



KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SA KWAZULU-NATALI

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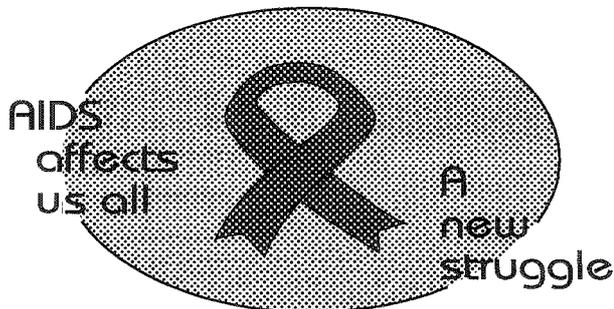
**Vol. 9**

**PIETERMARITZBURG,**

25 FEBRUARY 2015  
25 FEBRUARIE 2015  
25 kuNHLOLANJA 2015

**No. 1314**

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**Prevention is the cure**

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**GENERAL NOTICE**

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**No. 4****25 February 2015****KWAZULU-NATAL DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS****PUBLICATION OF THE KWAZULU-NATAL ENVIRONMENTAL, BIODIVERSITY AND PROTECTED AREAS MANAGEMENT BILL, 2014**

1. I, Michael Mabuyakhulu, Member of the Executive Council of KwaZulu-Natal responsible for Economic Development, Tourism and Environmental Affairs, hereby give notice of my intention to introduce the KwaZulu-Natal Environmental, Biodiversity and Protected Areas Management Bill, 2014, in the KwaZulu-Natal Provincial Legislature as provided for in section 119 of the Constitution of the Republic of South Africa.
2. Members of the public are invited to submit comments on the Bill to me prior to its introduction in the KwaZulu-Natal Provincial Legislature.
3. Comments must be in writing and submitted within 30 days after the publication of this notice in the *Gazette*, marked for the attention of the Head of Department, Mr. Desmond Golding, to any of the following addresses -

(a) by post: Department of Economic Development, Tourism and Environmental Affairs  
Private Bag 9152  
PIETERMARITZBURG, 3200

(b) by hand: Department of Economic Development, Tourism and Environmental Affairs  
270 Jabu Ndlovu Street  
PIETERMARITZBURG, 3201

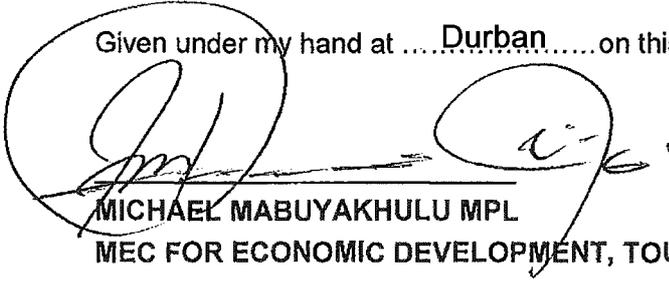
(c) by facsimile: 086 649 6559; or 086 680 3968

(d) by e-mail to: [ndlovuz@kznded.gov.za](mailto:ndlovuz@kznded.gov.za); or [nseles@kznded.gov.za](mailto:nseles@kznded.gov.za)

Any enquiries in connection with this notice can be directed to Mr. Sithembiso Nsele at telephone no. (033) 264 2710.

Comments received after the closing date will not be considered.

Given under my hand at .....Durban.....on this 7th day of ..January 2015..

A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by a surname, is written over a horizontal line. The signature is circled in black ink.

**MICHAEL MABUYAKHULU MPL**

**MEC FOR ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS**

**KWAZULU-NATAL  
ENVIRONMENTAL, BIODIVERSITY  
AND PROTECTED AREAS MANAGEMENT BILL, 2014**

**BILL**

To provide for the establishment, functions and powers of Ezemvelo KZN Wildlife; the protection and management of the environment and biodiversity; the protection and conservation of indigenous species, ecological communities, habitats and ecosystems; the management of the impact of certain activities on the environment; the sustainable use of indigenous biological resources; the declaration and management of protected areas; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

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### CHAPTER 1: INTERPRETATION AND OBJECTIVES OF ACT

#### 1 Definitions

In this Act, unless the context requires otherwise -

- (1) **"aquatic environment"** means a watercourse or any other water resource that contains indigenous species, but excludes marine environments;
- (2) **"alien species"** means –
  - (a) a species that is not an indigenous species; or
  - (b) an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in nature, but not an indigenous species that has extended its natural distribution range by natural means of migration or dispersal without human intervention;
- (3) **"animal species listed in Schedule 3: KwaZulu-Natal Protected Animal Species"** means animal species that are critically endangered, endangered, vulnerable, protected, in need of protection in the Province, or endemic to the Province;
- (4) **"animal species listed in Schedule 4: KwaZulu-Natal Restricted Use Protected Animal Species"** means animal species that are critically endangered, endangered, vulnerable, protected, or in need of protection in the Province, and in respect of which certain restricted activities provided for in the Schedule may be authorised by a permit issued in terms of this Act;
- (5) **"animal species listed in Schedule 5: KwaZulu-Natal Restricted Use Animal Species"** means animal species in respect of which certain activities provided for in the Schedule may be authorised by a permit issued in terms of this Act;

- (6) **“animal species listed in Schedule 6: KwaZulu-Natal Ordinary Use Animal Species”** means animal species in respect of which certain activities provided for in the Schedule may be authorised by a permit issued in terms of this Act, or which may be hunted by a landowner or his or her relative without a permit as provided for in this Act;
- (7) **“animal species listed in Schedule 9: KwaZulu-Natal Exempted Alien Animal Species”** means animal species for which permits are not required in terms of this Act;
- (8) **“animal species listed in Schedule 10: KwaZulu-Natal Alien Invasive Animal Species”** means alien invasive animal species that may not be imported, sold, traded in, possessed, bred in captivity, or released into the environment;
- (9) **“artificially propagated”** means a specimen of a plant species listed in Schedule 7 and 8 grown from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules derived from cultivated parental stocks that is grown in a controlled environment, and **“artificial propagation”** has a corresponding meaning;
- (10) **“biodiversity”** or **“biological diversity”** means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and ecological complexes of which they are a part, and also includes diversity within species, between species, and of ecosystems;
- (11) **“biodiversity offset”** means to compensate for or mitigate the loss of or significant harm to biodiversity following the granting of any environmental authorisation, permit, or any other authorisation;
- (12) **“Board”** means the board of Ezemvelo KZN Wildlife referred to in section 7;
- (13) **“bred in captivity”** or **“captive bred”** means a specimen of an animal species listed in Schedule 3, 4, 5 or 6, bred in a controlled environment;
- (14) **“buffer zone”** means an area immediately adjacent to the boundary of a protected area and includes natural attributes that are functionally important to support and ensure the sustainable use and enjoyment of a protected area;
- (15) **“canned hunting”** means the hunting of any animal in captivity, unduly restricted in its ability to escape, or which cannot eat, drink or breed without constant human intervention, which has been habituated to humans or which is not hunted under the principles of fair chase;
- (16) **“captive breeding facility”** means a facility registered in terms of this Act where specimens of an animal species listed in Schedules 3,4,5 or 6 are bred in a controlled environment, for conservation or commercial purposes;
- (17) **“captivity”** means where an animal is restrained by natural or artificial means from the freedom to move and requires routine human intervention to provide food, water or shelter;
- (18) **“capture”** means to catch or immobilise an animal by any means whatsoever;
- (19) **“Chief Executive Officer”** means the Chief Executive Officer of Ezemvelo KZN Wildlife;

- (20) **"circumference of a tree"** means the distance around the tree trunk measured at a point on the tree 1,4 metres above the surrounding ground, and in the case of a multi stemmed tree means the sum of the circumference of each stem measured at a point on each stem 1,4 metres above the surrounding ground;
- (21) **"communal land"** means land which is historically used and occupied by a community;
- (22) **"commercial breeding facility"** means a captive centre established and maintained for the purpose of breeding animals for sale, distribution or profit;
- (23) **"commercial purposes"** in relation to an activity, means that the primary purpose of carrying out that activity is for trade or economic benefit, including profit in cash or in kind;
- (24) **"conservation purposes"** in relation to an activity means that the primary purpose of carrying out that activity is to ensure the conservation and long term survival of a species;
- (25) **"controlled environment"** means an artificial or non-natural environment manipulated by human intervention;
- (26) **"Criminal Procedure Act"** means the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (27) **"culling"** means -
- (a) in relation to a protected area an operation executed under the control of the management authority of the area to kill a specific number of specimens of animal species within the area in order to manage that species in the area in accordance with a management plan for the area; or
  - (b) in relation to a registered game farm or declared private nature reserve an operation executed under the control of the landowner to kill a specific number of specimens of animal species on the game farm or declared private nature reserve in order to manage that species in accordance with a management plan for the game farm or declared private nature reserve.
- (28) **"damage causing animal"** means an animal specimen listed in Schedule 4, 5 and 6, when interacting with human activities -
- (a) Causes excessive losses to live stock or to wild species;
  - (b) Causes excessive damage to cultivated trees, crops, natural flora or other property; or
  - (c) Presents a threat to human life.
- (29) **"dart or darting"** in relation to a live animal means to shoot the animal with a projectile loaded with a tranquillising, narcotic, immobilising or similar agent, without the intention of killing such animal;
- (30) **"declared private nature reserve"** means --

- (a) a nature reserve declared by the MEC in terms of section 23 of the National Environmental Management: Protected Areas Act in respect of private land; and–
  - (b) includes an area –
    - (i) which before the commencement of this Act was declared or designated in terms of any other legislation for a purpose for which that area could in terms of section 23 (2) of the National Environmental Management Act be declared as a nature reserve; or
    - (ii) declared in terms of section 23 (1) National Environmental Management Act as part of an area referred to subsections (a) or (b) (i) .
- (31) “**diameter of a tree**” means any straight line segment that passes through the centre of the trunk of a tree measured at a point on the tree 1,4 metres above the surrounding ground level;
- (32) “**ecological community**” means an integrated group of species inhabiting a given area;
- (33) “**ecosystem**” means a dynamic complex of animal, plant and micro-organism communities and their non-living environment interacting as a functional unit;
- (34) “**environment**” means the surroundings within which humans exist and that are made up of –
- (a) the land, water and atmosphere of the earth;
  - (b) micro-organisms, plant and animal life;
  - (c) any part or combination of (a) or (b) and the inter-relationships among and between them; and
  - (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;
- (35) “**environmental management inspector**” means a person designated as an environmental management inspector in terms of section 95;
- (36) “**environmental protection**” means the conserving of natural resources, the preserving of the existing natural environment and, where possible, repairing damage and reversing trends to the natural environment, for the benefit of both the natural environment and humans, and “**protection of the environment**” has a corresponding meaning;
- (37) “**Executive Council**” means the Executive Council of KwaZulu-Natal;
- (38) “**exhibition facility**” means a facility registered in terms of this Act, including but not limited to zoological gardens, aquaria, travelling exhibitions, bird parks, butterfly houses, reptile parks, primate parks and conservation awareness centres, that keep animals in captivity for the purpose of exhibiting live animals to the public, for commercial or other purposes;

- (39) "export" means to take out or transfer, or attempt to take out or transfer, from a place within the Province to another province within the Republic of South Africa or to another country;
- (40) "Ezemvelo KZN Wildlife" means the provincial public entity established in terms of section 3;
- (41) "facility" means a facility listed in Part 1 and 2 of Chapter 7;
- (42) "fair chase" means the pursuit of a free roaming animal possessed of the natural inclination and ability to escape from a hunter;
- (43) "foreign hunting client" means a person who –
- (a) is not a citizen or resident of the Republic of South Africa; and
  - (b) pays a professional hunter or hunting outfitter for the hunting of specimens of animal species listed in Schedule 4, 5 or 6;
- (44) "game farm" means property used to farm wild animals to be maintained throughout their life-time in a natural and non-captive environment, which must be no less than 400 hectares of suitable habitat for the species farmed;
- (45) "game farming" means sustainable use and trade by the landowner of a game farm;
- (46) "Gazette" means the *Provincial Gazette* of KwaZulu-Natal;
- (47) "gene bank" means a facility registered in terms of this Act as a bio-repository which preserves genetic material of animal or plant species, and includes seed banks or any other repository of reproductive material
- (48) "habitat" means a place where a species or ecological community naturally occurs;
- (49) "hunt or hunting" in relation to a specimen of an animal species listed in Schedule 3, 4, 5 and 6 includes –
- (a) To intentionally kill such specimen by any means, method or device whatsoever;
  - (b) To capture such specimen by any means, method or device whatsoever with the intent to kill;
  - (c) To search for, lie in wait for, pursue, shoot at, tranquillise or immobilise such specimen with the intent to kill; or
  - (d) To lure by any means, method or device whatsoever, such specimen with the intent to kill,

but excludes the culling of a specimen of an animal species listed in Schedule 4, 5 and 6 in a protected area, on a registered game farm, or declared private nature reserve; or the culling of such a specimen that has escaped from a protected area, a registered game farm, or declared private nature reserve, and has become a damage causing animal;

