch, kill, keep, purchase, sell, donate or receive as a donation, convey, import into the Province or export or remove therefrom an invertebrate referred to in Schedule 7 to this Act, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) The Responsible Member may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 7 to this Act.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

36. Power of Responsible Member in respect of survival of certain wild animals. (1) Where it is necessary for the survival of any species of wild animal, the Responsible Member may, in consultation with the owner or occupier of the land on which the species of wild animal is found, instruct an officer or employee of the Board in writing to catch such species of wild animal and to release it on the land defined in the instruction.

(2) The officer or employee to whom an instruction has been given in terms of subsection (1) may enter upon any land to catch the species of wild animal referred to in the instruction.

(3) Any person who wilfully obstructs, hinders or interferes with the officer or employee in the carrying out of an instruction given in terms of subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

(4) The Responsible Member shall pay the owner of the land on which a wild animal has been caught in terms of subsection (1) such compensation as is reasonable.

37. Exemption to hunt, catch or sell game. (1) Where land is enclosed by a fence, wall, natural boundary or other obstruction or any combination of such fence, wall, natural boundary or obstruction in such manner that game on land outside such enclosed land cannot readily gain access thereto and that game cannot readily escape from the land so enclosed, the Responsible Member may, on the written application of the owner of the land, exempt -

- (a) the owner;
- (b) any other person indicated by the owner in the application,

in writing from all or any of the provisions of this Act applicable to the hunting, catching, or sale of game in respect of the hunting, catching or sale of the species of game referred to in the exemption on the land so enclosed.

(2) The holder of an exemption contemplated in subsection (1), may -

- (a) grant permission in writing to any other person to hunt, catch or sell, subject to the provisions of the exemption, the species of game referred to in the exemption on the land contemplated therein;
- (b) authorize any other person to assist with the catching of the game referred to in the exemption on the land contemplated therein.

(3) A permission contemplated in subsection (2) shall contain -

- (a) the name and residential address of the person granting it;

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- (b) the date on which it is granted;
- (c) a definition of the land contemplated in the exemption;
- (d) the name and residential address of the person to whom it is granted;
- (e) particulars of the number, species and sex of game which may be hunted, caught or sold;
- (f) the date on which or period during which the game may be hunted, caught or sold;
- (g) the signature of the person -
 - (i) granting it;
 - (ii) to whom it is granted.

(4) The holder of a permission contemplated in subsection (2) may, in accordance with the particulars contained therein and subject to the provisions of the exemption contemplated in subsection (1), hunt, catch or sell the game referred to in the permission on the land defined therein.

(5) The holder of a permission contemplated in subsection (2) shall carry it with him or her when he or she hunts, catches or sells game thereunder.

(6) Any person who contravenes or fails to comply with subsection (5) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

38. Transfer of hunting-rights. (1) The owner of land may transfer in writing any of his or her hunting-rights, excluding those conferred by paragraph (b) of the proviso to section 8(1), paragraph (ii) of the proviso to section 11(1), the proviso to section 13(1) and paragraph (i) of the proviso to section 18(1), to any other person.

(2) Any person to whom hunting-rights have been transferred in terms of subsection (1) shall not exercise such rights, unless he or she is the holder of such licence or permit as may be required in terms of this Act.

39. Prohibited acts. (1) Any person who -

- (a) falsely professes to be the owner or occupier of land and grants permission to any other person to hunt or catch a wild animal or an exotic animal on land of which he or she so professes to be the owner or occupier;
- (b) permits or allows any other person to do anything which is an offence in terms of this Act;
- (c) falsely professes that he or she sells game lawfully;
- (d) organises and or conducts a hunt with a client under false pretensions,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

(2) Notwithstanding the provisions of subsection (1), any person convicted of a contravention of subsection (1)(b) or (c) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

40. Establishment or operating of game parks or similar institutions. (1) Notwithstanding anything to the contrary contained in this Act or any other Provincial law, no person shall establish or operate a game park, zoological garden, bird sanctuary, reptile park, snake park or similar institution, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Subsection (1) shall not apply to an institution which is subject to the provisions of the Cultural Institutions Act, 1969 (Act No. 29 of 1969).

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

CHAPTER 3

PROFESSIONAL HUNTERS AND HUNTING-OUTFITTERS

41. Acting as professional hunters or hunting-outfitters. (1) Subject to the provisions of this Act, no person shall act as -

- (a) a professional hunter;
- (b) a hunting-outfitter,
- (c) a director of a professional hunting school,

unless he or she is the holder of a permit which authorizes him or her to do so.

(2) The requirements to be complied with by a professional hunter, hunting-outfitter or director of a professional hunting school shall be as the Responsible Member may determine or prescribe.

(3) The Responsible Member may, by notice in the *Provincial Gazette*, exempt any group or class of professional hunters or hunting-outfitters from the provisions of subsection (2).

(4) The Board may appoint such number of persons as it may deem expedient as a testing-team to advise it whether an applicant complies with the requirements determined or prescribed in terms of subsection (3) and the Responsible Member may, in consultation with the Member of the Executive Council responsible for finance, determine the remuneration, travelling and subsistence allowances and other allowances payable to a member of a testing-team who is not a member of the public service.

(5) In order to advise the Board as contemplated in subsection (4), a testing-team may, upon payment of such fees as the Board may determine, examine an applicant and inspect his or her premises or facilities.

(6) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

42. Hunting of wild animals or exotic animals by clients. (1) A client shall not hunt a wild animal or an exotic animal, unless -

- (a) the hunt has been organized by a hunting-outfitter; and
- (b) the client is escorted by a professional hunter.

(2) A professional hunter shall see to it that his or her client shall not hunt contrary to the provisions of this Act and in order to do so, he or she may give his or her client any lawful instruction.

(3) The client shall obey any instruction given in terms of subsection (2).

(4) Any person who contravenes or fails to comply with subsection (1), (2) or (3) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

43. Hunting-outfitters to be holders of hunting-rights. (1) Subject to the provisions of this Act, a hunting-outfitter shall not present or organize the hunting of a wild animal or an exotic animal for a client and a professional hunter shall not escort a client, unless the hunting-outfitter is the holder of hunting-rights in respect of the land on which such hunting is presented or organized.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

(3) Notwithstanding the provisions of subsection (2), any person convicted of a contravention of subsection (1) in respect of specially protected game shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

CHAPTER 4

PROBLEM ANIMALS

44. Problem animals. (1) The wild animals referred to in Schedule 8 to this Act are problem animals and inclined to cause damage.

(2) The Responsible Member may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 8 to this Act.

45. Cancellation of registration of clubs. (1) The registration of all clubs established for the hunting of problem animals in accordance with the provisions of the Nature Conservation Ordinance, 1983 (Ord. No. 12 of 1983) (Transvaal), in so far as hunting areas within the boundaries of the Province are concerned, is hereby cancelled.

(2) The secretary of each club affected by the provisions of subsection (1) shall notify every member thereof of such cancellation.

46. Hunting of problem animals by officers or employees of Board. The Board may, upon the application of the owner or occupier of land, make an officer or employee of the Board available to hunt problem animals on the land of such owner or occupier on such conditions, including the levying of fees, as the Board may determine.

47. Research on problem animals. (1) The Board may authorize any person in writing to do such research as it may determine on a problem animal, a wild animal or an exotic animal the name of which may, be included in Schedule 8 to this Act in terms of section 44(2) and which the Responsible Member likewise determines.

(2) Any person authorized in terms of subsection (1) to do research may, for that purpose, but on such conditions as the Board may determine, catch or hunt the animal on which research is done with the aid of any device or means whatsoever or poison such animal.

48. Financial Assistance. The Board may, on such conditions as it may determine, render financial assistance to any person or association of persons actively engaged in the control of problem animals.

49. Poisoning of problem animals by means of poison-pellets. (1) Subject to the provisions of this Act, a problem animal may be hunted by making use of a poison-pellet: Provided that such poison-pellet shall be concealed in such a manner under vegetation or is so covered with plant debris or a layer of soil or sand, that it can only be traced by the smell thereof.

(2) For purpose of subsection (1) "poison-pellet" means -

- (a) a piece of meat;
- (b) any other animal tissue;
- (c) any other substance,

which lures certain species of wild animals by virtue of its edibility, smell or taste, and in which only prescribed poison is placed according to the prescription of a veterinarian as defined in the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982).

50. Prohibited acts relating to problem animals. (1) No person shall -

- (a) subject to the provisions of this Act or any other law, hunt a problem animal with the aid of any device or method whatsoever, including the use of poison, without the permission of the owner or occupier of land upon which such problem animal is to be hunted first having been obtained;
- (b) use a device, method or type of poison to hunt a problem animal other than a device, method or type of poison as may be prescribed;
- (c) keep, possess, sell, buy, donate, or receive as a donation, import, convey, breed or set free a live problem animal in the Province, or export or remove such an animal from the Province, unless he or she is the holder of a permit which authorizes him or her to do so;

- (d) place poison in the carcass or part of the carcass of any animal.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

CHAPTER 5

FISHERIES

51. Application of Chapter. The provisions of this Chapter shall not apply to -

- (a) the owner or occupier of land who catches fish;
- (b) a relative of the owner or occupier of land who catches fish with the permission of such owner or occupier;
- (c) an employee in the full-time service of the owner or occupier of land who, on the instructions of such owner or occupier, catches fish otherwise than by angling,

in waters surrounded by the land of such owner or occupier.

52. Closed season for fish. (1) The Responsible Member may by notice in the *Provincial Gazette* declare a period to be a closed season during which the catching of fish in the waters defined in the notice shall be prohibited.

(2) Any person who -

- (a) catches fish during a closed season in the waters defined in a notice contemplated in subsection (1);
- (b) wilfully damages, disturbs or destroys the ova or spawn of fish or the spawning bed, bank or shallow whereon or wherein the spawn of fish is deposited,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

53. Catching of fish otherwise than by angling. (1) No person shall -

- (a) catch fish in waters otherwise than by angling, unless he or she is the holder of a permit which authorizes him or her to do so;
- (b) while angling employ a method to hook fish on any part other than in the mouth.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

54. Permissible fishing tackle and bait. (1) No person shall -

- (a) angle with more than two lines with more than either two single hooks with natural bait or one artificial lure or spoon attached to each line;
- (b) catch fish with a set-line, unless he or she is the holder of a permit which authorizes him or her to do so;
- (c) angle in fly-fishing waters otherwise than with one line with one non-spinning artificial fly attached to it.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

55. Possession of nets or traps. (1) No person shall possess a net or trap with which fish may be caught: Provided that -

- (a) any person may possess a landing-net or keep-net designed for the purpose of landing or keeping fish caught with a line and a fish-hook;
- (b) such a net or trap may be possessed by -
 - (i) the owner or occupier of land surrounding waters;
 - (ii) a trader on the premises on which he or she conducts business;
 - (iii) the holder of a permit issued in terms of section 53(1)(a).

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

56. Angling without licence. (1) Subject to the provision of this Act, no person of or above the age of 16 years shall angle, unless he or she is the holder of a licence which authorizes him or her to do so and carries such licence with him or her when angling.

Notwithstanding subsection (1) -

- (a) the owner or occupier of land may angle in waters situated on land of which he or she is the owner or occupier;
- (b) a relative of the owner or occupier of land may, with the permission of such owner or occupier, angle in waters situated on the land of such owner or occupier;
- (c) an employee in the full-time service of the owner or occupier of land who has obtained the written permission of such owner or occupier beforehand and carries the permission with him or her, may angle in waters surrounded by the land of such owner or occupier.

(2) Any person who contravenes or fails to comply with subsection (1) or any person contemplated in subsection (1)(c) who fails to obtain the permission contemplated therein or fails to carry it with him or her while angling shall be guilty of an offence and liable of conviction where such person -

- (a) not the holder of a licence or permission, to a fine or to imprisonment for a period not exceeding 2 years or to a fine and such imprisonment;
- (b) is the holder of a licence or permission, but does not carry it with him or her while angling, to a fine or to imprisonment for a period not exceeding 6 months or to both a fine and such imprisonment.

57. Exemption to catch or sell fish. (1) Where the Board is of the opinion that waters are so situated or are contained in such manner that fish cannot readily gain access to such waters, it may, upon the written application of the owner of the land on which such waters are situated, exempt -

- (a) the owner;
- (b) any other person indicated by the owner in the application,

in writing from all or any of the provisions of this Act applicable to the catching or sale of fish in the waters referred to in the exemption.

(2) The holder of an exemption contemplated in subsection (1) may grant permission in writing to any other person to catch or sell, subject to the provisions of the exemption, fish in the waters referred to in the exemption.

(3) A permission contemplated in subsection (2) shall contain the -

- (a) name and residential address of the person granting it;
- (b) date on which it is granted;
- (c) name of the person to whom it is granted; and
- (d) signature of the person granting it.

(4) The holder of a permission contemplated in subsection (2) may, in accordance with the particulars contained therein and subject to the provisions of the exemption contemplated in subsection (1), catch fish in the waters referred to in the exemption and sell it.

(5) The holder of a permission contemplated in subsection (2) shall carry it with him or her when he or she catches or sells fish thereunder.

(6) Any person who contravenes or fails to comply with subsection (5) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

58. Permission necessary to catch fish. (1) Subject to the provisions of this Act, no person shall catch fish in waters, unless he or she has obtained the permission of the owner or occupier of the land on which the waters are situated beforehand.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

59. Entering upon land with fishing tackle. (1) No person shall enter upon or be on land on which there are waters in which fish is found or is likely to be found while he or she is in possession of fishing tackle, unless he or she has a lawful reason to do so or has obtained the permission of the owner or occupier of the land beforehand.

(2) For the purpose of subsection (1) "land" shall not include a public road.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

60. Placing of obstruction in waters and draining of waters. (1) Any person who -

- (a) places an obstruction in waters preventing the free passage of fish;
- (b) for the purpose of catching or killing fish, drains the water from a pond, reservoir, lake or similar place by -
 - (i) cutting through, breaking down or otherwise damaging a wall, bank or barrier thereof;
 - (ii) tampering or interfering with a sluice, gate, valve or outlet thereof,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

61. Placing of certain objects on waters. (1) No person shall place an object which floats on water which -

- (a) constitutes or is likely to constitute a danger to -
 - (i) a boat;
 - (ii) any person practising sport;
 - (iii) any person who angles;

in or on the waters in which the object has been placed;

- (b) serves as a marker indicating the place where there is any object, substance, agent or product under the water which lures or is likely to lure fish,

unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

62. Placing or releasing of fish in waters. (1) No person shall place or release live fish in waters, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Notwithstanding subsection (1) any person who has caught a fish may thereafter place or release it alive in the waters in which he or she caught it.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

63. Sale of live freshwater fish. (1) No person shall sell live freshwater fish, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

64. Importing of live fish. (1) No person shall import live fish into the Province, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

65. Fly-fishing waters. (1) The waters defined in Schedule 9 of the Act shall be fly-fishing waters.

(2) The Responsible Member may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 9 to this Act.

66. Receipt, possession, acquisition or handling of fish. Any person who -

- (a) receives fish knowing that it was not caught lawfully;
- (b) is found in possession of fish in respect of which there is a reasonable suspicion that it was not caught lawfully and is unable to give a satisfactory account of such possession;
- (c) in any manner acquires or receives into his or her possession or handles fish without having reasonable cause, proof of which shall be on him or her, for believing at the time of such acquisition, receipt or handling, that such fish was caught lawfully,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

67. Pollution of waters. (1) Any person who -

- (a) dumps or deposits in, allows to be dumped or to be deposited in, or in any other manner allows to enter or percolate into waters any substance or thing, whether solid, liquid or gaseous, that is or is likely to be or to become injurious to aquatic and associated biota;
- (b) carries on a business or follows an occupation having the effect that any substance or thing contemplated in paragraph (a) is used or produced and does not take the necessary steps to prevent such substance or thing from entering or percolating into waters,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment and to a fine not exceeding R10 000 for every day the offence continues.

(2) For the purpose of subsection (1) "aquatic biota" includes all live organisms that are limited to or dependent upon the environment within or adjacent to waters for critical life stages or necessities of life and "day" means a period of twenty-four hours.

68. Prohibited acts with certain aquatic growths. (1) No person shall possess, sell, purchase, donate or receive as donation, convey, import into the Province, cultivate or place in waters an aquatic growth referred to in Schedule 10 to this Act, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) The Responsible Member may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 10 to this Act.

(3) The owner or occupier of land upon which water is artificially retained shall take the necessary steps to eradicate or destroy in such water the aquatic growths referred to in Schedule 10 to this Act.

(4) Any person who contravenes or fails to comply with subsection (1) or (3) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 4 years or to both a fine and such imprisonment.

CHAPTER 6

INDIGENOUS PLANTS

69. Protected plants and specially protected plants. (1) The plants referred to in -

- (a) Schedule 11 to this Act are protected plants;
- (b) Schedule 12 to this Act are specially protected plants.

(2) The Responsible Member may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 11 or 12 to this Act.

70. Picking of protected plants. (1) Subject to the provisions of this Act, no person shall pick a protected plant, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that the owner of land or his or her relative may, on the land of such owner, or the occupier of land or his or her relative may, on the land of such occupier, pick -

- (a) the flower of a protected plant;
- (b) a protected plant -
 - (i) as far as it is necessary for grazing, the making of hay or for any other *bona fide* farming purpose or by burning the veld;
 - (ii) on the portion of such land -

- (aa) required for cultivation, the erection of a building, the construction of a road, dam or airfield, or other development necessitating the destruction of vegetation;
- (bb) set apart solely for the cultivation of such plant.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

71. Picking of indigenous plants in nature reserves. (1) No person shall pick an indigenous plant in a nature reserve, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that the owner of land in a nature reserve or his or her relative may pick on such land or the occupier of land in a nature reserve or his or her relative may pick on such land -

- (a) an indigenous plant which is not a protected plant or specially protected plant;
- (b) a protected plant as contemplated in the proviso to section 70(1).

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

72. Picking of indigenous plants on or near public roads. (1) Subject to the provisions of this Act, no person shall pick an indigenous plant on -

- (a) a public road;
- (b) land next to a public road within a distance of 100 meters measured from the centre of the road,

unless he or she is the holder of a permit which authorizes him or her to do so: Provided that the owner of land contemplated in paragraph (b) or his or her relative may pick on such land or the occupier of land contemplated in paragraph (b) or his or her relative may pick on such land an indigenous plant as contemplated in the proviso to section 70(1).

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

73. Picking of indigenous plants by any person other than owner or occupier. (1) Subject to the provisions of this Act, no person shall pick an indigenous plant which is not a protected plant or specially protected plant on land of which he or she is not the owner or occupier: Provided that -

- (a) a relative of the owner of land may pick on the land of such owner;
- (b) a relative of the occupier of land may pick on the land of such occupier;
- (c) any person who has obtained the written permission of the owner or occupier of land beforehand and who carries it with him, may pick on the land of such owner or occupier,

such a plant.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

74. Donation, sale, export or removal from Province of protected plants. (1) Subject to the provisions of this Act, no person shall donate, sell or export or remove from the Province a protected plant, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that -

(a) any person -

(i) who is authorized in terms of the proviso to section 70(1), 71(1) or 72(1) to pick a protected plant may donate the flower thereof;

(ii) may donate a protected plant planted on land set apart solely for the cultivation thereof;

(b) a protected plant may be donated or sold by -

(i) any person who, subject to the provisions of any other law, sells plants lawfully and who acquired the protected plant from any person who sold it lawfully;

(ii) a botanical garden which is subject to the provisions of the Cultural Institutions Act, 1969 (Act No. 29 of 1969);

(c) a protected plant donated or sold in terms of this subsection may be exported or removed from the Province by the donee or purchaser thereof, if he or she has documentary proof of the donation or purchase and carries it with him or her when he or she conveys the plant.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

75. Purchase or receipt of protected plants. (1) No person shall purchase or receive as a donation a protected plant except from a person who sells or donates it lawfully.