- (50) **"hunting organization"** means any organization that represents hunters recognised in terms of section 70;
- (51) **"hunting outfitter"** means a person who is registered in terms of this Act as a hunting outfitter for the purpose of organizing and conducting hunting operations for commercial purposes;
- (52) **"hunting season"** means the time period during which certain species may be hunted, as determined by the MEC by publication in the *Gazette*;
- (53) **"hybrid"** in relation to an animal or plant means an animal or plant specimen that is the result of animals or plants from different species or sub-species cross-breeding, and "hybridization" has a corresponding meaning;
- (54) **"identified ecosystems"** means an ecosystem identified by the MEC as threatened or in need of protection in terms of section 40(2);
- (55) **"import"** means -
- (a) to land on, bring into or introduce into the Province, or attempt to land on, bring into or introduce into the Province; and includes
  - (b) to bring into the Province for re-export to a place outside the Province;
- (56) **"indigenous biological resource"** means any resource consisting of -
- (a) any living or dead animal, plant or other organism of an indigenous species;
  - (b) any derivative of such animal, plant or other organism; or
  - (c) any genetic material of such animal, plant or other organism;
- (57) **"indigenous species"** means a species that occurs, or has historically occurred, naturally in a free state in nature within the borders of the Province, but excludes a species that has been introduced into the Province as a result of human activity;
- (58) **"introduction"** in relation to a species means the introduction by humans, whether deliberately or accidentally, of a species to a place outside the natural range or natural dispersal potential of that species, and "introduce" has a corresponding meaning;
- (59) **"invasive species"** means any species whose establishment and spread outside of its natural distribution range -
- (a) threaten ecosystems, habitats, or other species or have demonstrable potential to threaten ecosystems, habitats or other plant species; and
  - (b) may result in economic or environmental harm or harm to human health;
- (60) **"kept in captivity"** or **"captive kept"** means a specimen of an animal species listed in Schedule 3, 4, 5 or 6, kept in a controlled environment for a purpose other than -
- (a) Transfer or transport;

- (b) Quarantine; or
- (c) Veterinary treatment;
- (61) **“KwaZulu-Natal Nature Conservation Management Act”** means the KwaZulu-Natal Nature Conservation Management Act, 1997 (Act No. 9 of 1997);
- (62) **“landowner”** includes the authorized representative of the land owner or persons in control of the land, and **“owner of land”** has a corresponding meaning;
- (63) **“local community”** means any community of people living or having rights or interests in a geographical area;
- (64) **“marketing agent”** means any person who markets the hunt of an animal to a foreign or local client on behalf of a hunting outfitter or landowner;
- (65) **“MEC”** means the Member of the Executive Council to whom the Premier has assigned the responsibility for environmental affairs in the Province;
- (66) **“mitigation measure”** means to compensate for or mitigate the loss of or significant harm to biodiversity following the granting of any environmental authorisation, permit, or any other authorisation;
- (67) **“National Environmental Management Act”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- (68) **“National Environmental Management: Biodiversity Act”** means the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004);
- (69) **“National Environmental Management: Protected Areas Act”** means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);
- (70) **“organ of state”** has the meaning assigned to it in section 239 of the Constitution of the Republic of South Africa 1996;
- (71) **“permit”** means a permit issued by Ezemvelo KZN Wildlife in terms of this Act, or a permit issued in terms of any other applicable legislation;
- (72) **“person”** includes a natural and juristic person;
- (73) **“pet shop”** means a business establishment, whether registered with the companies and intellectual properties commission or not, at which animals are traded and made available for purchase to members of the public, and includes any premises where animals may be viewed and traded ;
- (74) **“plant species listed in Schedule 7: KwaZulu-Natal Threatened Plant Species”** means plant species that are threatened, extinct in the wild, critically endangered, endangered, vulnerable, critically rare, data deficient or species not yet evaluated;
- (75) **“plant species listed in Schedule 8: KwaZulu-Natal Protected Plant Species”** means plant species that are near threatened, rare, declining, endemic or highly utilized;
- (76) **“prescribe”** means prescribed by regulation in terms of section 107;

- (77) **“private collection facility”** means a facility registered in terms of this Act for the collecting and keeping of specimens of plant species listed in Schedule 7: KwaZulu-Natal Threatened Plant species for non-commercial purposes;
- (78) **“private keeping facility”** means a facility registered in terms of this Act for the keeping of specimens of animal species listed in Schedule 3, 4, 5 and 6 for non-commercial purposes;
- (79) **“professional hunter”** means a person who undertakes hunting activities as a profession or for commercial gain or reward;
- (80) **“prohibited trap”** means –
- (a) any mechanism used for capturing or catching animals, and includes, without limitation, any net, snare, gin trap, trapdoor trap, cage trap, mist-net, bird-lime, whip-trap, noose or trap gun, but excludes a rat or mouse trap;
  - (b) in relation to aquatic environments
    - (i) any net except a hand held fish catching net; and
    - (ii) excludes a fish trap traditionally used in the Ingwavuma and Ubombo magisterial districts of the UMkhanyakude District Municipality, only when used by the inhabitants of that area in aquatic environments where it has traditionally been used;
- (81) **“propagate”** means to grow a specimen of a plant species from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules derived from cultivated parental stocks, and **“propagation”** has a corresponding meaning;
- (82) **“propagation facility”** means a facility registered in terms of this Act for the purpose of propagating specimens of plant species listed in Schedule 7 and 8 for commercial or conservation purposes;
- (83) **“protected area”** means a protected area referred to in section 9 of the National Environmental Management: Protected Areas Act –
- (a) where the management of such area was assigned to the Province in terms of section 38 of the National Environmental management: Protected Areas Act; or
  - (b) declared by the MEC as a nature reserve or protected environment in terms of this Act or in terms of section 23 of the National Environmental Management: Protected Areas Act;
- (84) **“Province”** means the Province of KwaZulu-Natal;
- (85) **“Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act 1 of 1999);
- (86) **“quarantine facility”** means a facility registered in terms of this Act for the temporary keeping in isolation of live specimens of an animal or plant species that have been exposed to infectious or contagious disease, with the intention of releasing them once there is no risk of it posing a further threat to animal or plant health;

- (87) **"re-export"**, means the export from the Province of a specimen of a species previously imported into the Province;
- (88) **"rehabilitation facility"** means a facility registered in terms of this Act for the temporary keeping of live animals for treatment, recovery, relocation and, in the case of young orphaned animals rearing, with the intention of releasing them into the wild once they are able to survive without human intervention;
- (89) **"relative"** means –
- (a) a party to a civil union, marriage, including a customary marriage, or party to a permanent relationship which calls for co-habitation and mutual financial and emotional support; or
  - (b) a person's child, parent, brother or sister, whether such relationship relates from birth, marriage or adoption;
- (90) **"review officer"** or **"review committee"** means an official or officials of Ezemvelo KZN Wildlife appointed by the chief executive officer to review decisions by Ezemvelo KZN Wildlife as provided for in section 92;
- (91) **"sanctuary"** means a non-profit facility registered in terms of this Act, where a permanent home is provided for animals that cannot survive in the wild, in a captive environment, for the purpose of protecting and caring for them and securing their quality of life;
- (92) **"scientific research facility"** means a facility or a unit of a tertiary institution registered in terms of this Act for the purpose of conducting scientific research in respect of animal or plant species;
- (93) **"South African Police Service Act"** means the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (94) **"species"** means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any sub-species, cultivar, variety, geographic race, strain, hybrid or geographically separate population;
- (95) **"specific environmental management Act"** means any environmental management Act administered by, or assigned or delegated to the Province, and includes any subordinate legislation made in terms of such Act.
- (96) **"specimen"** means –
- (a) any living or dead animal, plant or other organism;
  - (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;
  - (c) any derivative of any animal, plant or other organism; or
  - (d) any goods which –
    - (i) contain a derivative of an animal, plant or other organism; or

- (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;
- (97) **“sustainable”** in relation to the use of a biological resource means the use of such resource in a way and at a rate that –
- (a) will not lead to its long term decline;
  - (b) will not disrupt the ecological integrity of the ecosystem in which it occurs; and
- will ensure its continued use to meet the needs and aspirations of present and future generations of people;
- (98) **“translocate”** means to transfer a plant or animal from one place to another within the Province;
- (99) **“waste”** has the meaning assigned to it in the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);
- (100) **“watercourse”** means –
- (a) a river or spring;
  - (b) a natural channel in which water flows regularly or intermittently;
  - (c) a wetland, lake or dam into which, or from which, water flows; and
  - (d) any collection of water declared in terms of the National Water Act, 1998 (Act No. 36 of 1998) to be a watercourse,
- and a reference to a watercourse includes, where relevant, its bed and banks;
- (101) **“water resource”** includes a watercourse, surface water, estuary, or aquifer;
- (102) **“wetland”** means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil;
- (103) **“wild sourced”** means an animal or plant specimen gathered or collected from its natural environment;
- (104) **“wild specimen”** means a specimen that is or was living or growing in natural conditions with or without human intervention, and **“wild animal”** and **“wild plant”** have corresponding meanings.
- (105) **“wildlife trader”** means a wildlife trader registered in terms of this Act for the purpose of trading in indigenous animal specimens, or specimens of plant species listed in Schedules 7 and 8;
- (106) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise;

- (107) Any reference to "the Act" or "this Act" includes any subordinate legislation issued in terms of a provision of this Act;
- (108) Any term or provision of this Act must be reasonably interpreted in a manner that is consistent with the purpose and objectives of this Act.

## **2 Objectives of the Act**

- (1) The objectives of this Act are -
- (a) to establish Ezemvelo KZN Wildlife and to provide for the operation, management and administration thereof;
  - (b) to provide for the protection of the environment, including -
    - (i) the protection, conservation and management of habitats and ecosystems in the Province, including species within an ecosystem which are not targeted for exploitation;
    - (ii) the protection, conservation and management of biological diversity in the Province, and of the components of such biological diversity; and
    - (iii) the sustainable use of indigenous biological resources;
    - (iv) the declaration and management of protected areas, and to ensure their sustainable use and enjoyment;
    - (v) the control and management of ecotourism in protected areas under the control of Ezemvelo KZN Wildlife;
  - (c) to implement environmental legislation and agreements within the Province; and
  - (d) to provide a regulatory framework for the implementation and enforcement of provisions of this Act.

## **CHAPTER 2: EZEMVELO KZN WILDLIFE**

### **Part 1 - Establishment, Functions and General Powers of Ezemvelo KZN Wildlife**

#### **3 Establishment of Ezemvelo KZN Wildlife**

- (1) Ezemvelo KZN Wildlife is established by this Act.
- (2) Ezemvelo KZN Wildlife is a juristic person and a provincial public entity subject to the Public Finance Management Act.