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

76. Importing into and conveyance within Province of protected plants. (1) Subject to the provisions of this Act, no person shall import into or convey within the Province a protected plant, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that -

(a) any person may import into or convey within the Province a protected plant which he or she bought or received as a donation from any other person in any other province, if he or she has documentary proof of the purchase or donation and carries it with him or her when he or she conveys the plant;

(b) any person may convey a protected plant within the Province where -

(i) he or she is authorized in terms of the proviso to section 70(1), 71(1) or 72(1) to pick it;

- (ii) the protected plant has been donated or sold to him or her -
 - (aa) in terms of section 74(1) and he or she complies with the provisions of paragraph (c) of the proviso to section 74(1);
 - (bb) by any person exempted in terms of section 77(1) and he or she complies with the provisions of section 77(4).

(2) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

77. Exemption of owners of nurseries. (1) The Board may, upon written application of the owner of a nursery registered in terms of the provisions of the Plant Improvement Act, 1976 (Act No. 53 of 1976), exempt -

- (a) the owner;
- (b) any other person indicated by the owner in the application,

in writing from all or any of the provisions of this Act applicable to the donation, sale, conveyance within or export or removal from the Province of a protected plant, in respect of any species of protected plant cultivated in such a nursery.

(2) The holder of an exemption contemplated in subsection (1) may grant permission in writing to any other person to donate, to sell, to convey within the Province, export or remove therefrom, subject to the provisions of the exemption, any species of protected plant referred to in the exemption and cultivated on the premises of the nursery referred to therein.

(3) The holder of a permission contemplated in subsection (2) may, in accordance with the particulars contained therein and subject to the provisions of the exemption contemplated in subsection (1), donate, sell, convey within the Province or export or remove therefrom the species of protected plants referred to in the permission.

(4) The holder of a permission contemplated in subsection (2) shall carry such permission with him or her when he or she conveys a protected plant in terms of subsection (3).

(5) Any person who contravenes or fails to comply with subsection (4) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

78. Receipt, possession, acquisition or handling of protected plants. Any person who -

- (a) receives a protected plant knowing that it was not picked lawfully;
- (b) is found in possession of a protected plant in respect of which there is a reasonable suspicion that it was not picked lawfully and is unable to give a satisfactory account of such possession;
- (c) in any manner acquires or receives into his or her possession or handles a protected plant without having reasonable cause, proof of which shall be on him or her, for believing at the time of such acquisition, receipt or handling that such plant was picked lawfully,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

79. Prohibited acts with specially protected plants. (1) Subject to the provisions of this Act, no person shall possess, pick, sell, purchase, donate or receive as a donation, import into or convey within the Province, export or remove from the Province a specially protected plant, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that any person may possess a specially protected plant which grows in its natural habitat but which was not planted.

(2) The holder of a permit contemplated in subsection (1) who sells or donates a specially protected plant, shall deliver to the purchaser or donee, as the case may be, together with the plant, a document containing -

- (a) the name and address of the seller or donor;
- (b) the number of the permit;
- (c) the name and address of the purchaser or donee;
- (d) particulars of the species and quantity of plants sold or donated;
- (e) the date of delivery of the plant; and
- (f) the signature of the seller or donor.

(3) A document contemplated in subsection (2) authorizes the holder thereof to convey the specially protected plant sold or donated to him or her to his or her address and to possess it there for a period not exceeding 60 days.

(4) Any person who contravenes or fails to comply with subsection (1) or (2) shall be guilty of an offence and liable on conviction in the case of a contravention of -

- (a) subsection (1) to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the plant in respect of which the offence was committed;
- (b) subsection (2) to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

80. Invader weeds and plants. (1) The plants referred to in Schedule 13 to this Act are declared invader weeds and plants.

(2) The Responsible Member may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 13 to this Act.

(3) Subject to the provisions of this Act, no person shall possess, sell, purchase, donate or receive as a donation, convey, import into the Province or cultivate a declared invader weed or plant, unless he or she is the holder of a permit which authorizes him or her to do so.

(4) The owner or occupier of land upon which invader weeds and plants are found and which threaten the natural biodiversity shall take the necessary steps to eradicate or destroy such plants on the land of which he or she is the owner or occupier.

(5) Any person who contravenes or fails to comply with subsection (3) or (4) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 4 years or to both a fine and such imprisonment.

CHAPTER 7

ENDANGERED AND RARE SPECIES OF FAUNA AND FLORA

81. Endangered and rare species of fauna and flora. Every species of fauna and flora referred to in Appendices I, II and III (as amended from time to time) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, DC. 1973), and any readily recognisable part or derivative thereof, shall be an endangered species or a rare species of fauna and flora: Provided that those species of fauna and flora referred to in Appendix III shall only be considered to be endangered or rare species for purposes of this Act in so far as the Republic of South Africa is specified in Appendix III as a country in which such species are endangered or rare.

82. Prohibited acts with endangered species or rare species. (1) No person shall import into or export or remove from the Province an endangered species or a rare species, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that a permit shall not be required for the importation into the Province from or the exportation or removal therefrom to another province of any endangered species or rare species.

(2) The proviso to subsection (1) shall not apply where other provisions of this Act are applicable to the importation into the Province or the exportation or removal therefrom of any wild animal, exotic animal, invertebrate, fish or indigenous plant which is an endangered species or a rare species.

(3) Any person who contravenes or fails to comply with subsection (1) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 4 years or to both a fine and such imprisonment.

(4) Notwithstanding the provisions of subsection (3), any person convicted of a contravention of subsection (1) in respect of specially protected game or specially protected plants shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal or plant, as the case may be, in respect of which the offence was committed.

CHAPTER 8

CAVE-FORMATIONS

83. Prohibited acts with caves or cave-formations. (1) No person shall -

- (a) remove from a cave;

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- (b) by way of sale, exchange or donation dispose of;
- (c) import into the Province or export or remove therefrom,

a cave-formation, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) No person shall convey a cave-formation within the Province, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that -

- (a) the holder of a permit contemplated in subsection (1);
- (b) the holder of a written proof that he or she purchased, exchanged or received as a donation the cave-formation from any other person who is the holder of a permit contemplated in subsection (1) which authorizes such person to sell, exchange or donate it,

may convey the cave-formation.

(3) No person shall -

- (a) in any manner disturb or alter the natural atmosphere of a cave, including the burning therein of any matter which emits smoke or gas;
- (b) leave any container, rope, clothing, battery, candle, wax, food or any other object in a cave;
- (c) take into a cave an aerosol container or other container containing paint, dye or other colouring agent;
- (d) break-open, break, remove or in any other manner tamper with an obstruction or structure erected to prevent the unauthorized entrance to a cave;
- (e) break, break-off, crack or in any other manner destroy, damage, mutilate or spoil a cave-formation in a cave or engrave, paint, write or in any other manner make a mark thereon.

(4) Any person who -

- (a) contravenes or fails to comply with subsection (1), (2) or (3);
- (b) is found in possession of a cave-formation in respect of which there is a reasonable suspicion that it was not acquired lawfully and is unable to give a satisfactory account of such possession,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

CHAPTER 9

GENERAL

84. Unique communities. (1) The communities described in Schedule 14 to this Act are unique communities.

(2) The Responsible Member may by notice in the *Provincial Gazette* proclaim, amend, substitute or repeal Schedule 14 to this Act.

(3) Subject to the provisions of this Act, no person shall interfere with in any way or disturb a unique community, unless he or she is the holder of a permit which authorizes him or her to do so.

(4) Any person who contravenes or fails to comply with subsection (3) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

85. Powers of Responsible Member. In addition to any other power conferred upon him or her in terms of this Act or any other law, the Responsible Member may -

- (a) by notice in the *Provincial Gazette* declare an area defined in the notice to be a nature reserve and he or she may at any time by notice amend the definition of such an area or withdraw the declaration of such an area to be a nature reserve: Provided that a nature reserve shall only be declared in respect of land in private ownership upon the application or with the consent of the owner of such land;
- (b) by notice in the *Provincial Gazette* exclude any species of wild animal, exotic animal, invertebrate, fish, indigenous plant or exotic plant, either generally or specifically, from all or any of the provisions of this Act for the area defined in the notice and indicate therein the persons or class or category of persons to whom the provision concerned shall not apply;
- (c) if it is or will be in the interest of nature conservation, by notice in the *Provincial Gazette* exempt any person from all or any of the provisions of this Act;
- (d) on such conditions as he or she may deem expedient, by notice in the *Provincial Gazette* grant official recognition to any society or association of persons, the activities of which promote any object of this Act.
- (e) by notice in the *Provincial Gazette* declare an area defined in the notice to be a conservancy or sustainable use area and he or she may at any time by notice amend the definition of such an area or withdraw the declaration of such an area to be a conservancy or sustainable use area: Provided that a conservancy or sustainable use area shall only be declared in respect of land in private ownership upon the application or with the consent of the owner of such land.