#### 4 Functions of Ezemvelo KZN Wildlife

- (1) Ezemvelo KZN Wildlife is responsible for environmental protection in the Province as a whole, and must –
- (a) protect and conserve species, ecological communities, ecosystems, habitats and biological diversity in the Province;
  - (b) manage, protect, conserve and control protected areas –
    - (i) listed in the Schedule 2, or as declared by the MEC from time to time;
    - (ii) assigned to it by legislation; or
    - (iii) in accordance with the powers and duties delegated or assigned in respect of the protected area;in a manner that will ensure their sustainable use and enjoyment;
  - (c) manage and control ecotourism in protected areas under its control;
  - (d) implement -
    - (i) environmental management legislation administered by, or assigned to it; and
    - (ii) agreements entered into by Ezemvelo KZN Wildlife within the Province, or between Ezemvelo KZN Wildlife and any other organ of state;
  - (e) promote associations or partnerships and conclude agreements with other organs of state, land owners and other stakeholders to perform its functions and achieve the objectives of this Act;
  - (f) prepare and submit biodiversity targets to the MEC for his or her consideration and approval;
  - (g) prepare and submit in terms of the National Environmental Management: Biodiversity Act to the MEC for his or her consideration and approval -
    - (i) bioregional plans and;
    - (ii) biodiversity management plans;
  - (h) establish and maintain an up to date central register of all agreements concluded in terms of subsection (1)(e);
  - (i) establish and maintain an up to date central register, for inspection and use by any other organ of state, municipality or member of the public, on request, containing particulars of –
    - (i) all current biodiversity targets, bioregional plans and biodiversity management plans approved by the MEC in terms of subsection (1) (f) and (g);

- (ii) all protected areas in the Province;
  - (iii) buffer zones declared in terms of section 35;
  - (iv) all ecosystems identified by the MEC in terms of section 40(2) and habitats that are threatened or in need of protection; and
- (j) survey, monitor and measure against the targets determined in terms of subsection 1 (f)–
- (i) the status of the biodiversity in the Province; and
  - (ii) the status of threatened or protected species, ecosystems and habitats in the Province; and
- report regularly thereon to the MEC.
- (k) report annually to the MEC on its contribution towards South Africa's attainment of any targets or goals required in terms of the Convention on Biological Diversity.
- (l) implement all steps necessary to:
- (i) ensure the sustainable use and enjoyment of species, ecological communities, habitats and ecosystems;
  - (ii) prevent harm to indigenous species, ecological communities, habitats, ecosystems and biodiversity by invasive or alien species;
  - (iii) prevent harm to and pollution of natural resources, ecosystems or habitats;
  - (iv) ensure the conservation of biodiversity in the Province;
  - (v) ensure that representative samples of the province's biodiversity is included into the network of protected areas, or to recommend to the MEC to acquire land to give effect to this function;
- (m) on the MEC's request, assist the MEC in the performance of duties and the exercise of powers assigned to him or her in terms of this Act;
- (n) make recommendations to, or advise the MEC or any other competent authority on –
- (i) the management of a protected area;
  - (ii) the declaration of additional protected areas in the Province and, in the case of existing protected areas, the addition of certain areas to or exclusions from protected areas in the Province;
  - (iii) the declaration of buffer zones in terms of section 35(2);
  - (iv) the identification of ecosystems in terms of section 40(2);

- (v) measures necessary to restrict or control any activities in a threatened ecosystem, habitat or protected area for the purpose of the conservation of biological diversity in the Province;
  - (vi) the implementation of this Act, or any other environmental legislation assigned or delegated to the Province, and any agreements affecting the environment in the Province;
  - (o) participate in local government integrated development planning and other planning processes in the Province as directed by the MEC;
  - (p) participate in international, regional and national environmental, conservation and cultural heritage initiatives identified by the MEC from time to time, on such terms and conditions as the MEC provides in writing;
  - (q) report at least annually at the end of each financial year to the MEC on the law enforcement duties performed by Environmental Management Inspectors designated by the MEC in terms of section 95 during that period;
  - (r) report at least annually to the MEC on the achievement of objectives of the Act, provided that the MEC may request additional reports from time to time; and
  - (s) give effect to South Africa's obligations under international agreements relating to the protection of the environment within the Province.
- (2) Ezemvelo KZN Wildlife must perform its functions and exercise its powers subject to –
- (a) the directives, determinations and norms and standards issued by the MEC in terms of section 6; and
  - (b) the principles set out in the National Environmental Management Act and any applicable norms and standards, directives, determinations or guidelines provided for in legislation.

## 5 General Powers of Ezemvelo KZN Wildlife

- (1) Ezemvelo KZN Wildlife may, for the purpose of performing its functions –
- (a) appoint its own staff, subject to sections 24 and 26;
  - (b) with the prior written consent of the MEC, acquire or dispose of any right in or to movable or immovable property, or hire or let any property;
  - (c) open and operate its own bank accounts;
  - (d) employ or engage the services of professional, technical, administrative or other categories of staff, contractors or consultants, including any organ of state, for the performance of any specific act, task or assignment, and to determine the remuneration and terms and conditions thereof;
  - (e) insure itself against -
    - (i) any loss, damage or risk; or

- (ii) any liability it may incur in respect of Board members, staff members or volunteer members of the public in the application of this Act;
- (f) institute or defend any legal action and perform other legal acts, including acts in association with or on behalf of any other person or organ of state;
- (g) in a protected area under its control and management –
  - (i) allow visitors to the protected area;
  - (ii) carry out any development and construct or erect any works necessary for the management of the area, provided that any such development or construction is done in accordance with the provisions of this Act or any other applicable legislation, any restrictions imposed by the MEC in terms of section 51 of the National Environmental Management: Protected Areas Act, and any other applicable environmental management principles and norms and standards;
  - (iii) make, enforce, and set penalties for breaches of traffic rules;
  - (iv) take reasonable steps to ensure the security and well-being of visitors and members of its staff;
  - (v) provide accommodation and facilities, and carry on any business or trade or other services, for the convenience of visitors and staff, including the sale of food, household supplies and liquor in protected areas;
  - (vi) control or remove any species or specimens of species which it considers undesirable for the sustainable management of the area, or that may negatively impact on its habitats, ecosystems and biodiversity;
- (h) determine, charge and collect fees, levies or royalties for -
  - (i) entry to or stay in a protected area controlled, operated and maintained by it;
  - (ii) any work performed or services rendered by it;
  - (iii) the issue of any registration certificate, permit or any other authorisation issued in terms of this Act;
  - (iv) access to the results of or from any intellectual property assets or rights owned or controlled by it, or other information arising from any research or functions performed by it;
- (i) grant exemptions or partial exemptions or make ex gratia refunds, in whole or in part, in respect of any fees, charges and levies;
- (j) promote and undertake research;
- (k) manage breeding and propagation programmes, and reserve areas in a protected area as breeding and propagation areas;

- (l) establish advisory committees referred to in section 36;
  - (m) sell, exchange or donate any animal, plant or other organism occurring in a protected area, or purchase or otherwise acquire any indigenous species which it may consider desirable to re-introduce into a specific protected area;
  - (n) take such measures as it may deem necessary for the protection of the environment, including the conservation of species, ecological communities, habitats, ecosystems and biodiversity;
  - (o) develop, adopt and implement policies, norms and standards and guidelines in relation to any of its powers or functions;
  - (p) provide training, development and education in any matter related to its functions;
  - (q) take such steps as may be necessary from time to time to provide services and facilities for its members and staff;
  - (r) register, issue permits or any other authorisation, subject to the provisions of this Act or any other legislation in terms of which it is authorised to register, issue permits or authorisations;
  - (s) undertake investigations into and make recommendations to the MEC in relation to any matter arising from its duties, functions or powers;
  - (t) obtain and maintain accreditation as an Official Institution, accredited Training Provider in terms of the Firearms Control Act, 2000 (Act No. 60 of 2000) and any other accreditations relating to its functions;
  - (u) exercise any other powers granted to it by law;
  - (v) do anything necessary to exercise its powers and duties, provided such action is not incompatible with the provisions of this Act or any other applicable legislation.
- (2) Subject to the provisions of the Public Finance Management Act, Ezemvelo KZN Wildlife may, for the purpose of performing its functions –
- (a) invest with and borrow funds from any financial institutions;
  - (b) acquire and dispose of any interest in companies, partnerships or other legal persons;
  - (c) raise or receive funds through any lawful means including, but not limited to:
    - (i) the acceptance of donations, bequests and sponsorships;
    - (ii) the sale, lease or exchange of natural resources, including but not limited to plants and animals;
    - (iii) revenue derived from ecotourism, levies and the issue of permits;

- (iv) fees, charges and levies for accommodation and other facilities in areas managed by it;
- (v) fines imposed or forfeitures made in terms of this Act;
- (d) establish funds to acquire land or to ensure long term security of land with conservation value;
- (e) establish an environmental protection fund with the object of funding -
  - (i) deserving environmental protection projects;
  - (ii) incentives to private land owners to secure land for the purpose of the long term protection of the environment;
- (f) transfer into the environmental protection fund such funds as may remain at the end of the financial year from the funds received by it under subsections 5(2)(c) and (d).

## Part 2 - Role of the MEC

### 6 MEC's supervisory powers

- (1) The MEC must monitor Ezemvelo KZN Wildlife in the exercise and performance of its functions and powers.
- (2) The MEC -
  - (a) may issue directives to Ezemvelo KZN Wildlife on policy, planning, strategy and procedural issues to ensure its effective and efficient functioning;
  - (b) may, by notice in the *Gazette*, determine norms and standards for the performance by Ezemvelo KZN Wildlife of its functions and powers, and may issue directives on measures to achieve those norms and standards;
  - (c) may determine limits on fees charged by Ezemvelo KZN Wildlife in the performance of its functions and exercise of its powers.

## Part 3 - Governing Board, Composition and Membership

### 7 Board

- (1) Ezemvelo KZN Wildlife acts through the Board, which takes all decisions for the performance of its functions and obligations, except -
  - (a) those decisions taken in consequence of a delegation in terms of section 23; or
  - (b) where the Public Finance Management Act provides otherwise.

- (2) The Board is the accounting authority of Ezemvelo KZN Wildlife as provided in section 49(2) (a) of the Public Finance Management Act.

#### **8 Composition of Board**

- (1) Ezemvelo KZN Wildlife is governed by a board consisting of -
- (a) not fewer than seven and no more than nine members appointed by the MEC in terms of section 10; and
  - (b) the Chief Executive Officer, who is an *ex officio* member of the Board but does not have the right to vote at its meetings.
- (2) The MEC -
- (a) must, by notice in the *Gazette*, determine the number of members to be appointed in terms of subsection 8(1)(a); and
  - (b) may alter from time to time the number of members determined in terms of paragraph (a), but a reduction in the number may be effected only when a vacancy in the Board occurs.

#### **9 Qualifications**

- (1) A member of the Board must—
- (a) be a fit and proper person to hold office as a member; and
  - (b) have appropriate qualifications or experience.
- (2) The MEC may from time to time, by notice in the *Gazette*, prescribe the information, qualifications and experience required for appointment as a member of the Board.
- (3) A person is disqualified from becoming or remaining a member of the Board if that person -
- (a) holds office as a member of Parliament or the Provincial Legislature;
  - (b) is an official or employee in terms of the Public Service Act, 1994;
  - (c) is or becomes an unrehabilitated insolvent;
  - (d) is or has been declared by a competent court to be of unsound mind;
  - (e) is directly or indirectly interested in any contract with Ezemvelo KZN Wildlife and fails to declare his or her interest and the nature thereof in the manner required by this Act;
  - (f) is a person under curatorship;
  - (g) has at any time been removed from an office of trust on account of misconduct involving theft or fraud;

- (h) has been convicted of an offence involving dishonestly or damage to the environment and has received a sentence of 12 months or longer with or without the option of a fine: Provided that a disqualification in terms of this subsection ends 5 years after the sentence has been completed;
- (i) fails to disclose an interest in accordance with section 14 or attended or participated in the proceedings of the Board while having an interest referred to in that section; or
- (j) has been removed from office in terms of section 16.

#### 10 Appointment procedure

- (1) Whenever it is necessary to appoint a member of the Board, the MEC must –
  - (a) invite nominations through advertisements in the *Gazette* and at least 2 provincial newspapers, one in English and one in isiZulu, which must prescribe the information, qualifications and experience required for appointment; and
  - (b) compile a list of the names of persons nominated, setting out the prescribed particulars of each individual nominee.
- (2) Any nomination made pursuant to an advertisement in terms of subsection (1)(a) must be supported by—
  - (a) the personal details of the nominee;
  - (b) particulars of the nominee's qualifications or experience; and
  - (c) any other information that may be prescribed.
- (3) A person who has been nominated to serve on the Board in terms of subsection (2) must, within 10 days of being nominated, submit to the MEC the nominee's -
  - (a) signed acceptance of the nomination;
  - (b) statement declaring that he or she is not disqualified from appointment in terms of this Act; and
  - (c) written declaration of all his or her direct or indirect interests in any company or business entity, or other business interests.
- (4) Any failure by the nominee to disclose financial and other interests in terms of subsection (3) disqualifies the nominee from being considered for the position of the member of the Board.
- (5) The MEC may appoint an independent and external selection panel to review the nominations and make recommendations to him or her thereon.
- (6) The MEC must make the required number of appointments from the list referred to in subsection (1) (b), but if the listed nominees do not comply with the requirements for qualification or the criteria provided for in this Act, then the MEC may appoint any suitable person to ensure that the requirements of this Act are met.

- (7) In making the appointments, the MEC must ensure that the Board is composed of persons covering a broad range of appropriate expertise, and representation by -
- (a) the KwaZulu-Natal Tourism Authority established under the KwaZulu-Natal Tourism Authority Act, 1996 (Act No. 11 of 1996);
  - (b) community based or representative organisations involved in environmental protection, biodiversity, ecotourism or the sustainable utilisation of natural resources in the Province;
  - (c) traditional leadership;
  - (d) at least two persons with qualifications and experience in conservation and protection of the environment;
  - (e) at least one person with legal skills or qualifications in labour, commercial or planning law; and
  - (f) persons with financial management qualifications and experience.
- (8) When making an appointment the MEC may have regard to the need for appointing persons disadvantaged by unfair discrimination.
- (9) The MEC must notify in writing the persons appointed to the Board of their appointment, and the date upon which the appointment to the Board takes effect.
- (10) The MEC must inform the portfolio committee responsible for environmental affairs in the Provincial Legislature of the names of the persons appointed to the Board, and cause the names of the person so appointed to be published in the *Gazette* and in the media circulating in the Province.
- (11) Where it is shown that any one or more members of the Board were not properly appointed, such circumstance will not invalidate or effect any resolution, decision, authority or action taken by the Board, unless the Court considering the validity of a particular resolution, decision, authority or action decides, for good reason, to find that such resolution, decision, action or authority should be set aside.