86. Regulations. (1) The Responsible Member may make regulations relating to -

- (a) the administration of the -
 - (i) land managed or used by the Board for purposes of this Act;

- (ii) waters or caves on land contemplated in subparagraph (i);
- (b) the control of the entry into or passage through or over land, waters or caves contemplated in paragraph (a) by any -
 - (i) person or animal;
 - (ii) boat, aircraft or vehicle;
- (c) the control of -
 - (i) any person or animal;
 - (ii) traffic or the use of any boat, aircraft or vehicle,
on any land or waters contemplated in paragraph (a).
- (d) the limiting of the power or type of engine or machine used to propel a boat on waters on land contemplated in paragraph (a);
- (e) the prohibition, regulation or control of -
 - (i) the use of;
 - (ii) any act by any person or category of persons on,
land reserved in terms of section 87(a)(i).
- (f) the manner in which application shall be made in terms of this Act for and the form of a licence, permit or exemption, the circumstances in which and conditions on which it shall be issued and the provisions thereof;
- (g) the granting of different types of licences, permits or exemptions to different categories of persons and the different fees payable for licences, permits and exemptions;
- (h) the number and species of wild animals, exotic animals, invertebrate, fish or plants which may be hunted, caught, angled or picked in terms of a licence, permit or exemption;
- (i) the control and regulation of the hunting or catching of a wild animal, an exotic animal, fish or invertebrate;
- (j) the taking, disturbing, destruction or collection of the eggs or egg shells of a bird or reptile;
- (k) the sale of a wild animal, exotic animal, invertebrate, fish, plant or cave-formation;
- (l) the importation into the Province or the exportation or removal therefrom of a wild animal, exotic animal, invertebrate, fish, plant, endangered species, rare species or cave-formation;
- (m) the requirements to be complied with regarding the possession, keeping, conveyance or removal from one place to any other place of a wild animal, exotic animal, invertebrate, fish, plant or cave-formation;

- (n) the requirements to be complied with when any person has wounded a wild animal;
- (o) the type or calibre of firearm with which any person or category of persons may hunt a wild animal;
- (p) the poisoning of a wild animal or an exotic animal;
- (q) the acquisition or transfer of hunting-rights;
- (r) the registers, records, books or documents required to be kept by a professional hunter or hunting-outfitter and the inspection thereof;
- (s) the services and conveniences to be provided by a hunting-outfitter and the inspection thereof;
- (t) the supervision, control, development and protection of fisheries;
- (u) the measurements, mass and size of fish which may be caught and retained;
- (v) the quantity, nature, measurements, form and construction of fishing tackle, either generally or in relation to a particular species of fish;
- (w) the control of the possession of a protected plant or specially protected plant;
- (x) the control, importation, cultivation, destruction or combating of a plant which, in his or her opinion, could be harmful to or create unfavourable conditions for a wild animal, fish or indigenous plant;
- (y) the research in connection with a wild animal, exotic animal, invertebrate, fish, indigenous plant, cave-formation or other matter referred to in this subsection;
- (z) the retention and disposal of any stock or other animal seized on land contemplated in paragraph (a)(i), including the fees payable by the owner of such stock or other animal to the Board for -
 - (i) the herding, tending and release of;
 - (ii) the dipping, dosage, inoculation or other treatment of;
 - (iii) any damage caused on such land by;
 - (iv) any other cost incurred by the Board in respect of,
 - such stock or other animal;

(AA) Any matter contemplated, required or permitted to be prescribed under this Act; and

any matter in respect of which he or she considers it necessary or expedient to make regulations for the better carrying out of the provisions or the achievement or promotion of the objects of this Act.

(2) The power to make regulations relating to the matters referred to in subsection (1) shall include the power to restrict or prohibit anything in connection therewith either absolutely or conditionally.

(3) Regulations made in terms of subsection (1) may be made to apply generally throughout the Province or within any specified part thereof or to any specified species of wild animal, exotic animal, invertebrate, fish, indigenous plant, exotic plant or cave-formation or to any specified category of persons and may, from time to time, be applied by the Responsible Member by notice in the *Provincial Gazette* to any part of the Province.

(4) Regulations made in terms of subsection (1) may provide for penalties for a contravention thereof or failure to comply therewith in the form of a fine or a period of imprisonment or both a fine and such imprisonment, but no penalty shall exceed a period of imprisonment of 3 years: Provided that a regulation in relation to specially protected game or specially protected plants, may provide for a fine or for imprisonment for a period not exceeding 5 years or for both a fine and such imprisonment.

87. Powers of Board. In addition to any other power conferred upon it in terms of this Act or any other law, the Board may, with due regard to the relevant provisions of the Eastern Transvaal Parks Board Act, 1995, and for such reasonable purposes -

- (a) on or in respect of land used by the Board for purposes of this Act -
 - (i) reserve for a particular purpose such land or portion thereof;
 - (ii) construct and maintain roads, bridges, buildings and such other works as may be necessary;
 - (iii) carry on such business, trade or undertaking, provide such facility or render such service for the convenience of visitors to such land, as it may deem expedient;
 - (iv) admit visitors thereto, limit the admission of visitors or close such land entirely or partially to all visitors or any category of visitors;
 - (v) determine the fees to be levied for the right to enter upon such land or to perform any particular act thereon or to use any facility thereon;
- (b) if it is in the interest of nature conservation, provide in or on land on which there is a nature reserve, recreation area, fishery or nursery such facilities or services for visitors as it may deem expedient;
- (c) take such measures as may be necessary -
 - (i) for research in connection with any wild animal, exotic animal, invertebrate, fish, plant, cave or waters;
 - (ii) in connection with the propagation and preservation of any wild animal, exotic animal, invertebrate, fish or plant;
 - (iii) for the control of weed, invader plants or aquatic growths;
 - (iv) for the preservation of a cave-formation, waters or the environment;
- (d) take steps for the -

- (i) importation and acclimatisation of any wild animal, exotic animal, invertebrate, fish or plant;
- (ii) catching of any wild animal, exotic animal, invertebrate or fish or for the picking of any plant;
- (iii) destruction, reduction, removal or elimination, either generally or in a particular area, of any species of wild animal, exotic animal, invertebrate, fish or plant which may be harmful or injurious to the existence of any other species of wild animal, exotic animal, invertebrate, fish or indigenous plant;
- (e) make any survey or institute any investigation in connection with any wild animal, exotic animal, invertebrate, fish, plant, cave-formation or waters;
- (f) collect and publish statistics and information in connection with nature conservation;
- (g) in general, take such measures as may be necessary for the better carrying out of the provisions of this Act.

88. Licences, permits and exemptions. (1) Subject to the provisions of this Act, the Board may, upon application and payment of the prescribed fees, issue to any person a licence, permit or exemption provided for in this Act, which shall be valid for the period referred to in the licence, permit or exemption and shall be subject to such conditions as may be prescribed or the Board may deem fit to impose in any particular case: Provided that the Board may, subject to the constitutional requirements of lawful and procedurally fair administrative action and the furnishing, upon request, of reasons in writing -

- (a) refuse to issue such a licence, permit or exemption;
- (b) exempt any person from the payment of the prescribed fees;
- (c) amend, suspend or cancel such a licence, permit or exemption or amend, delete or add any condition it is authorized to impose.

(2) The Board shall notify the holder of a licence, permit or exemption of the amendment, suspension or cancellation thereof or of the amendment, deletion or addition of any condition in terms of subsection (1) and the holder shall submit the licence, permit or exemption forthwith to the Board.

(3) A licence, permit or exemption issued contrary to the provisions of this Act shall be null and void and the holder thereof shall return it forthwith to the Board after such fact has come to his or her notice.

(4) The holder of a licence, permit or exemption issued in terms of subsection (1) who -

- (a) contravenes or fails to comply with a condition to which the licence, permit or exemption is subject to in terms of subsection (1);
- (b) fails to submit the licence, permit or exemption to the Board in terms of subsection (2) or to return it to him or her in terms of subsection (3),

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

(5) Any person who -

- (a) alters a licence, permit, exemption or permission issued in terms of this Act;
- (b) fabricates or forges any document for the purpose of passing, using or uttering it as a licence, permit, exemption or permission issued in terms of this Act;
- (c) passes, uses, utters or has in his or her possession any altered licence, permit, exemption or permission contemplated in paragraph (a), or any fabricated or forged document purporting to be a licence, permit, exemption or permission contemplated in paragraph (b);
- (d) applies for a permit, licence, exemption or permission under false pretences or wilfully furnishes false information in order to obtain a permit, licence, exemption or permission,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 3 years or to both a fine and such imprisonment.

(6) Without derogating from any other functions or obligations of the Board in terms of this Act or any other law, the Board shall report bi-annually to the responsible Member on all powers exercise and functions performed in terms of this section, including the exact financial implications thereof.

89. Delegations. (1) The Responsible Member may delegate any power or function conferred, entrusted or imposed upon or to him or her by or under this Act, except the power to make regulations and issue notices, to the Head of the Department in the Province responsible for nature conservation or the Board, with or without the authority to delegate further.

(2) The Board may delegate any power or function conferred, entrusted or imposed upon or to it by or under this Act to the chief executive or any other member of the Board, any committee of the Board, or any officer or employee of the Board, with or without the authority to delegate further.

90. Powers and functions of nature conservators pertaining to search, seizure and entry. (1) A nature conservator may -

- (a) in accordance with the provisions of this Act, seize anything which -
 - (i) is concerned in or is on reasonable grounds believed to be concerned in the commission or the suspected commission of an offence in terms of this Act;
 - (ii) may afford evidence of the commission or the suspected commission of such an offence;
 - (iii) is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of such an offence;
- (b) without a search warrant search any person, premises or container for the purpose of seizing anything contemplated in paragraph (a) -

- (i) if the person concerned consents to the search for and seizure of the article in question, or the person who may consent to the search of the premises or container, consents to such search and the seizure of the article in question; or
- (ii) if he or she on reasonable grounds believes -
 - (aa) that a search warrant will be issued to him or her under section 91 if he or she applies for such warrant; and
 - (bb) that the delay in obtaining such warrant would defeat the object of the search;
- (c) where he or she reasonably suspects that a person, who may furnish information with regard to an offence or alleged offence in terms of this Act, is on or in premises, without warrant enter such premises for the purpose of questioning such person and obtaining a statement from him or her: Provided that he or she shall not enter any private dwelling without the consent of the occupier thereof;
- (d) where he or she reasonably suspects that anything contemplated in paragraph (a), is or was in or on a boat, aircraft or vehicle, or such boat, aircraft or vehicle is being or has been used for the purpose of or in connection with the commission of an offence in terms of this Act, at any time stop such boat, aircraft or vehicle, or order the driver or pilot thereof to stop;
- (e) remove and seize or cause to be removed and seized any snare, trap, gin, net, bird-lime, pitfall, holding pen, trap cage, set gun, fish-trap, setline, poison or other device or means which is presumably being used to hunt or capture a wild animal or fish unlawfully or, if it cannot be removed, destroy it or cause it to be destroyed or render it harmless or cause it to be rendered harmless;
- (f) seize any stock or other animal trespassing on land used by the Board for purposes of this Act and, notwithstanding the provisions of any other law relating to pounds, retain such stock or other animal on such land;
- (g) affix to his or her vehicle a light or lights which beam/s on an interrupted blue flickering light in any direction, and may make use of a "stop" sign at will.