#### 11 Chairperson

- (1) The MEC must appoint a Chairperson and a Deputy Chairperson from the members of the Board.
- (2) The MEC may, for good reason, withdraw or vary such appointments.
- (3) The Chairperson and Deputy Chairperson are appointed for such period as the MEC may determine, provided that their appointments may not extend beyond their terms as members of the Board.
- (4) The Deputy Chairperson must exercise all the powers, functions and duties of the Chairperson if the Chairperson is absent, incapacitated, refuses or fails to act as Chairperson, or if the MEC withdraws the Chairperson's appointment.

- (5) If both the Chairperson and Deputy Chairperson are absent, incapacitated, refuse or fail to undertake their duties, or if the MEC withdraws their appointments, the MEC must appoint another Board member as acting Chairperson.

## 12 Term of office

- (1) Members of the Board are –
- (a) appointed for a term of 3 years or, if section 17(2) applies, for a term determined in terms of that section;
  - (b) eligible for reappointment for one additional term of 3 years after completion of a term contemplated in paragraph (a); and
  - (c) after a break of at least 3 years after an additional term referred to in paragraph (b) has ended, eligible for appointment in terms of paragraph (a) again and, if appointed, eligible for reappointment in terms of paragraph (b).
- (2) Any appointment in terms of subsection (1) may be extended by the MEC for a specific period not exceeding 1 year.

## 13 Conditions of appointment

- (1) The MEC must determine the conditions of appointment of members of the Board, and may provide for the payment of remuneration and allowances determined by the MEC after consulting the MEC responsible for finance.
- (2) Any remuneration and allowances are payable by Ezemvelo KZN Wildlife.
- (3) Board members are appointed part-time.

## 14 Standard of members conduct

- (1) In this section “member” includes any member of staff in attendance at a Board meeting or a person who is a member of a committee appointed in terms of section 22.
- (2) Every member of the Board must submit to the MEC a written declaration of his direct or indirect interest in any company, business entity or other business interest at the beginning of every financial year of Ezemvelo KZN Wildlife. Where a member of the Board acquires an interest in any company or other business interest at anytime during his or her tenure as a member of the Board, that Board member must, within 10 days of the date of the acquisition of such an interest, submit a written declaration to the MEC of such an interest.
- (3) A member of the Board -
- (a) must perform the functions of office in good faith and without favour or prejudice;
  - (b) must disclose to the Board any direct or indirect personal or private business interest that that member, or relative of that member, may have in any matter before the Board;

- (c) may not use the position, privileges or knowledge of a member for private gain or to improperly benefit another person; and
  - (d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of Ezemvelo KZN Wildlife.
- (4) A member of the Board must recuse himself or herself from a matter being considered or voted upon by the Board if he or she has a direct or indirect interest or if there is a possibility that a direct or indirect interest might arise, unless the Board determines that the interest disclosed is trivial or not material.
- (5) If at any stage during the course of any proceedings before the Board it appears that a member who is present at that meeting has or may have an interest contemplated in subsection (4), such a member must forthwith disclose the nature of his or her interest and leave the meeting.
- (6) Any disclosure made in terms of subsection (3) or (4) must be recorded in the minutes of the meeting in question.
- (7) If it subsequently emerges that the Board took a decision on a matter in respect of which a member failed to disclose a material interest referred to in subsection (3) or (4), such decision by the Board is invalid.
- (8) For the purposes of this section "indirect interest" includes, but is not limited to, an interest held by any member's –
- (a) relative; or
  - (b) business partner, associate or employer, other than the State.
- (9) A member of the Board who contravenes or fails to comply with subsections (2) to (5) is guilty of misconduct, and such contravention or failure may constitute good reason for the removal of such member.
- (10) The MEC must keep an updated register of the interests of members of the Board disclosed in terms of this section.

#### 15 Termination of membership

- (1) A Board member's appointment is terminated when that person -
- (a) is no longer eligible in terms of section 9 to be a member;
  - (b) exceeds the member's term of office;
  - (c) resigns; or
  - (d) is removed from office in terms of section 16.
- (2) A member may resign by giving at least three months' written notice to the MEC, but the MEC may accept a shorter period in a specific case.
- (3) When a Board member ceases to be a member of the Board he or she may no longer represent the Board in any committee or on any other body or entity.

**16 Removal from office**

- (1) The MEC may remove a member of the Board from office on the ground of -
- (a) misconduct, dishonesty, incapacity or incompetence;
  - (b) absence from three consecutive meetings of the Board without the prior permission of the Board, except on good cause shown;
  - (c) insolvency; or
  - (d) conviction of a criminal offence without the option of a fine.
- (2) A member of the Board may be removed from office on the ground of misconduct or incompetence only after a finding to that effect has been made by a board of inquiry appointed by the MEC.
- (3) The MEC may suspend a member under investigation in terms of this section.

**17 Filling of vacancies**

- (1) A vacancy in the Board is filled -
- (a) by following the procedure set out in section 10 in the case of an ordinary member; and
  - (b) by following the procedure set out in section 11 in the case of by the Chairperson or Deputy Chairperson.
- (2) A person appointed to fill a vacancy holds office for the unexpired portion of the term of the vacating member or Chairperson or Deputy Chairperson.

**18 Absence of functional Board**

- (1) In the absence of a functional Board, the functions and powers of the Board revert to the MEC who, in such a case, must perform those functions until the Board is functional again.
- (2) The MEC must immediately take all reasonable and necessary steps to ensure that the Board becomes functional again, or must establish a new Board if so required.

**Part 4 - Operating Procedures of Board****19 Meetings**

- (1) The Chairperson of the Board decides when and where the Board meets; provided that -
- (a) the MEC may in writing direct the Board to meet, and may direct the time and place of the meeting;

- (b) the majority of the members in office at that time may request the Chairperson in writing to convene a meeting at a time and place set out in the request.
- (2) The Chairperson or in his or her absence, the Deputy Chairperson, presides at meetings of the Board, but if they are both absent from a meeting, the members present must elect another member to preside at the meeting.
- (3) The Board may, in its discretion, allow members of the public to attend any meeting of the Board.
- (4) The Board may determine its own procedures subject to the other provisions of this Act.

#### **20 Minutes of meetings**

- (1) The Board must ensure that minutes of every meeting of the Board and its committees are compiled and circulated to all Board and committee members.
- (2) All minutes of meetings referred to in subsection (1) must be tabled at the next Board or committee meeting for adoption and will, once adopted and signed by the Chairperson of the Board or a committee, be deemed to be a correct record of the meeting and constitute prima facie evidence of the decisions taken by the Board or committee at such meeting.
- (3) The minutes of all meetings of the Board or its committees are public documents to which members of the public may obtain access during office hours.

#### **21 Quorum and decisions**

- (1) A majority of the serving members of the Board constitutes a quorum for a meeting of the Board.
- (2) A matter before the Board is decided by the votes of a majority of the members present at the meeting.
- (3) If on any matter before the Board there is an equality of votes, the member presiding at the meeting must exercise a casting vote in addition to that person's vote as a member.

#### **22 Committees**

- (1) The Board may establish one or more committees to assist it in the performance of its functions.
- (2) When appointing members to a committee, the Board is not restricted to members of the Board.
- (3) The Board -
  - (a) must determine the functions of a committee;
  - (b) must appoint the chairperson and other members of the committee;

- (c) may remove a member of a committee from office at any time; and
  - (d) may determine a committee's procedure.
- (4) The Board may dissolve a committee at any time.
- (5) Section 13 applies to the conditions of appointment of committee members.
- (6) A staff member of Ezemvelo KZN Wildlife appointed to a committee serves on the committee subject to the terms and conditions of that person's employment.

### 23 Delegation of powers and assignment of duties

- (1) When necessary for the proper performance of its functions the Board may delegate any of its powers or assign any of its duties, excluding those mentioned in subsection (2), to -
- (a) a Board member;
  - (b) a committee established under section 22; or
  - (c) an appropriate staff member of Ezemvelo KZN Wildlife.
- (2) The Board may not delegate or assign the following powers and functions -
- (a) The appointment or reappointment of the Chief Executive Officer and any determination of Chief Executive Officer's conditions of service contemplated in section 24;
  - (b) the determination of the employment policy, financial limits or terms and conditions referred to in section 26;
  - (c) the financial management responsibilities assigned to the Board under Part 6 of this Chapter; and
  - (d) the approval of the budget.
- (3) A delegation or assignment in terms of subsection (1) -
- (a) must be in writing;
  - (b) is subject to such limitations, conditions and directions as the Board may impose;
  - (c) does not divest the Board of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty; and
  - (d) does not prevent the exercise of the assigned power or the performance of the assigned duty by the Board.
- (4) All delegations and assignments in terms of subsection (1) must be maintained in an up to date register.

- (5) The Board may confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.

#### Part 5 - Administration of Ezemvelo KZN Wildlife

##### 24 Appointment of Chief Executive Officer

- (1) The Board, acting with the concurrence of the MEC, must appoint a suitably qualified, skilled and experienced person as the Chief Executive Officer of Ezemvelo KZN Wildlife.
- (2) The Chief Executive Officer -
- (a) is appointed for a term not exceeding 5 years; and
  - (b) may be reappointed by the Board with the concurrence of the MEC.
- (3) The Chief Executive Officer is employed on such terms and conditions of employment as the Board may determine, with the concurrence of the MEC after consulting the MEC responsible for finance.
- (4) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement concluded between that person and the Board. The Chief Executive Officer and the Board may, in writing and by agreement, amend the performance agreement.
- (5) The provisions of sections 10(3)(c) and 14, with the necessary changes, apply to the Chief Executive Officer, except that Chief Executive Office must make his declaration of interests to the Board.
- (6) The Chief Executive Officer must perform such duties and may exercise such powers as the Board may assign or delegate to the Chief Executive Officer, and is responsible for -
- (a) the administrative and financial management of Ezemvelo KZN Wildlife;
  - (b) the appointment of members of staff on accordance with the provisions of section 26(1) and (2);
  - (c) managing the members of staff and directing the affairs of Ezemvelo KZN Wildlife in order to achieve the objectives of the Act;
  - (d) the maintenance of discipline over members of staff;
  - (e) the determination, in consultation with the Board, of a code of conduct, applicable to the Chief Executive Officer and all other members of staff, and justiciable for purposes of disciplinary proceedings, to ensure -
    - (i) compliance with applicable law, including this Act;

- (ii) the effective, efficient and economical use of Ezemvelo KZN Wildlife's funds and resources;
  - (iii) the promotion and maintenance of a high standard of professional ethics;
  - (iv) the prevention of conflicts of interest;
  - (v) the protection of confidential information held by the Board or Ezemvelo KZN Wildlife; and
  - (vi) professional, honest, impartial, fair, ethical and equitable service;
- (f) the keeping and maintenance of the register of interests declared by members of staff; and
- (g) ensuring that Ezemvelo KZN Wildlife complies with the provisions of this Act, the Public Finance Management Act, and any other applicable legislation.
- (7) The Chief Executive Officer is accountable to the Board for the exercise of his or her powers and the performance of his or her functions under this Act, and must report to the Board on the activities, functions and management of Ezemvelo KZN Wildlife at such frequency and in such manner as the Board may determine.
- (8) The Chairperson of the Board may, after consulting the MEC, appoint another staff member as acting Chief Executive Officer if the Chief Executive Officer is absent or unable to perform his or her functions for any reason, or if the position is vacant. Such acting appointment may not exceed six months.
- (9) Whilst acting as Chief Executive Officer, such staff member -
- (a) has the powers and duties of the Chief Executive Officer; and
  - (b) is employed subject to such terms and conditions of employment as the Chairperson of the Board may determine in accordance with subsection (3), subject to any limitations and conditions determined by the MEC.

## **25 Resignation and removal from office of the Chief Executive Officer**

- (1) The Chief Executive Officer vacates office -
- (a) in the case of resignation, when the resignation takes effect;
  - (b) when that person has become disqualified to be director of a company in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
  - (c) upon having been removed from office in terms of subsection (2).
- (2) The Board may, in consultation with the responsible Member of the Executive Council, terminate the Chief Executive Officer's employment in accordance with applicable law and process.

**26 Employment of staff**

- (1) The Chief Executive Officer, with the concurrence of and within the financial limits set by the Board, must –
  - (a) determine a staff establishment necessary to enable Ezemvelo KZN Wildlife to perform its functions;
  - (b) determine the terms of service and a code of conduct for employees of Ezemvelo KZN Wildlife.
- (2) The Chief Executive Officer may appoint persons to funded posts on the staff establishment.
- (3) Employees of Ezemvelo KZN Wildlife –
  - (a) are employed subject to applicable terms, conditions and policies and within the financial limits set by the Board;
  - (b) must perform their duties under the supervision of the Chief Executive Officer and subject to the code of conduct determined by the Chief Executive Officer;
  - (c) must declare their financial interests to the Chief Executive Officer, who must keep an update register of such interests. The provisions of sections 10(3)(c) and 14, with the necessary changes, will apply to the declaration of financial and other interests;
  - (d) may, with the consent of that employee, be seconded to another organ of state by agreement between the Chief Executive Officer and such organ of state.
- (4) A person in the service of another organ of state may be seconded to Ezemvelo KZN Wildlife by agreement between the Chief Executive Officer and such organ of state. Persons seconded to Ezemvelo KZN Wildlife perform their functions under the supervision of the Chief Executive Officer.

**27 Designation of employees as environmental management inspectors**

- (1) The MEC may designate any employee of Ezemvelo KZN Wildlife as an environmental management inspector in accordance with and subject to the provisions of section 95.

**28 Appointment of volunteer members of the public**

- (1) Ezemvelo KZN Wildlife may appoint members of the public as volunteer members for the purposes of assisting it with the performance of its functions under this Act, excluding any duties or functions for which an environmental management inspector is designated by the MEC in terms of section 95.
- (2) The Board may -

- (a) assign to such volunteer members specific roles and functions set out in a written letter of appointment issued at the time of an appointment, subject to the provisions of this Act and any other relevant legislation;
  - (b) at any time rescind, extend or vary any appointment, power or function of a volunteer member;
  - (c) determine a code of conduct for volunteer members of the public.
- (3) A person appointed as a volunteer member of the public -
- (a) is appointed on a voluntary basis and without remuneration;
  - (b) is not a member of the staff of Ezemvelo KZN Wildlife; and
  - (c) has no authority to conclude any obligation or to bind Ezemvelo KZN Wildlife to any obligation or to sign any document on behalf of Ezemvelo KZN Wildlife.

#### **Part 6 - Funding and Financial Management of Ezemvelo KZN Wildlife**

##### **29 Financial accountability**

Ezemvelo KZN Wildlife must comply with the provisions the Public Finance Management Act and sound corporate governance principles and practice.

##### **30 Funds**

- (1) The funds of Ezemvelo KZN Wildlife consist of -
- (a) money appropriated to it for its purposes by the Provincial Legislature;
  - (b) income derived from the performance of its functions, including from fees, charges, fines paid or forfeitures made in terms of this Act;
  - (c) grants received from organs of state;
  - (d) voluntary contributions, donations and bequests;
  - (e) money borrowed in terms of section 5(2)(a);
  - (f) income derived from investments;
  - (g) income from any source identified in section 5(2)(c); and
  - (h) money derived from any other source, with the approval of the MEC.
- (2) Ezemvelo KZN Wildlife must utilise its funds -
- (a) for the payment of remuneration, allowances and subsistence and travelling expenses of -
    - (i) the members of the Board;

- (ii) the Chief Executive Officer and the Ezemvelo KZN Wildlife members of staff;
- (b) to cover the costs of -
  - (i) the day to day operation and administration of the Ezemvelo KZN Wildlife and the Board;
  - (ii) the operation and management of the Ezemvelo KZN Wildlife; and
  - (iii) the performance of the duties and functions of the Board and the exercise of its powers in terms of this Act.
- (3) The Chief Executive Officer must, with the concurrence of the Board -
  - (a) open an account in the name of the Ezemvelo KZN Wildlife with an institution registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); and
  - (b) deposit therein all money received in terms of subsection (1).
- (4) With effect from the date when this Act comes into operation any bank accounts or funds operated, or investments held, by the predecessor in title to Ezemvelo KZN Wildlife will be deemed to be the bank accounts, funds or investments of Ezemvelo KZN Wildlife.
- (5) Ezemvelo KZN Wildlife may invest monies deposited into the account that are not required for immediate use: Provided that the Board must take reasonable steps to ensure that the investment is not of a speculative nature or exposed to undue risk.
- (6) Neither the Ezemvelo KZN Wildlife nor the Board may borrow money or issue guarantees, indemnities or securities or enter into any other transactions that binds it unless such borrowing, guarantee, indemnity, security or other transaction is authorised in terms of this Act and not in conflict with the Public Finance Management Act.

### **31 Financial management**

- (1) The Chief Executive Officer must cause full and proper books of account and all the necessary records in relation thereto to be kept.
- (2) The Chief Executive Officer must ensure that Ezemvelo KZN Wildlife's annual budgets, strategic plans, annual performance plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act.
- (3) The Chief Executive Officer must, within 3 months before the end of each financial year, submit to the Board for approval -
  - (a) a business plan for Ezemvelo KZN Wildlife, containing measurable objectives and the other information reasonably required by the Board; and
  - (b) a statement of the estimated income and expenditure of Ezemvelo KZN Wildlife, in respect of the following three financial years.

- (4) In any financial year the Chief Executive Officer may submit to the Board for approval adjusted or supplementary statements of the estimated income and expenditure of Ezemvelo KZN Wildlife for that financial year.
- (5) Ezemvelo KZN Wildlife may not enter into any financial commitment beyond its approved budget and its accumulated reserves.
- (6) The Chief Executive Officer may with the approval of the Board -
  - (a) invest any unexpended portion of its funds with the Corporation for Public Deposits or any other institution categorised or listed from time to time by the National Treasury as a Category "A1" financial institution; or
  - (b) dispose of that portion in any other manner.
- (7) The Chief Executive Officer may, with the approval of the Board, establish reserve funds and deposit therein such amounts as the Board approves.

### **32 Audit and annual report**

- (1) The Auditor-General must audit the financial statements of Ezemvelo KZN Wildlife.
- (2) The Board –
  - (a) must table a report on the activities of the Ezemvelo KZN Wildlife during a financial year in the Provincial Legislature within 5 months after the end of that financial year; and
  - (b) within 5 months after the report has been tabled, a delegation consisting of the Chairperson of the Board and at least 2 other members of the Board must brief the relevant Portfolio Committee on the annual report.
- (3) The report must -
  - (a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;
  - (b) state the extent to which Ezemvelo KZN Wildlife has achieved or advanced its functions and objectives and the measurable objectives as set out in its business plan during the financial year concerned; and
  - (c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that annual performance plan.

## **CHAPTER 3: PROTECTED AREAS**

### **33 Protected areas**

- (1) A protected area in existence immediately before this section took effect, and listed in Schedule 2, must be regarded as a protected area under this Act.

- (2) The MEC must by notice in the *Gazette* amend Schedule 2 when necessary to –
- (a) include all areas declared as protected areas in terms of section 23 or 28 of the National Environmental Management: Protected Areas Act;
  - (b) include any designation made in respect of nature reserves in terms of section 25 or 26 of the National Environmental Management: Protected Areas Act; and
  - (c) exclude all protected areas where the declaration of a protected area has been withdrawn in terms of section 24 or 29 of National Environmental Management: Protected Areas Act.

#### 34 Internal rules

- (1) The management authority of a protected area may, in accordance with prescribed norms and standards, make rules for the proper administration of the protected area.
- (2) Rules made under subsection (1) –
- (a) must be consistent with this Act and the management plan for the protected area;
  - (b) must be consistent with any municipal zoning or permitting determined by a competent authority with the necessary jurisdiction, and if there is a conflict, such zoning and permitting prevails;
  - (c) bind all persons in the protected area, including visitors;
  - (d) may, as a condition for entry, provide for the imposition of fines for breaches of the rules; and
  - (e) must be published in the *Gazette*.

#### 35 Buffer zones

- (1) The purpose of a buffer zone is to –
- (a) ensure that the environmental purpose for which a protected area is declared is not negatively affected by development or any other activities in the areas surrounding the protected area;
  - (b) protect important areas of high value for biodiversity and to society where such areas extend beyond the boundaries of a protected area; and
  - (c) assist local communities to secure appropriate and sustainable benefits from the protected area and buffer zone area itself by promoting, in accordance with the management plan for the protected area required in terms of section 39, 40 and 41 of the National Environmental Management: Protected Areas Act –
    - (i) a conservation economy;

- (ii) ecotourism and its supporting infrastructure and services; and
  - (iii) controlled and sustainable harvesting of natural resources.
- (2) The MEC may by notice in the *Gazette* –
  - (a) declare a buffer zone around a protected area subject to his or her jurisdiction for the purpose set out in subsection (1) and in accordance with the management plan for the protected area and any other applicable management plans for the area; and
  - (b) prescribe appropriate management criteria and restrictions on activities in the buffer zone.
- (3) Before declaring a buffer zone in terms of subsection (3), the MEC must consult with all parties, including local communities who may be interested in, or affected by such declaration.
- (4) Ezemvelo KZN Wildlife may enter into agreements with individuals or local communities for the management of buffer zones in a manner that will give effect to the purpose for which a buffer zone was established as set out in subsection (1).

### **36 Establishment of protected areas and buffer zone advisory committees**

- (1) Without obligation to do so, the Board may establish advisory committees for any protected areas or buffer zones in respect of which the management vests in Ezemvelo KZN Wildlife for the purposes of –
  - (a) promoting protection of the environment in an area and the objectives of this Act;
  - (b) facilitating consultation with local communities living adjacent to protected areas, or within or adjacent to buffer zones;
  - (c) acting in an advisory capacity to Ezemvelo KZN Wildlife on environmental matters in respect of the protected areas and buffer zones;
  - (d) promoting and monitoring the implementation of any management plans entered into between Ezemvelo KZN Wildlife and a local community, or any other environmental management plan for an area for which an advisory committee was established;
  - (e) promoting and monitoring the compliance with any legislation relating to protected areas and buffer zones; and
  - (f) promoting, assisting with and participating in educational programmes conducted by Ezemvelo KZN Wildlife aimed at protection of the environment.
- (2) In the event of appointment of such committee, the Board must define in writing the mandate and terms of reference in accordance with subsection (1).
- (3) No member of an advisory committee may be appointed for a period longer than 5 years at a time.

**37 Procedure for appointment of an advisory committee**

- (1) Before establishing any protected area advisory committees, the Board may invite nominations for appointment of members of the public to such committees through advertisement in the *Gazette* and 2 provincial newspapers, one in English and one in isiZulu, and prescribe the requirements for appointment.
- (2) In making the appointments, the Board must ensure sufficient representation from:
  - (a) traditional bodies, community based organisations and non-governmental organisations;
  - (b) local government in the area concerned;
  - (c) persons or bodies with special knowledge, experience or expertise in environmental matters.
- (3) The Board may, at any time, for good reason:
  - (a) terminate the appointment of any or all members of an advisory committee or dissolve the committee;
  - (b) withdraw or amend the mandate of an advisory committee.

**CHAPTER 4: PROTECTION OF BIODIVERSITY****38 Environmental authorisations**

- (1) The provisions of this section must be interpreted in a manner that is consistent with the provisions of the National Environmental Management Act, the objectives and provisions of this Act, and any other applicable legislation.
- (2) Any competent authority identified in terms of section 24C of the National Environmental Management Act, or any other applicable legislation, must, in respect of any application for an environmental authorisation for an activity intended to take place on land in the Province –
  - (a) timeously notify Ezemvelo KZN Wildlife of every such application which, if granted, may result in harm to indigenous species, ecological communities, habitats, eco-systems or protected areas in the Province;
  - (b) before making a decision in respect of any such application –
    - (i) request comment from Ezemvelo KZN Wildlife on the proposed activity which is the subject of the application;
    - (ii) ensure that Ezemvelo KZN Wildlife is provided with all information necessary to enable it to provide comment;
    - (iii) take into account any comments made by Ezemvelo KZN Wildlife in terms of this subsection; and

- (iv) take into account any biodiversity targets, bioregional plans and biodiversity management plans approved by the MEC in terms of section 4(1)(f) and (g).

(3) Ezemvelo KZN Wildlife may:

- (a) comment on the potential environmental impact of any activity in respect of which an application in terms of subsection (2) is made; and
- (b) make any recommendations in relation to the potential impact of such activity on the environment to the competent authority.