(2) A nature conservator who may lawfully search any person or premises or who may enter premises under paragraph (c) of subsection (1), may use such force as may be reasonably necessary to overcome any resistance against such search or against entry of the premises, including the breaking of any door or window of such premises: Provided that such nature conservator shall first audibly demand admission to the premises and notify the purpose for which he or she seeks to enter such premises.

(3) The provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), with regard to the disposal of an article referred to in section 20 of that Act and seized under the provisions of that Act, shall *mutatis mutandis* apply in respect of an article seized under paragraph (a) of subsection (1): Provided that in respect of the application of section 31(1)(b) and section 32(2) of that Act, in so far as a live wild animal is concerned, such animal shall be forfeited to the Board and the nature conservator who has seized such animal may destroy or dispose of it in such manner as circumstances may require.

(4) The provisions of this section shall not derogate from any power conferred by any other law to enter any premises or to search any person, container or premises or to seize any matter, to declare any matter forfeited or to dispose of any matter.

91. Article to be seized under search warrant. (1) Subject to the provisions of paragraph (b), an article referred to in section paragraph (a) shall be seized only by virtue of a search warrant issued -

- (a) by a magistrate or justice of the peace, if it appears to such magistrate or justice of the peace from information on oath that there are reasonable grounds for believing that any such article is in the possession or under the control of or upon any person or upon or at any premises within his or her area of jurisdiction; or
- (b) by a judge or judicial officer presiding at criminal proceedings, if it appears to such judge or presiding judicial officer that any such article in the possession or under the control of any person or upon or at any premises is required in evidence at such proceedings.

(2) A search warrant issued under subsection (1) shall require a nature conservator to seize the article in question and shall to that end authorize such nature conservator to search any person identified in the warrant and to search any premises identified in the warrant and to search any person found on or at such premises.

(3) A search warrant shall be executed by day, unless the person issuing the warrant authorizes the execution thereof by night.

(4) A search warrant may be issued on any day and shall be of force until it is executed or cancelled by the person who issued it or, if such person is not available, by any person with like authority.

(5) A nature conservator executing a warrant issued under this section shall, upon demand of any person whose rights in respect of any search or seizure under the warrant are affected, hand to him or her a copy of the warrant.

92. Inspectorate powers and functions of nature conservators. A nature conservator may -

- (a) at any reasonable time, and whenever possible after notifying the owner or occupier, enter upon any premises in respect of which a licence, permit or exemption has been issued in terms of this Act, or any premises on which a person to whom a licence, permit or exemption has been issued in terms of this Act regularly exercises the rights so conferred, and there carry out any inspection which is necessary to determine whether the provisions of this Act are being complied with: Provided that he or she shall not enter any private dwelling without the consent of the occupier thereof;
- (b) stop a boat on waters on land used by the Board for purposes of this Act or stop a vehicle on such land and inspect such boat or vehicle to ascertain whether it complies with the requirements prescribed or determined in terms of this Act;
- (c) demand from any person who is required in terms of this Act to keep or carry with him or her any register, record, book, document, writing or written permission, to produce it for inspection;
- (d) demand from any person who performs an act or in respect of whom it is reasonably suspected that he or she has performed an act for which a licence, permit, exemption, document or written permission is necessary in terms of this Act, to produce it.

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MPUMALANGA NATURE CONSERVATION ACT, 1998

Act No. 10, 1998

93. General powers and functions of nature conservators. A nature conservator may -

- (a) demand the full name and address of any person who -
 - (i) has committed an offence in terms of this Act or whom he or she reasonably suspects of having committed such an offence;
 - (ii) is reasonably deemed to be able to give evidence relating to an offence committed in terms of this Act or reasonably suspected of having been committed,

and if such person furnishes to the nature conservator a name or address which he or she reasonably suspects to be false, he or she may arrest such person without warrant and detain him or her for a period not exceeding twelve hours until such name or address has been verified;
- (b) instruct any person who, on land which is used for purposes of this Act, contravenes or fails to comply with a -
 - (i) provision of this Act;
 - (ii) regulation, requirement or condition prescribed or determined in terms of this Act,

to leave such land;
- (c) destroy a dog not used in lawful hunting and which is pursuing or searching for a wild animal;
- (d) in the exercise of a power or the performance of a function in terms of this Act, make use of an interpreter and, if necessary, of one or more persons, and such an interpreter or other person is deemed to be a nature conservator while acting under the control of the nature conservator.

94. Powers and functions of honorary nature conservators. An honorary nature conservator shall have the powers and functions conferred, entrusted or imposed upon or to a nature conservator in terms of sections 90(1)(e), 92(d) and 93(a)(i).

95. Powers and functions of conservation rangers. A conservation ranger shall have the powers and functions of a nature conservator as contemplated in this Act.

96. Certificate of appointment. Whenever a nature conservator, an honorary nature conservator or a conservation ranger exercises a power or performs a function conferred, entrusted or imposed in terms of this Act and is requested to produce his or her certificate of appointment contemplated in section 3(3), he or she shall produce it to the person so requesting him or her.

97. Offences in respect of nature conservators, honorary nature conservators or conservation rangers. (1) Any person who -

- (a) falsely professes to be a nature conservator, a person contemplated in section 93(d), an honorary nature conservator or a conservation ranger;

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- (b) willfully obstructs, hinders or interferes with any person referred to in paragraph (a) in the exercise of a power or the performance of a function or duty conferred, entrusted or imposed in terms of this Act;
- (c) refuses or fails to comply forthwith with an order, instruction or demand given or made by nature conservator, honorary nature conservator or conservation ranger in the exercise of a power or the performance of a function conferred, entrusted or imposed in terms of this Act or furnishes false or misleading information when he or she complies with such an order, instruction or demand;
- (d) has been stopped in terms of section 90(1)(d) and departs without permission of the nature conservator or conservation ranger concerned,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

98. Exercising or performing of powers or functions of owner where land is held by more than one person, partnership or other body. Where land is held by -

- (a) more than one person in undivided shares;
- (b) a partnership;
- (c) a body corporate or incorporate,

the powers and functions which an owner of land may exercise or perform in terms of the provisions of this Act, shall, unless otherwise prescribed by the Responsible Member, be exercised or performed on behalf of such persons, partnership or body by a person nominated by such persons, partnership or body and approved by the Board.

99. Reward for information. The Board may pay to any person not in the public service or in the service of the Board who gives information leading to an arrest for the commission of an offence in terms of this Act, such reward as the Responsible Member may determine.

100. Presumptions and evidence. (1) Where at criminal proceedings in terms of this Act -

- (a) any person is charged with the unlawful hunting or catching of a wild animal, exotic animal or invertebrate, the unlawful catching of fish or the unlawful picking of an indigenous plant, it is proved that such person possessed or handled a wild animal, exotic animal, invertebrate, fish or indigenous plant, as the case may be, he or she shall be deemed to have hunted or caught such wild animal, exotic animal or invertebrate, to have caught such fish or to have picked such indigenous plant in contravention of the provisions of this Act;
- (b) it is alleged that an offence has been committed in connection with or in respect of a particular species of wild animal, exotic animal, fish or indigenous plant or a particular sex of a species of wild animal or exotic animal, the species of such wild animal, exotic animal, fish or indigenous plant or the sex of the species of such wild animal or exotic animal shall be deemed to be as alleged;

- (c) it is proved that any person removed a wild animal or fish out of a snare, trap, gin, net, fish-trap, pitfall, holding pen, trap-cage or other device intended or suitable for the hunting or catching of a wild animal or fish, or from bird-lime, a set-line or other means intended or suitable for such purpose, he or she shall be deemed to have constructed or brought such snare, trap, gin, net, fish-trap, pitfall, holding pen, trap-cage, bird-lime, set-line or other device or means on the land where he or she so removed such wild animal or fish and to have hunted or caught such wild animal or fish therewith;
- (d) it is proved that a live wild animal or exotic animal was found in circumstances indicating that such animal is being kept, the owner or occupier of the land on which the animal was found shall be deemed to have kept such animal;
- (e) it is proved that a weapon referred to in section 11 was found in the possession of any person in circumstances indicating that game is being or was being hunted or presumably is being or was being hunted with such weapon, such person shall be deemed to have hunted game with such weapon;
- (f) it is proved that land is fenced as contemplated in section 17 and an opening was left or made in the fence, it shall be deemed that such opening was left or made by the owner or occupier of the land and that it is designed as contemplated in that section;
- (g) it is proved that live wild animals or exotic animals are being confined in an artificial manner on a piece of land and are being kept for exhibition, such piece of land shall be deemed to be a game park, zoological garden, bird sanctuary, reptile park, snake park or similar institution operated by the owner or occupier of such land;
- (h) it is proved that any game, a live wild animal referred to in Schedule 5, a live exotic animal referred to in Schedule 6, a live invertebrate referred to in Schedule 7, an aquatic growth referred to in Schedule 10 to this Act, a live freshwater fish, a protected plant, a specially protected plant or a cave-formation was found in any shop or other place of sale, the person in whose possession it was found or who has control over such shop or place shall be deemed to have attempted to sell such game, wild animal, exotic animal, invertebrate, aquatic growth, fish, plant or cave-formation unlawfully;
- (i) it is proved that any person cast into waters and withdrew or reeled with jerking motions a line with an artificial lure, spoon or hook attached thereto, such person shall be deemed to have had the intention to hook fish on any part other than in the mouth;
- (j) it is proved that any person placed an object which floats in water, it shall be deemed that such an object constitutes or is likely to constitute a danger to a boat on such waters or to any person practising sport therein or thereon or to any person angling therein or that such an object serves as marker indicating the place where there is any object, substance, agent or product under the water which lures or is likely to lure fish;
- (k) it is proved that any person was in possession of an invertebrate referred to in Schedule 7 to this Act or a cave-formation, such person shall be deemed to have acquired such invertebrate or cave-formation unlawfully;
- (l) the certificate of appointment as nature conservator, honorary nature conservator or conservation ranger is produced, it shall be deemed that the person referred to therein has been appointed properly,

until the contrary is proved.