### 39 Biodiversity offsets and other mitigation measures

- (1) The purpose of a biodiversity offset or other mitigation measure is to mitigate or compensate as far as possible for the loss of or significant harm to biodiversity as a result of conducting an activity on land in the Province, authorised in terms of –
  - (a) an environmental authorisation referred to in section 38; or
  - (b) any permit, or other authorisation issued in terms of this Act, or any other legislation administered by, assigned or delegated to the Province.
- (2) To give effect to subsection (1) the MEC may from time to time identify by notice in the *Gazette* any activity, either in the Province as a whole or in a specified geographical area within the Province, for which biodiversity offsets or other mitigation measures may be determined.
- (3) Any person making an application to a competent authority referred to in section 38 (2) for an environmental authorisation in respect of –
  - (a) an activity identified by the MEC in terms of subsection (2); or
  - (b) any other activity intended to take place on land in the Province that is likely to cause significant harm to the environment, either directly or cumulatively,
 must apply in the prescribed manner to Ezemvelo KZN Wildlife for the determination of a biodiversity offset or other mitigation measure.
- (4) On receipt of an application referred to in subsection (3) Ezemvelo KZN Wildlife –
  - (a) must consider the determination of a biodiversity offset or other mitigation measure applied for, and take into account all relevant factors including, but not limited to –
    - (i) the likely impact of the proposed activity on the natural integrity of biodiversity or ecosystems on the land on which that activity is intended to take place;
    - (ii) the contribution of such land to any provincial and national biodiversity targets and the objectives of this Act; and
    - (iii) the ability of the applicant to implement the biodiversity offset or other mitigation measure;

- (b) may request the applicant to provide further information prior to making a determination.
- (5) After consideration of the application referred to in subsection (3) and any relevant factors referred to in subsection (4), Ezemvelo KZN Wildlife –
- (a) may determine a suitable biodiversity offset or other mitigation measure as provided for in this section;
  - (b) must inform the applicant in writing of the outcome of the application within a prescribed time period; and
  - (c) must provide the applicant with written details of –
    - (i) any biodiversity offset or mitigation measure determined in terms of subsection (5)(a); and
    - (ii) reasons for such determination.
- (6) Ezemvelo KZN Wildlife must –
- (a) inform the competent authority referred to in section 38(2) of any application received in terms of subsection (3), and recommend to such authority whether the land on which the proposed activity is intended to take place –
    - (i) is suitable for the granting of an environmental authorisation, subject to a biodiversity offset or other mitigation measure determined by Ezemvelo KZN Wildlife in respect of such application; or
    - (ii) is not suitable for the granting of an environmental authorisation as it contains samples of critically endangered species, ecological communities, habitats, or important ecosystems and that an environmental authorisation should not be granted; and
  - (b) provide full details to the competent authority referred to in subsection (a) –
    - (i) of any biodiversity offset or any other mitigation measure determined by Ezemvelo KZN Wildlife referred to in subsection (6)(a)(i); or
    - (ii) of any the biodiversity offset or other mitigation measure that will be determined by Ezemvelo KZN Wildlife, in the event that the competent authority decides that there are overriding reasons to grant the application for an environmental authorisation referred to in subsection (6)(a)(ii).
- (7) Ezemvelo KZN Wildlife must communicate any recommendations made in accordance with subsection (6), and any biodiversity offsets or other mitigation measures determined in accordance with the provisions of subsection (4) and (5) to the competent authority within the time period prescribed in any applicable legislation.
- (8) If a competent authority approves an application for an environmental authorisation referred to in subsection (3), notwithstanding a recommendation made by Ezemvelo in terms of subsection (6)(a)(ii) not to grant such environmental authorisation, the competent authority must require the applicant to take adequate compensatory

measures as determined by Ezemvelo KZN Wildlife to offset the loss of biodiversity as a result of an activity on land in respect of which the authorisation is granted.

- (9) An environmental authorisation provided for in section 38 must include any biodiversity offset or other mitigation measure determined by Ezemvelo KZN Wildlife in terms of subsection (5) as a condition of such authorisation;
- (10) Any person who is aggrieved by a decision by Ezemvelo KZN Wildlife in respect of the determination of a biodiversity offset or any other mitigation measure under this section, may appeal such a decision to the MEC as provided for in this Act.

#### **40 Identified ecosystems**

- (1) The purpose of identified ecosystems is to –
  - (a) reduce the rate of ecosystem and species decline and prevent extinction;
  - (b) provide for the protection of ecosystems that are threatened or in need of protection to ensure the maintenance of their ecological integrity;
  - (c) provide for the protection of environmental goods and services that support the health and wellbeing of communities;
  - (d) give effect to South Africa's obligations under international agreements relating to the conservation of biodiversity; and
  - (e) prevent further development, degradation or loss of structure, function and composition of ecosystems that are threatened or in need of protection.
- (2) The MEC may, from time to time and by notice in the *Gazette*, identify ecosystems that are critically endangered, endangered, vulnerable, threatened or in need of protection to ensure the maintenance of their ecological integrity, and prohibit or restrict activities that may take place in such identified ecosystems.
- (3) In identifying ecosystems in terms of subsection (2), the MEC must take into account all relevant factors, including –
  - (a) all applicable planning instruments developed for the relevant ecosystem in terms of the National Environmental Management: Biodiversity Act;
  - (b) any applicable biodiversity targets established in terms of this Act, or any other legislation;
  - (c) any applicable recommendations made by Ezemvelo KZN Wildlife;
  - (d) landscape-scale ecological features that are necessary for conservation of biological diversity;
  - (e) factors necessary to ensure the continued existence of viable ecological communities, and the functionality of ecosystems;
  - (f) the water production and retention potential of the ecosystem; and
  - (g) the presence of habitat-sensitive species in the ecosystem.

- (4) No person may carry out any activity restricted by the MEC in an identified ecosystem, without an environmental authorisation granted in accordance with the provisions of the National Environmental Management Act and this Act.
- (5) In accordance with the risk averse and cautious approach referred to in the National Environmental Management Act, the MEC may by notice in the *Gazette* prohibit or restrict the granting of an environmental authorisation by the competent authority in respect of an activity restricted in terms of subsection (2) for such period and on such terms and conditions as the MEC may determine, if it is necessary to ensure the protection of the identified ecosystem.
- (6) Where the MEC has exercised his or her powers in terms of subsection (5), the competent authority must -
  - (a) not accept any further applications for an environmental authorisation for the restricted activity until such time that the prohibition has been lifted; and
  - (b) deem all pending applications to have been withdrawn.
- (7) The exercise of the MEC's powers in terms of subsection (5) does not affect the undertaking of activities authorised by means of an environmental authorisation prior to the prohibition or restriction becoming effective.
- (8) The MEC may by notice in the *Gazette* —
  - (a) lift a prohibition or restriction made in terms of subsection (5); or
  - (b) amend any period, term or condition applicable to a prohibition or restriction, if the circumstances which caused the MEC to exercise his or her powers in terms of subsection (5) have changed.

## CHAPTER 5: AQUATIC ENVIRONMENTS

### 41 Prohibited activities in respect of aquatic environments

- (1) No person may fish in an aquatic environment -
  - (a) by means of any explosive; or
  - (b) without the prior permission of the landowner.
- (2) No person may buy, receive, or in any way acquire any freshwater fish knowing that it was not caught lawfully.
- (3) No person may sell any fish specimen caught or captured in a public aquatic environment, or an aquatic environment to which members of the public have a right of access.

### 42 Restricted activities in respect of aquatic environments

- (1) No person may, without a permit issued in terms of this Act -

- (a) place an obstruction in an aquatic environment preventing the free passage of fish; or
  - (b) place an object in an aquatic environment, which may constitute a danger to a boat or a person practising any sport in the aquatic environment where the object is placed.
- (2) The provisions of subsection (1) do not apply to an aquatic environment -
- (a) contained on land in such a manner that fish can not readily escape from the aquatic environment; and
  - (b) to which members of the public do not have access without the permission of the landowner.
- (3) No person may sell live fish without a permit issued in terms of this Act authorising him or her to do so, unless the fish is listed in Schedule 9;
- (4) The provisions of subsection (2) do not apply to the owner of land on which an aquatic environment referred to in subsection (2) exists;
- (5) No person may release into an aquatic environment any specimen of an alien fish species not usually found therein, or fish outside of its usual distribution range, without a permit issued in terms of this Act authorising the release of such species into an aquatic environment specified in the permit.
- (6) No person may fish in an aquatic environment by:
- (a) using more than 2 lines;
  - (b) using more than 2 single hooks attached to any line;
  - (c) means of any poison;
  - (d) using prohibited traps;
  - (e) using electricity; or
  - (f) using artificial light to aggregate fish or other animals,
- unless specifically exempted by Ezemvelo KZN Wildlife for the purpose of scientific research, or the management and control of protected areas.
- (7) No person may, unless specifically authorised by legislation, -
- (a) dump or deposit into an aquatic environment any waste or any other substance which may pollute the water or cause harm to aquatic life, species, ecological communities, habitats, ecosystems, or natural resources; or
  - (b) carry on a business or follow an occupation or trade where such activity may result in the release of waste, or any other substance which may pollute the water or cause harm to aquatic life, species, ecological communities, habitats ecosystems, or natural resources, without taking all reasonable steps to

dispose of it in a manner preventing such waste, or substance from entering any aquatic environment.

#### **43 Development adjoining aquatic environments**

No person may remove any vegetation within an aquatic environment or within 32 metres of an aquatic environment, measured from the edge of an aquatic environment, in an ecosystem identified by the MEC in terms of section 40 without an environmental authorisation granted in accordance with the provisions of the National Environmental Management Act.

### **CHAPTER 6: GENERAL PROVISIONS IN RESPECT OF PROHIBITED AND RESTRICTED ACTIVITIES**

#### **44 General prohibitions**

No person may –

- (a) carry out any activity prohibited in Schedules 3, 4, 5 or 6 in respect of the animal species listed therein;
- (b) carry out any activity prohibited in Schedules 7 and 8 in respect of plant species listed therein;
- (c) pinion any bird;
- (d) use as a working animal any animal other than an animal from a species exempted in Schedule 9;
- (e) intentionally inflict cruelty on any animal by any means, method or device whatsoever;
- (f) do anything or take any action, for whatever reason or purpose if it is likely to cause the extinction of any indigenous species, ecological community, habitat or ecosystem within its natural distribution range.

#### **45 General restrictions**

- (1) Except in terms of a permit issued in terms of this Act or any other applicable legislation, no person may –
  - (a) carry out any activity restricted in Schedules 3, 4, 5 and 6 in respect of animal species listed therein; or
  - (b) carry out any activity restricted in Schedules 7 and 8 in respect of plant species listed therein.
- (2) Notwithstanding the provisions of subsection (1) the MEC may, on good cause shown, exempt any species listed in the Schedules referred to in subsection (1) (a) and (b) from any of the restricted activities provided for in the Schedules.
- (3) Any exemption by the MEC in terms of subsection (2) -

- (a) may only be for a specified period; and
  - (b) must be published by a notice in the *Gazette* which specifies the species and restricted activities to which the exemption applies, and the duration of the exemption.
- (4) Without a permit issued in terms of this Act, no person may in respect of an indigenous animal species –
- (a) import or export any specimen;
  - (b) release any specimen –
    - (i) into a protected area;
    - (ii) into the environment outside of its natural distribution range; or
    - (iii) bred in captivity into the environment.
- (5) No person may, without a permit issued in terms of this Act, or any other applicable legislation, use any poison for the purpose of killing an animal.
- (6) No person may carry out any activity restricted in terms of this Act without the prior written permission of the landowner of the property on which a specimen to which a restriction applies is found, irrespective of whether the person has a permit authorizing him or her to otherwise carry out such restricted activity.
- (7) Subsection (6) does not apply to a duly authorized staff member of Ezemvelo KZN Wildlife carrying out an activity in the course and scope of his or her official duties.
- (8) No person may:-
- (a) possess, sell, make available for sale or otherwise trade in, buy, receive, give, donate or accept as a gift, or in any way acquire or dispose of, import, use or allow the use of a prohibited trap, unless -
    - (i) specifically exempted by Ezemvelo KZN Wildlife for the purpose of scientific research, or the management and control of protected areas; or
    - (ii) a landowner or staff member of Ezemvelo KZN Wildlife retrieves a prohibited trap to prevent harm or injury to animals, and with the intention of destroying such trap;

#### **46 Alien, invasive and hybrid species**

- (1) No person may, without a permit issued in terms of this Act, or any other applicable legislation -
- (a) release into the environment a specimen of an alien, invasive, or a hybrid species; or

- (b) import into the Province, breed, trade in, donate, acquire, or possess any alien or hybrid animal species, unless such species is exempted in terms of Schedule 9.
- (2) In the event of a person introducing any alien, invasive or hybrid species into the provincial environment in contravention of the provisions of this Act, or any other legislation, such person will be liable for all costs incurred by Ezemvelo KZN Wildlife in eradicating such species from the environment.
- (3) Whenever in the opinion of Ezemvelo KZN Wildlife an alien, invasive or hybrid species threatens or poses a risk of harm to indigenous species, ecological communities, habitats or ecosystems, Ezemvelo KZN Wildlife may implement such steps as may be necessary to prevent such harm, including:
  - (a) issuing a directive to the landowner concerned to transfer or eradicate such animals or plants; or
  - (b) in the event that a landowner fails to implement a directive issued in terms of subsection (3)(a), to transfer or eradicate such species at the instance of Ezemvelo KZN Wildlife.
- (4) The MEC may by notice in the *Gazette*, after taking advice from Ezemvelo KZN Wildlife, exempt for any purpose a specified alien, invasive or hybrid species in respect of any area defined in the notice from the provisions of this section.
- (5) No person may –
  - (a) release into the environment a specimen of an alien invasive animal species listed in Schedule 10; or
  - (b) import into the Province, breed, trade in, donate or acquire any such alien invasive animal species.

## CHAPTER 7: REGISTRATION, PERMITS AND AUTHORISATIONS

### Part 1 - Registration of Facilities for Breeding and Keeping of Animals in Captivity

#### 47 Types of registered facilities

- (1) The following types of facilities may be registered by Ezemvelo KZN Wildlife for the purpose of breeding and keeping of animals in captivity –
  - (a) Captive breeding facility for –
    - (i) conservation purposes; or
    - (ii) commercial purposes;
  - (b) Exhibition facility;
  - (c) Gene Bank;

### Part 3 - Game Farms

#### 49 Registration

The landowner of a game farm must register the game farm with Ezemvelo KZN Wildlife in terms of Part 6 of this Chapter in order to qualify for -

- (a) a game farm hunting permit; or
- (b) a game farm standing permit.

#### 50 Game farm hunting permit

(1) A game farm hunting permit may be issued to the landowner of a registered game farm, in accordance with a prescribed procedure and subject to the provisions of this Act or any other applicable legislation, for the purpose of authorizing such a landowner to –

- (a) Allow a person, with written permission from the landowner,
  - (i) to hunt, capture, buy or receive any animal species on the game farm specified in the game farm hunting permit; and
  - (ii) subsequent to a hunt to possess and convey carcasses or parts thereof, or meat of any animal species specified in the game farm hunting permit and killed on the game farm as a result of the hunt.

(2) Ezemvelo KZN Wildlife may only issue a game farm hunting permit to a landowner of a registered game farm on condition that the landowner adheres to the terms and conditions set out in the registration certificate and hunting permit issued to the landowner under section 86 of this Act.

#### 51 Game farm standing permit

(1) A game farm standing permit may be issued to the landowner of a registered game farm, in accordance with a prescribed procedure and subject to the provisions of this Act or any other applicable legislation, for the purpose of authorizing such a landowner to –

- (a) Hunt, dart, capture, sell, donate, or otherwise dispose of any animal species on the game farm specified in the standing permit;
- (b) Conduct activities specified in the standing permit in respect of listed threatened or protected species kept on the game farm that are necessary for the management of the farm;
- (c) Perform any other activity not in conflict with the terms and conditions of the registration certificate, the standing permit, this Act or any other applicable legislation.

(2) Ezemvelo KZN Wildlife may only issue a game farm standing permit to a landowner of a registered game farm, on condition that the landowner adheres to the terms and

conditions set out in the registration certificate issued to the landowner under section 63 of this Act.

#### **52 Withdrawal of game farm permit**

A game farm hunting permit or a game farm standing permit issued to a landowner of a registered game farm may be withdrawn by Ezemvelo KZN Wildlife if –

- (1) the landowner breaches -
  - (a) any of the terms or conditions specified in the registration certificate, game farm hunting permit or standing permit; or
  - (b) any provisions of this Act or any other applicable legislation.

### **Part 4 - Declared Private Nature Reserves**

#### **53 Registration**

- (1) The landowner of a declared private nature reserve must register the reserve with Ezemvelo KZN Wildlife in terms of Part 6 of this Chapter in order to qualify for a declared private nature reserve standing permit.

#### **54 Declared private nature reserve standing permit**

- (1) A declared private nature reserve standing permit may be issued to the landowner of a registered declared private nature reserve, in accordance with a prescribed procedure and subject to the provisions of this Act or any other applicable legislation, for the purpose of authorizing such a landowner to –
  - (a) Conduct activities specified in the standing permit in respect of listed threatened or protected species on the nature reserve that are necessary for the management of the nature reserve;
  - (b) Perform any other activity not in conflict with the terms and conditions of the registration certificate, the standing permit, this Act or any other applicable legislation.
- (2) Ezemvelo KZN Wildlife may only issue a declared private nature reserve standing permit to a landowner of a registered declared private nature reserve, on condition that the landowner adheres to the terms and conditions set out in the registration certificate issued to the landowner under section 63 of this Act.

#### **55 Withdrawal of standing permit**

A standing permit issued to a landowner of a registered declared private nature reserve may be withdrawn by Ezemvelo KZN Wildlife if –

- (a) The landowner breaches -

- (i) any of the terms or conditions specified in the registration certificate or standing permit; or
- (ii) any provisions of this Act or any other applicable legislation.

#### **Part 5 - Trade in Animal and Plant Specimens**

##### **56 Registration of wildlife trader**

- (1) Only a person registered by Ezemvelo KZN Wildlife as a wildlife trader in terms of Part 6 of this Chapter may trade in indigenous animal specimens, or specimens of plant species listed in Schedules 7 and 8;
- (2) A registered wildlife trader may only trade -
  - (a) in accordance with a conservation management plan in respect of specimens of animal species listed in Schedule 3 or 4, or specimens of plant species listed in Schedule 7, to achieve the conservation targets set by Ezemvelo KZN Wildlife for the species to prevent its extinction; or
  - (b) in accordance with a conservation management plan in respect of specimens of all other indigenous animal species, or specimens of plant species listed in Schedule 8, for the sustainable utilisation of the species within a geographical area.
- (3) Ezemvelo KZN Wildlife must provide a conservation management plan as provided for in subsection 2 (a) or (b) to a wildlife trader on registration, as part of the terms and conditions of registration.
- (4) Ezemvelo KZN Wildlife may, on good cause shown, request a wildlife trader who applies for registration, to submit his or her own conservation management plan in terms of subsection (2) (a) or (b) for consideration by Ezemvelo KZN Wildlife as part of the terms and conditions of registration.

##### **57 Standing permit**

- (1) Only a registered wildlife trader may apply to Ezemvelo KZN Wildlife for a standing permit in accordance with a prescribed procedure authorizing him or her to –
  - (a) operate as a wildlife trader in indigenous animal specimens, and specimens of plant species listed in Schedules 7 and 8; or
  - (b) convey or transport, or cause to convey or transport, such specimens.
- (2) A person conveying or transporting specimens referred to in subsection (1)(a) on behalf of a registered trader, or for any other purpose authorised under this Act, may apply to Ezemvelo KZN Wildlife for a standing permit in accordance with a prescribed procedure authorizing him or her to convey or transport such specimens.
- (3) When granting a standing permit Ezemvelo KZN Wildlife must determine the terms and conditions applicable to the standing permit.

**58 Withdrawal of standing permit**

A standing permit issued under section 57 may be withdrawn by Ezemvelo KZN Wildlife if the permit holder breaches -

- (a) any of the terms or conditions specified in the registration certificate or standing permit; or
- (b) any provisions of this Act or any other applicable legislation.

**Part 6 - Requirements and Procedures for Registration of Facilities Listed in Part 1 and 2, Game Farms, Declared Private Nature Reserves and Wildlife Traders****59 Application for registration**

- (1) An application for registration in terms of this Chapter of a facility listed in Part 1 and 2, a game farm provided for in Part 3, a declared private nature reserve provided for in Part 4, or as a wildlife trader provided for in part 5, must -
  - (a) be submitted to Ezemvelo KZN Wildlife on a duly completed prescribed application form provided by Ezemvelo KZN Wildlife;
  - (b) contain all the information required for the registration of a facility, game farm, declared private nature reserve, or wildlife trader;
  - (c) where possible be submitted electronically;
  - (d) be accompanied by -
    - (i) documentation or information in support of the application where required;
    - (ii) a management plan for the facility, game farm, declared private nature reserve, or trading in wildlife by the wildlife trader, where required;
    - (iii) a written undertaking by the applicant to adhere to the management plan as approved or provided by Ezemvelo KZN Wildlife, as the case may be;
    - (iv) written proof that notice of the application was given in terms of section 60 where the application may affect the rights of another person or persons; and
    - (v) the prescribed processing fee.
- (2) In addition to the requirements set out in subsection (1) an application for the registration of a -
  - (a) game farm must provide proof that the game farm is adequately enclosed, whether by means of fences, walls or natural boundaries in accordance with prescribed specifications; or

- (b) wildlife trader, when requested by Ezemvelo KZN Wildlife in terms of section 56(4) must be accompanied by the applicable conservation management plan provided for in section 56(2).

#### **60 Application affecting rights of others**

- (1) If the approval of an application for the registration of a facility listed in Part 1 and 2, a game farm, declared private nature reserve, or a wildlife trader may affect the rights of another person or persons, the applicant must prior to submitting the application –
  - (a) give written notice of the application to such other person or persons; and
  - (b) provide written proof to Ezemvelo KZN Wildlife when submitting the application that such notice was given.
- (2) Any person notified in terms of sub-section (1) (a) of an application may submit to Ezemvelo KZN Wildlife within 15 days of receiving such notice written objections to the registration of the facility.

#### **61 Consideration of application for registration**

- (1) On receipt of an application for registration of an existing facility listed in Part 1 and 2, game farm, declared private nature reserve, or wildlife trader, Ezemvelo KZN Wildlife must -
  - (a) arrange for a duly authorized official to conduct an inspection of the premises in respect of which the application is lodged, and thereafter to submit written recommendations to Ezemvelo KZN Wildlife as to –
    - (i) whether the application must be granted or refused; and
    - (ii) if the application is granted, any conditions that must be attached to the registration of the facility.
- (2) On receipt of an application for registration of a new facility listed in Part 1 and 2, game farm, declared private nature reserve, or wildlife trader, Ezemvelo KZN Wildlife may -
  - (a) arrange for a duly authorized official to conduct an inspection of the premises in respect of which the application is lodged, and thereafter to submit written recommendations to Ezemvelo KZN Wildlife as to –
    - (i) Whether the application must be granted or refused; and
    - (ii) If the application is granted, any conditions that must be attached to the registration of the facility.
- (3) When considering an application for registration of a facility listed in Part 1 and 2, a game farm, declared private nature reserve, or a wildlife trader, Ezemvelo KZN Wildlife must take into account –
  - (a) Any written recommendations in terms of sub-sections (1) and (2), where applicable;

- (b) All applicable legal requirements to ensure that any decision with respect to the registration is consistent with such requirements;
  - (c) Whether the animal or plant species to which the application relates is listed in terms of this Act or section 56 of the National Environmental Management: Biodiversity Act as a critically endangered species, an endangered species, a vulnerable species or a protected species;
  - (d) Whether the applicant is prepared to microchip or mark, where appropriate, in accordance with prescribed norms, each specimen of a listed threatened or protected species bred, propagated or kept at the facility, game farm or by the wildlife trader;
  - (e) The purpose for which the facility, game farm, or declared private nature reserve is operated;
  - (f) All other relevant factors, including all relevant documentation and information submitted to it by the applicant;
  - (g) Where applicable, the suitability of the management plan submitted by the applicant and whether it can be approved unconditionally or with conditions;
  - (h) Objections received in terms of section 60(2) to the approval of an application for registration.
- (4) Before making a decision on an application Ezemvelo KZN Wildlife may request the applicant within 10 days of receipt of a duly completed application, for additional information necessary for a proper consideration of the application, to be submitted by the applicant to Ezemvelo KZN Wildlife within the time specified by Ezemvelo KZN Wildlife, failing which the application will be deemed to be withdrawn.
- (5) Ezemvelo KZN Wildlife may extend the time period for submission of further information referred to in subsection (4) on application by the applicant.

## **62 Decision on application**

- (1) A decision on an application for registration of a facility listed in Part 1 and 2 of this Chapter, game farm, declared private nature reserve, or wildlife trader must be made within 30 days of receipt of an application, provided that –
- (a) the application submitted by the applicant complied in all respects with the provisions set out in Part 6 of this Act; and
  - (b) Where Ezemvelo KZN Wildlife requested additional information in terms of section 61(4), the 30 days period within which the decision must be made will be measured from the date on which the further information is received by Ezemvelo KZN Wildlife.
- (2) Ezemvelo KZN Wildlife may –
- (a) grant an application conditionally or unconditionally; or
  - (b) refuse an application.