(2) Where at criminal proceedings in terms of this Act the question arises whether –

- (a) the cage or enclosure is of the nature contemplated in section 13(1)(c), a certificate purporting to have been issued by or on the authority of the Board declaring that the cage or enclosure is of such a nature, shall be *prima facie* proof of such fact;
- (b) land is fenced in the manner contemplated in section 17(1), a certificate purporting to have been issued by or on the authority of the Board declaring that the land is so fenced, shall be *prima facie* proof of such fact;
- (c) a particular species of wild animal or invertebrate is or is not found on any particular land or whether a particular species of fish is or is not found in any particular water, a certificate purporting to have been issued by or on the authority of the Board declaring that the particular species of wild animal or invertebrate is or is not found on the particular land or that the particular species of fish is or is not found in the particular waters, shall be *prima facie* proof of such fact;
- (d) a plant referred to in Schedule 10 to this Act is, has or has not been improved, a certificate purporting to have been issued by or on the authority of the Board declaring that such plant has not been improved, shall be *prima facie* proof of such fact.

(3) Where at criminal proceedings a register, record book or document kept in terms of this Act, is produced by the person in whose custody it is, any entry in such register, record, book or document made in the exercise of any power or the performance of any function in terms of this Act, shall be *prima facie* proof of the facts recorded therein.

(4) Where at criminal proceedings in terms of this Act or any civil proceedings the question arises whether the land on which the stock or other animal seized in terms of paragraph (f) of section 90(1) trespassed, is land as contemplated in that paragraph, it shall be deemed that the land concerned is such land until the contrary is proved.

101. Forfeiture of certain goods and privileges. (1) The court convicting any person of an offence in terms of this Act shall –

- (a) declare a wild animal, exotic animal, invertebrate, fish, indigenous plant, aquatic growth, endangered species, rare species or cave-formation in connection with which the offence was committed;
- (b) declare a weapon, net, article, device or apparatus, of any nature whatsoever, used for the purpose of or in connection with the unlawful –
 - (i) hunting or catching of a wild animal or invertebrate;
 - (ii) catching of a fish with a net,

to be forfeited to the Board: Provided that the court shall not declare such weapon, net, article, device or apparatus to be forfeited where the offence was committed by the owner of land or a relative of his or her on the land of such owner: and may –

- (c) declare a boat, aircraft, vehicle or any fishing tackle used for the purpose of or in connection with the commission of an offence, to be forfeited to the Board: Provided that the court shall not declare a boat, aircraft or vehicle to be forfeited where it is proved that the convicted person is not the owner thereof and that the owner did not know that it was used or would be used for or in connection with an unlawful purpose or that he or she could not prevent such use. Provided that in the case of a second or subsequent conviction of an offence under the same Chapter of this Act, shall declare forfeited to the Board any vehicle, boat, aircraft or other means of transport and any right, title and interest of such person in or to such vehicle, boat or aircraft used in, for the purpose of, or in connection with the commission of the offence in contravention of the Act;
- (d) cancel a licence, permit or exemption issued to the convicted person in terms of this Act in respect of the wild animal, invertebrate, fish or plant in connection with which the offence was committed;
- (e) declare the convicted person unfit for a period not exceeding 5 years to obtain any licence, permit or exemption in terms of this Act in respect of the wild animal, invertebrate, fish or plant in connection with which the offence was committed.

(2) The Board or any person authorized thereto by it may cause anything declared to be forfeited in terms of subsection (1) to be destroyed or sold.

(3) Any person who, without the written permission of the Board, obtains or attempts to obtain a licence, permit or exemption in terms of this Act while he or she is unfit in terms of subsection (1)(e) to obtain such a licence, permit or exemption, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 2 years or to both a fine and such imprisonment.

102. Allocation of fees, fines and proceeds of sales. All fees payable in terms of this Act, all fines recovered in respect of a contravention of a provision of this Act as well as the proceeds of the sale of anything forfeited to the Board in terms of this Act, shall be paid into the Board's revenue fund or account.

103. Limitation of liability and legal proceedings. (1) No person, including the State, the Board, a member of the Board, a co-opted member of a committee of the Board, or any officer or employee of the Board, shall be liable for any damages sustained by any person as a result of his or her injury by or his or her property being damaged by any animal on any land used by the Board for purposes of this Act, unless such damages are the result of wilful misconduct, dishonesty, gross negligence or a failure to comply with a provision of this Act on the part of any of the afore-mentioned persons.

(2) No legal proceedings shall be instituted against the Board, a member of the Board, a co-opted member of a committee of the Board, or any officer or employee of the Board, in respect of an alleged act in terms of this Act or an alleged omission to do anything which in terms of this Act should have been done, unless a written notice of the intention to institute such proceedings has been served on the appropriate defendant or respondent within a period of 6 months after the date on which the plaintiff or the applicant became aware of the alleged act or omission, or after the date on which it could reasonably have been expected that the plaintiff or applicant would have become aware of the alleged act or omission, whichever date is the earliest.

(3) A written notice referred to in subsection (2) shall contain such particulars as may be necessary to identify the alleged act or omission.

104. Declaration in respect of force and effect, repeal or amendment of laws, and savings.

(1) Subject to the provisions of subsections (3) and (4) the laws mentioned in the second column of -

- (a) Part 1 of Schedule 15 to this Act shall no longer be of any force and effect in any part of the territory of the Province; and
- (b) Part 2 of Schedule 15 to this Act are hereby repealed or amended to the extent indicated in the third column of the said part.

(2) Any law not mentioned in Schedule 15 to this Act which refers to or deals with any matter provided for in this Act and which is on the date of commencement of this Act still in force in any part of the territory of the Province, shall, to the extent to which such law is in conflict with the provisions of this Act, no longer be of any force and effect in any part of the territory of the Province.

(3) Any licence, certificate, permit, document, permission, authorisation or exemption issued or granted in terms of a provision of a law which is declared to be no longer of any force and effect or is repealed by subsections (1) or (2) shall, if not inconsistent with this Act, be deemed to have been issued or granted in terms of the corresponding provision (if any) of this Act and shall, unless sooner withdrawn or amended in terms of this Act, remain in force subject to the conditions under which it was issued or granted and for the period for which it was issued or granted.

(4) Anything done in terms of a provision of a law which is declared to be no longer of any force and effect or is repealed by subsections (1) or (2) and which is capable of being done under a provision of this Act, shall be deemed to have been done in terms of such last mentioned provision.

105. Short title and commencement. This Act shall be called the Mpumalanga Nature Conservation Act, 1998, and shall come into operation on a date to be fixed by the Premier by proclamation in the *Provincial Gazette*.

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MPUMALANGA NATURE CONSERVATION ACT, 1998

Act No. 10, 1998

SCHEDULE 1

Specially protected game (section 4(1)(a))

| Common name | Scientific name |
|---------------------------|---|
| Elephant | <i>Loxodonta africana</i> |
| all species of rhinoceros | all species of the Family <i>Rhinocerotidae</i> |

SCHEDULE 2

Protected game (section 4(1)(b))

| AMPHIBIANS, REPTILES AND MAMMALS | |
|---|---|
| Common name | Scientific name |
| bullfrog | <i>Pyxicephalus adspersus</i> |
| all species of reptiles excluding the water leguan, rock leguan and all species of snakes | all species of the Class <i>Reptilia</i> excluding <i>Varanus niloticus</i> , <i>Varanus Exanthematicus</i> and all species of the Sub Order <i>Serpentes</i> |
| riverine rabbit | <i>Bunolagus monticularis</i> |
| hedgehog | <i>Atelerix frontalis</i> |
| samango monkey | <i>Cercopithecus mitis</i> |
| bushbaby | <i>Otolemur crassicaudatus</i> |
| lesser bushbaby | <i>Galago moholi</i> |
| honey-badger | <i>Mellivora capensis</i> |
| pangolin | <i>Manis temminckii</i> |
| aardwolf | <i>Proteles cristatus</i> |
| Cape hunting dog | <i>Lycaon pictus</i> |
| brown hyaena | <i>Hyaena brunnea</i> |
| antbear | <i>Orycteropus afer</i> |
| mountain zebra | <i>Equus zebra zebra</i> |
| Hartmann's zebra | <i>Equus zebra hartmannae</i> |
| hippopotamus | <i>Hippopotamus amphibius</i> |
| giraffe | <i>Giraffa camelopardalis</i> |
| nyala | <i>Tragelaphus angasi</i> |
| Common name | Scientific name |

| | |
|--------------------------|----------------------------------|
| red duiker | <i>Cephalophus natalensis</i> |
| blue duiker | <i>Philantomba monticola</i> |
| reedbuck | <i>Redunca arundinum</i> |
| mountain reedbuck | <i>Redunca fulvorufula</i> |
| sable antelope | <i>Hippotragus niger</i> |
| roan antelope | <i>Hippotragus equinus</i> |
| black wildebeest | <i>Connochaetes gnou</i> |
| tsessebe | <i>Damaliscus lunatus</i> |
| Lichenstein's hartebeest | <i>Alcelaphus lichtensteinii</i> |
| klipspringer | <i>Oreotragus oreotragus</i> |
| oribi | <i>Ourebia ourebi</i> |
| steenbok | <i>Raphicerus campestris</i> |
| Sharpe's grysbok | <i>Raphicerus sharpei</i> |
| sun | <i>Neotragus moschatus</i> |
| grey rhebuck | <i>Pelea capreolus</i> |
| eland | <i>Taurotragus oryx</i> |
| waterbuck | <i>Kobus ellipsiprymnus</i> |
| cape clawless otter | <i>Aonyx capensis</i> |
| spotted necked otter | <i>Lutra maculicollis</i> |

BIRDS

| Common name | Scientific name |
|--|--|
| Any bird which is a wild animal, excluding a bird referred to in Schedule 3, and the - | |
| white breasted cormorant | <i>Phalacrocorax lucidus</i> |
| reed cormorant | <i>Phalacrocorax africanus</i> |
| red-eyed turtle dove | <i>Streptopelia semitorquata</i> |
| Cape turtle dove | <i>Streptopelia capicola</i> |
| laughing dove | <i>Streptopelia senegalensis</i> |
| all species of mousebirds | all species of the Family <i>Colidae</i> |
| piebald crow | <i>Corvus albus</i> |
| black crow | <i>Corvus capensis</i> |
| red-eyed bulbul | <i>Pycnonotus nigricans</i> |
| black-eyed bulbul | <i>Pycnonotus barbatus</i> |
| red-winged starling | <i>Onychognathus morio</i> |
| Cape sparrow | <i>Passer melanurus</i> |
| spotted-backed weaver | <i>Ploceus cucullatus</i> |
| Cape weaver | <i>Ploceus capensis</i> |
| masked weaver | <i>Ploceus velatus</i> |
| red-billed quelea | <i>Quelea quelea</i> |
| red bishop | <i>Euplectes orix</i> |

SCHEDULE 3

Ordinary Game (section 4(1)(c))

| Common name | Scientific name |
|------------------------|--|
| spur-winged goose | <i>Plectropterus gambensis</i> |
| Egyptian goose | <i>Alopochen aegyptiacus</i> |
| yellow-billed duck | <i>Anas undulata</i> |
| red-billed teal | <i>Anas erythrorhyncha</i> |
| coqui partridge | <i>Fringolinus coqui</i> |
| crested partridge | <i>Fringolinus sephaena</i> |
| greywing partridge | <i>Fringolinus africanus</i> |
| Shelley's partridge | <i>Fringolinus shelleyi</i> |
| redwing partridge | <i>Fringolinus levaillantii</i> |
| Orange River partridge | <i>Fringolinus levaillantoides</i> |
| red-billed fringolin | <i>Fringolinus adspersus</i> |
| Natal fringolin | <i>Fringolinus natalensis</i> |
| Swainson's fringolin | <i>Fringolinus swainsoni</i> |
| red-necked fringolin | <i>Fringolinus afer</i> |
| helmeted guinea-fowl | <i>Numida meleagris</i> |
| red-knobbed coot | <i>Fulica cristata</i> |
| rock pigeon | <i>Columba guinea</i> |
| all species of hare | all species of the Family <i>Leporidae</i> |
| Burchell's zebra | <i>Equus burchelli</i> |

| Common name | Scientific name |
|-----------------|------------------------------------|
| bushbuck | <i>Tragelaphus scriptus</i> |
| kudu | <i>Tragelaphus strepsiceros</i> |
| gemsbok | <i>Oryx gazella</i> |
| red hartebeest | <i>Alcelaphus buselaphus</i> |
| grey duiker | <i>Sylvicapra grimmia</i> |
| blue wildebeest | <i>Connochaetes taurinus</i> |
| blesbok | <i>Damaliscus dorcas phillipsi</i> |
| bontebok | <i>Damaliscus dorcas dorcas</i> |
| impala | <i>Aepyceros melampus</i> |
| springbok | <i>Antidorcas marsupialis</i> |

SCHEDULE 4

Protected wild animals (section 4(1)(d))

| Common name | Scientific name |
|-----------------|-------------------------|
| spotted hyaena | <i>Crocuta crocuta</i> |
| cheetah | <i>Acinonyx jubatus</i> |
| leopard | <i>Panthera pardus</i> |
| lion | <i>Panthera leo</i> |
| African buffalo | <i>Syncerus caffer</i> |

SCHEDULE 5

Wild animals to which the provisions of section 33 apply

| Common name | Scientific name |
|--|---|
| water leguan | <i>Varanus niloticus</i> |
| rock leguan | <i>Varanus exanthematicus</i> |
| all species of snakes | all species of the Sub Order <i>Serpentes</i> |
| any bird which is a wild animal but which is not game, excluding the ostrich | <i>Struthio camelus</i> |
| chacma baboon | <i>Papio ursinus</i> |
| vervet monkey | <i>Cercopithecus mitis</i> |
| all dassies | Family: <i>Procaviidae</i> |
| all mongooses | Family: <i>Viverridae</i> |
| tree squirrel | <i>Paraxerus cepapi</i> |
| warthog | <i>Phacochoerus aethiopicus</i> |
| serval | <i>Felis serval</i> |
| civet | <i>Civettictis civetta</i> |
| cape fox | <i>Vulpes chama</i> |
| side striped jackal | <i>Canis adustus</i> |
| all genets | <i>Genetta</i> spp |
| springhare | <i>Pedetes capensis</i> |
| african wild cat | <i>Felis lybica</i> |

SCHEDULE 6

Exotic animals to which the provisions of section 34 apply

| Common name | Scientific name |
|--|--|
| all species of exotic tortoises, turtles and terrapins | all exotic species of the Order <i>Chelonia</i> |
| all exotic species of New World rats and mice, hamsters, mole rats, Malagasy rats, maned rats, voles, lemmings and gerbils, excluding the golden hamster | all exotic species of the Family <i>Cricetidae</i> , excluding <i>Mesocricetus auratus</i> |
| nutria | <i>Myocastor coypus</i> |
| ferret | <i>Mustela putorius</i> and all subspecies thereof |
| chukar partridge | <i>Alectoris graeca</i> |
| all exotic species of newts and salamanders | all exotic species of the order <i>urodela</i> |
| all exotic species of crustacean | all exotic species of <i>Crustacean</i> |

SCHEDULE 7

Invertebrates (section 35(1))

| Common name | Scientific name |
|--|---|
| all species of baboon spiders belonging to the genera referred to hereby | <i>Ceratogyrus</i> spp., <i>Harpactira</i> spp. and <i>Pterinochilus</i> spp. |

SCHEDULE 8

Problem animals (section 44(1))

| Common name | Scientific name |
|---------------------|-----------------------------|
| black-backed jackal | <i>Canis mesomelas</i> |
| caracal (red lynx) | <i>Felis caracal</i> |
| bush pig | <i>Potamochoerus porcus</i> |

SCHEDULE 9

Fly fishing waters (section 65 (1))

Where the term "river" or "spruit" appears in this Schedule it includes the whole course of the river or spruit with all its tributaries from its source up to the point specified in each separate case.

1. The Elands River to its confluence with the Swartkops River.
2. The Klip River to the common boundary of the farms Draaikraal 48JT and Chieftainsplain 46 JT.
3. The Klein-Komati River to its confluence with the Komati River.
4. The Seekoei Spruit to the common boundary of the farms Zilverkop 25 IT and Boshhoek 442 JT.
5. The Weltevrede Spruit to the waterfall on the farm Waterval 269 JT.
6. The Ohrigstad River to its confluence with the Ohrigstad Dam.
7. The Crocodile River to its confluence with the Santa River.
8. The Santa River to its confluence with the Crocodile River.
9. The Auxloop River to the common boundary of the farms Langdraai 85 JT and Kaffervoetpad 87 JT.
10. The Dorps River (also known as the Spekboom River) to the bridge over it on the Lydenburg-Burgersfort tarmac road (Road P 33/2).
11. The Sterk Spruit to its confluence with the Dorps River in the town of Lydenburg.
12. The Pot Spruit to the common Boundary of the farms Modderspruit 13 JT and Naauwpoort 11 JT.
13. The great Dwars River to its confluence with the Kafferskraal Spruit.
14. The Kafferkraal Spruit to its confluence with the great Dwars River.
15. The Konterdanskloof River to the common boundary of the farms Witpoort 216 JS and Swartkoppies 217 JS.
16. The Lakensvlei Spruit to its confluence with the Steelpoort River excluding the municipal dam of Belfast.
17. The Houtbosloop River to the common boundary of the Elansdrift 265 JT and Blyfstaanbosch Spruit 258 JT.
18. The Blyde River to the common boundary of the farms Ledovine 507 KT and Hermasburg 495 KT.
19. The Mac-Mac Spruit to the waterfall on the farm Geelhoutboom 565 KT.
20. The Sabie River to the waterfall in the town of Sabie.
21. The Nels River to the common boundary of the farms Doornhoek 236 JT and Tweefontein 242 JT.
22. The Klein-Spekboom River to the railway bridge on the farm Potlood Spruit 30 JT.

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23. The Waterval Spruit to it's confluence with the Blyde River.

24. The Gladde Spruit to the common boundary of the farms Slaaihoek 540 JT and Uitkomst 541 JT.

25. The tributary of the Komati River on the farms Waaikraal 385 JT, Leeukloof 403 JT and Drenthe 402 JT to it's confluence with the Komati River.

26. The tributary of the Komati River on the farms Zevenfontein 388 JT, Welgelegen 400 JT to it's confluence with the Komati River.

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SCHEDULE 10

Prohibited aquatic growths (section 68(1))

| Common name | Scientific name |
|-----------------|-------------------------------|
| Azolla | <i>Azolla</i> spp. |
| pond weed | <i>Egeria densa</i> |
| parrots feather | <i>Myriophyllum aquaticum</i> |
| kariba weed | <i>Salvinia molesta</i> |
| water lettuce | <i>Pistia stratiotes</i> |
| water hyacinth | <i>Eichornia crassipes</i> |

SCHEDULE 11

Protected plants (section 69(1)(a))

In this Schedule -

- a) the plants referred to shall not include plants which have been improved by selection or cross-breeding;
- b) "seedling" means a plant of which the diameter of the trunk or bulb, either above or below the ground, does not exceed 150 mm.

| Common name | Scientific name |
|---|---|
| all species of tree ferns, excluding the bracken fern | all species of the Genus: <i>Cyathea capensis</i> and <i>Cyathea dregei</i> |
| all species of cycads in Republic of South Africa and the seedlings of the species of cycads referred to in Schedule 12 | all species of the family Zamiaceae occurring in the Republic of South Africa and the seedlings of the species of <i>Encephalartos</i> referred to in Schedule 12 |
| all species of yellow wood | <i>Podocarpus</i> spp. |
| all species of arum lilies | <i>Zantedeschia</i> spp. |
| "volstruiskos" | <i>Schizobasis intricata</i> |
| "knolklimop" | <i>Bowiea volubilis</i> |
| all species of red-hot pokers | <i>Kniphofia</i> spp. |
| all species of aloes, excluding : | <i>Aloe</i> spp., excluding : |
| (a) all species not occurring in Mpumalanga and | (a) all species not occurring in Mpumalanga and |
| (b) the following species: | (b) the following species: |
| all species of haworthias | <i>Haworthia</i> spp. |
| all species of agapanthus | <i>Agapanthus</i> spp. |
| all species of squill | <i>Scilla</i> spp. |

| Common name | Scientific name |
|---|---|
| all species of pineapple flower | <i>Eucomis</i> spp. |
| all species of dracaena | <i>Dracaena</i> spp |
| all species of paint brush | <i>Haemanthus</i> spp and <i>Scadoxys</i> spp. |
| Cape poison bulb | <i>Boophane disticha</i> |
| all species of clivia | <i>Clivia</i> spp. |
| all species of brunsvigia | <i>Brunsvigia</i> spp. |
| all species of crinum | <i>Crinum</i> spp |
| ground lily | <i>Ammocharis coranica</i> |
| all species of fire lily | <i>Cyrtanthus</i> spp. |
| all species of elephantsfoot | <i>Dioscorea</i> spp. |
| river lily | <i>Hesperantha coccinea</i> |
| all species of gladioli | <i>Gladiolus</i> spp. |
| all species of watsonia | <i>Watsonia</i> spp. |
| wild ginger | <i>Siphonochilus aethiopicus</i> |
| all species of orchids | All species of the family Orchidaceae |
| all species of the family proteaceae | All species of the family Proteacea |
| all species of black stinkwood | <i>Ocotea</i> spp |
| kiaat | <i>Pterocarpus angolensis</i> |
| tamboti | <i>Spirostachys africana</i> |
| the following species of euphorbias: <i>Euphorbia bernardii</i> and <i>Euphorbia grandialata</i> | The following species of euphorbias: <i>Euphorbia bernardii</i> and <i>Euphorbia grandialata</i> |
| common bersama | <i>Bersama tysoniana</i> |
| red ivory | <i>Berchemia zeyheri</i> |

| Common name | Scientific name |
|--|--|
| Pepperbark tree | <i>Warburgia salutaris</i> |
| all species of adenia | <i>Adenia</i> spp. |
| bastard onion wood | <i>Cassipourea gerrardii</i> |
| assegai tree | <i>Curtisia dentata</i> |
| all species of olive trees | all species of the genus <i>Olea</i> |
| all species of impala lilies | all species of the Genus <i>Adenium</i> |
| kudu lily | <i>Pachypodium saundersii</i> |
| all species of brachystelma | <i>Brachystelma</i> spp. |
| all species of ceropegia | <i>Ceropegia</i> spp. |
| all species of huerniopsis and huernia | <i>Huerniopsis</i> and <i>Huernia</i> spp. |
| all species of duvalia | <i>Duvalia</i> spp. |
| all species of stapeliads | <i>Stapelia</i> spp. |
| all species of orbeanthus | <i>Orbeanthus</i> spp. |
| all species of orbeas | <i>Orbea</i> spp. |
| all species of orbeopsis | <i>Orbeopsis</i> spp. |

SCHEDULE 12

Specially protected plants (section 69(1)(b))

In this Schedule "seedling" means a plant of which the diameter of the trunk or bulb, either above or below the ground, does not exceed 150 mm.

| Common name | Scientific name |
|---|---|
| a) all plants, excluding seedlings, of the following species of cycads: dolomiticus, dyer, middelburg, eugene marais, heenan, inopinus, laevifolius, lanatus, lebombo, ngoyanus, paucidentatus, modjadje and villosus | a) all plants, excluding seedlings, of the following species of the Genus <i>Encephalartos</i> : <i>E. dolomiticus</i> , <i>E. dyerianus</i> , <i>E. middelburgensis</i> , <i>E. eugene maraisii</i> , <i>E. heenanii</i> , <i>E. inopinus</i> , <i>E. laevifolius</i> , <i>E. lanatus</i> , <i>E. lebomboensis</i> , <i>E. ngoyanus</i> , <i>E. paucidentatus</i> , <i>E. transvenosus</i> and <i>E. villosus</i> and any species derived from the above species |
| b) all plants of the following species of cycads: cupidus and humilus | b) all plants of the following species of the Genus <i>Encephalartos</i> : <i>E. cupidus</i> and <i>E. humilus</i> |
| c) all species of cycads in their natural habitat. | c) all plants of the Genus <i>Encephalartos</i> in their natural habitat. |

SCHEDULE 13

Invader weeds and plants (section 80(1)(a))

| Common name | Scientific name |
|-------------------------|-----------------------------------|
| silver wattle | <i>Acacia dealbata</i> |
| green wattle | <i>A. decurrens</i> |
| black wattle | <i>A. mearnsii</i> |
| Australian black wattle | <i>A. melanoxylon</i> |
| American agave | <i>Agave americana</i> |
| Sisal | <i>A. sisalana</i> |
| Invading ageratum | <i>Ageratum convzoides</i> |
| Mexican ageratum | <i>A. houstonianum</i> |
| blue gums | All <i>Eucalyptus</i> spp. |
| Poplars | All <i>Populus</i> spp. |
| giant reed | <i>Arundo donax</i> |
| Common blackjack | <i>Bidens pilosa</i> |
| Mauritius thorn | <i>Caesalpinia decapetala</i> |
| Balloon vine | <i>Cardiospermum grandiflorum</i> |
| heart pea | <i>C. hallicacabum</i> |
| queen of the night | <i>Cereus jamacaru</i> |
| Yellow/orange cestrum | <i>Cestrum aurantiacum</i> |
| ink berry | <i>C. laevigatum</i> |
| triffid weed | <i>Chromolaena odorata</i> |
| Scotch thistle | <i>Cirsium vulgare</i> |
| Pampas grass | <i>Cortaderia</i> spp. |

| Common name | Scientific name |
|------------------------|--------------------------------|
| Common dodder | <i>Cuscuta campestris</i> |
| large thorn apple | <i>Datura ferox</i> |
| Jacaranda | <i>Jacaranda mimosifolia</i> |
| Syringa | <i>Melia azedarach</i> |
| Lantana | <i>Lantana camara</i> |
| sweet prickly pear | <i>Opuntia ficus-indica</i> |
| Imbricate prickly pear | <i>O. imbricata</i> |
| Australian pest pear | <i>O. stricta</i> |
| Passion fruit | <i>Passiflora edulis</i> |
| Granadina | <i>P. subpeltata</i> |
| Fountain grass | <i>Penisetum setaceum</i> |
| Cluster pine | <i>Pinus pinaster</i> |
| Pines | (all other <i>Pinus</i> spp.) |
| Guava | <i>Psidium guajava</i> |
| kudzu vine | <i>Pueraria lobata</i> |
| Yellow firethorn | <i>Pyracantha angustifolia</i> |
| castor-oil plant | <i>Ricinus communis</i> |
| Brambles | <i>Rubus</i> spp. |
| Peanut butter cassia | <i>Senna didymobotrya</i> |
| red sesbania | <i>Sesbania punicea</i> |
| Bugweed | <i>Solanum mauritianum</i> |
| spiny cocklebur | <i>Xanthium spinosum</i> |
| large cocklebur | <i>X. strumarium</i> |
| Common thorn apple | <i>D. stramonium</i> |

Unique communities (section 84(1))

Encephalartos laevifolius community located on Berlin 446 JT, District: Nelspruit.

SCHEDULE 15

Laws referred to in section 104(1)

PART 1

| Number and year of law | Short title |
|--|--|
| Act No. 3 of 1973 Act No. 58 of 1980 Act No. 17 of 1981 Act No. 36 of 1982 Act No. 5 of 1993 | Bophuthatswana Nature Conservation Act, 1973 Nature Conservation Amendment Act, 1980 (Bophuthatswana) Nature Conservation Amendment Act, 1981 (Bophuthatswana) Nature Conservation Amendment Act, 1982 (Bophuthatswana) Nature Conservation Amendment Act, 1993 (Bophuthatswana) |
| Act No. 10 of 1973 Act No. 9 of 1978 | Lebowa Nature Conservation Act, 1973 Lebowa Nature Conservation Amendment Act, 1978 |
| Proc. No. R.6 of 1978 | Nature Conservation in Black Areas Proclamation, 1978 |
| Ord. No. 12 of 1983 Ord. No. 11 of 1984 Ord. No. 18 of 1986 | Nature Conservation Ordinance, 1983 (Transvaal) Nature Conservation Amendment Ordinance, 1984 (Transvaal) Nature Conservation Amendment Ordinance, 1986 (Transvaal) |

PART 2

| Number and year of law | Short title | Extent of repeal or amendment |
|------------------------|--|-------------------------------|
| Act No. 3 of 1981 | KaNgwane Nature Conservation Act, 1981 | Repeal of the whole |