- (3) After a decision on an application is made, Ezemvelo KZN Wildlife must within 10 days give written notice of the outcome of the decision to the following persons -
- (a) the applicant; and
  - (b) any person who lodged an objection to the granting of the application.
- (4) If a decision is made to refuse an application, or to grant the application with conditions, Ezemvelo KZN Wildlife must –
- (a) give reasons for the decision to the applicant; and
  - (b) draw the applicant's attention to the fact that an appeal may be lodged against the decision in terms of Chapter 8 of this Act.

### **63 Registration certificate**

- (1) If a decision is made to grant an application for registration of a facility listed in Parts 1 and 2, game farm, declared private nature reserve, or wildlife trader, Ezemvelo KZN Wildlife must issue a registration certificate to the applicant within 10 days after the decision is made.
- (2) A registration certificate must contain the following information –
- (a) the name, identity number or passport number and physical address of the person to whom the certificate is issued;
  - (b) the physical address of the premises where the facility will operate, or from where it will conduct its business;
  - (c) particulars of the species in respect of which the registration certificate is issued, where required, including the scientific (genus, species and sub-species) and, where known, the common name;
  - (d) particulars of the activities to be conducted at the facility; and
  - (e) the specific conditions subject to which the registration is issued, if any.
- (3) If any norms and standards issued under this Act or any other legislation apply to a facility, game farm, declared private nature reserve, or wildlife trader, the registration certificate must be issued subject to a condition that the registration holder is bound by those norms and standards, and must act in accordance with such norms and standards in operating and conducting the business of that facility, game farm, declared nature reserve, or wildlife trader.
- (4) Any registration certificate issued under this section is not transferrable and is specific to the person to whom and the property in respect of which it is issued.
- (5) Ezemvelo KZN Wildlife may periodically –
- (a) inspect the premises in respect of which a registration certificate is issued to ensure that the holder complies with the terms and conditions set out in the registration certificate;

- (b) request additional information and documentation from the holder of the registration certificate where deemed necessary in the interest of conservation; and
  - (c) impose additional terms and conditions for continued registration on the holder of a registration certificate where necessary in the interest of conservation.
- (6) If the holder of a registration certificate ceases to operate a facility for whatever reason, he or she must notify Ezemvelo KZN Wildlife within 20 days from the last day of operation that the facility in respect of which a registration certificate is issued is no longer operative.
- (7) In the event of the death of the holder of a registration certificate, the administrator of his or her estate must notify Ezemvelo KZN Wildlife within 60 days thereof, and apply for an amended registration certificate in terms of section 68.

#### **64 Production of registration certificate**

- (1) The holder of a registration certificate must, when requested by any authorized official of Ezemvelo KZN Wildlife –
- (a) produce the certificate; and
  - (b) proof of his or her identity.
- (2) Failure to produce the certificate or proof of identity on request in terms of sub-section (1) is an offence referred to in section 106 of this Act.

#### **65 Cancellation of registration**

- (1) Ezemvelo KZN Wildlife may cancel the registration of a facility listed Part 1 and 2, game farm, declared private nature reserve, or wildlife trader, if the person to whom the registration certificate is issued –
- (a) knowingly misrepresented any facts, or submitted any false information to Ezemvelo KZN Wildlife in the application submitted for registration;
  - (b) subsequent to the issuing of a registration certificate falsifies, forges or in any way alters the registration certificate;
  - (c) uses the facility, game farm, or declared private nature reserve, or trades as a wildlife trader for any purpose other than that provided for in the registration certificate;
  - (d) is in serious or persistent breach of any of the terms and conditions set out in the registration certificate;
  - (e) is found guilty of any other offence in terms of this Act or any other relevant legislation; or
  - (f) ceases to operate the facility for any reason.

**66 Notice of cancellation of registration**

- (1) If Ezemvelo KZN Wildlife intends to cancel the registration of a facility, game farm, declared private nature reserve, or wildlife trader registered in terms of this Chapter, it must –
  - (a) notify the holder of the registration certificate that the cancellation of its registration is being considered, together with the reasons for the proposed cancellation; and
  - (b) afford such holder a reasonable period specified in the notice issued in terms of sub-section (1) (a) to submit written representations to Ezemvelo KZN Wildlife regarding the proposed cancellation.
- (2) Where in the opinion of Ezemvelo KZN Wildlife it is necessary, Ezemvelo KZN Wildlife may either –
  - (a) require the holder of the registration certificate to take specified measures to address the reasons for the proposed cancellation; or
  - (b) take the measures referred to in sub-section 2(a).
- (3) If, after considering any representations made by the holder of a registration certificate in terms of sub-section 1(b), Ezemvelo KZN Wildlife decides to cancel the registration of the facility, it must –
  - (a) Give reasons to the holder of the registration certificate for the decision; and
  - (b) Draw his or her attention to the fact that an appeal may be lodged against the decision in terms of Chapter 8 of this Act.

**67 Loss and replacement of registration certificate**

- (1) If the holder of a registration certificate loses a certificate issued under section 63 of this Act, he or she must –
  - (a) report the loss as soon as reasonably possible to Ezemvelo KZN Wildlife; and
  - (b) request a replacement registration certificate.
- (2) Ezemvelo KZN Wildlife must within 10 days from the date on which the loss of a registration certificate is reported to it, issue a replacement certificate on the same terms and conditions as the original certificate.

**68 Amendment of registration certificate**

- (1) If the holder of a registration certificate issued under section 63 of this Act intends to change the nature, purpose, scope, size or any other material aspect of the facility, game farm, declared private nature reserve, or wildlife trading operation in respect of which the registration certificate was issued, such holder must, prior to making any changes –

- (a) submit an application for an amended registration certificate to Ezemvelo KZN Wildlife; and
  - (b) comply with all the procedures and provisions set out in Part 6 as if it is a new application.
- (2) On receipt of an application for an amended registration certificate, Ezemvelo KZN Wildlife may -
- (a) arrange for a duly authorized official to conduct an inspection of the premises in respect of which the application is lodged, and thereafter to submit written recommendations to Ezemvelo KZN Wildlife as to –
    - (i) Whether the application must be granted or refused; and
    - (ii) If the application is granted, any conditions that must be attached to the registration.
- (3) Before issuing an amended registration certificate Ezemvelo KZN Wildlife must take into account the factors referred to in section 61(3), as well as –
- (a) Any written recommendations in terms of sub-section (2);
  - (b) The proposed change in the nature, purpose, scope, size or any other material aspect of the facility, game farm, declared private nature reserve, or wildlife trading operation in respect of which the current registration certificate was issued;
  - (c) Where applicable, the suitability of the amended management plan submitted by the applicant and whether it can be approved unconditionally or with conditions.
- (4) After a decision on an application for an amended registration certificate is made, Ezemvelo KZN Wildlife must within 10 days give written notice of the outcome of the decision to the following persons -
- (a) The applicant; and
  - (b) Any person who lodged an objection to the amendment of the registration of a facility.
- (5) If Ezemvelo KZN Wildlife decides to –
- (a) refuse an application for the amendment to the registration of a facility, or to grant the application with conditions, Ezemvelo KZN Wildlife must –
    - (i) give reasons for the decision to the applicant; and
    - (ii) draw the applicant's attention to the fact that an appeal may be lodged against the decision in terms of Chapter 8 of this Act.
  - (b) amend the registration of a facility and issue an amended registration certificate, it must issue the amended registration certificate to the applicant within 30 days from date of receipt of a duly completed application.

**Part 7 - Regulation of Hunting, Capture and Collecting of Animal Species****69 Application of this Part**

This part applies to the hunting, capture and collecting of specimens of animal species listed in Schedule 3, 4, 5 and 6;

**70 Recognition of hunting organizations**

- (1) A hunting organization operating in the province of KwaZulu-Natal must –
- (a) apply in writing to the Chief Executive Officer for recognition as a hunting organization; and
  - (b) if already in existence on the date that this Act comes into effect, apply in writing to the chief Executive Officer for recognition within three months after the coming into effect of this Act.
- (2) An application by a hunting organization for recognition made in terms of sub-section (1) of this Act must be approved if the applicant –
- (a) has adopted a code of ethical conduct and good practice as provided for in subsection (3), which is ascribed to by its members; and
  - (b) undertakes in writing to enforce its code of ethical conduct and good practice against its members where the code is breached;
- (3) The code of ethical conduct and good practice must –
- (a) determine criteria for the hunting of animals in accordance with the fair chase principle;
  - (b) encourage ethical behaviour in respect of hunting and darting of animals ;
  - (c) discourage the hunting of colour morphs and other hybrid animal species;
  - (d) require its members to act in strict compliance with –
    - (i) this Act and all other legislation regulating the hunting industry;
    - (ii) the criteria determined under sub-section (3)(a);
    - (iii) any conditions subject to which hunting permits are granted to a member; and
  - (e) provide for disciplinary steps, including the suspension or expulsion of a member, where a member breaches the code.

**71 Withdrawal of recognition of hunting organization**

- (1) The Chief Executive Officer may by written notice to a recognized hunting organization withdraw the recognition of that organization if it breaches any of the provisions in this Act or any other legislation that regulate the hunting industry.

- (2) Before withdrawing the recognition of a hunting organization, the Chief Executive Officer must –
- (a) notify the organisation that withdrawal of its recognition is being considered, together with the reasons for the proposed withdrawal; and
  - (b) afford the organisation a reasonable opportunity to submit written representations regarding the proposed withdrawal of its recognition.

**72 Registration for purpose of professional hunting**

No person may operate as a -

- (a) professional hunter;
  - (b) hunting outfitter; or
  - (c) a manager of a professional hunting school,
- unless registered by Ezemvelo KZN Wildlife.

**73 Compulsory registration requirements**

- (1) Ezemvelo KZN Wildlife may only register a –
- (a) professional hunter if he or she has successfully completed a professional hunting course accredited by Ezemvelo KZN Wildlife;
  - (b) hunting outfitter if he or she holds a professional hunter registration certificate issued by Ezemvelo KZN Wildlife; or
  - (c) manager of a professional hunting school if he or she holds both a professional hunter and hunting outfitter registration certificate issued by Ezemvelo KZN Wildlife.
- (2) Ezemvelo KZN Wildlife may determine any other requirements for registration as a professional hunter, hunting outfitter or manager of a professional hunting school.

**74 Hunting by foreign client**

A foreign client –

- (a) may not hunt any animal unless –
  - (i) the hunt is organised by a registered hunting outfitter; and
  - (ii) he or she is escorted by a registered professional hunter or hunting outfitter.
- (b) must comply with all lawful instructions issued by the accompanying professional hunter or hunting outfitter

**75 General powers and duties of hunting outfitters and professional hunters**

- (1) A hunting outfitter may not arrange the hunting of an animal by a client without prior written permission of the landowner.
- (2) A professional hunter may not escort a client on any land for the purpose of hunting without –
  - (a) the prior written permission of the landowner; and
  - (b) verifying that valid permits and any other documentation required for the hunt are in place.
- (3) A professional hunter must take all reasonable steps to ensure that a client –
  - (a) does not contravene this Act or any other legislation regulating hunting; and
  - (b) complies with the terms and conditions of any permit authorising the hunt.
- (4) A professional hunter may kill any animal when accompanying a client if such killing is necessary in defence of life or to terminate the suffering of an animal.

**76 Marketing of a hunt to a foreign client**

- (1) No animal may be marketed for hunting to a foreign client, unless the hunt is arranged by a hunting outfitter; and
- (2) If the hunt is marketed by a marketing agent on behalf of a hunting outfitter, the marketing agent requires the prior written authority of the hunting outfitter.

**77 Marketing of a hunt to a local client**

A marketing agent may only market a hunt to a local client with the prior written authority of a hunting outfitter or landowner on whose behalf such marketing is conducted.

**78 Restricted and prohibited activities in respect of hunting**

- (1) No person may hunt or dart a specimen of an animal species listed in Schedule 4, 5 and 6, unless he or she is in possession of a hunting permit for the hunting season in respect of the species and property identified in the permit issued in terms of this Act.
- (2) Any person who wounds and fails to recover any specimen of the species listed in subsection (1) must, at the first reasonable opportunity, report the incident to the nearest available environmental management inspector.
- (3) No person may hunt elephant, buffalo, hippopotamus, black or white rhinoceros, lion or leopard with a firearm using ammunition smaller than .375 H and H Magnum calibre or equivalent muzzle energy.
- (4) Any person who wounds and fails to recover any specimen of the species listed in subsection (3) must, at the first reasonable opportunity, report the incident to the nearest police station and the nearest available environmental management inspector.

- (5) No person may hunt any animal species listed in Schedule 4, 5 and 6 to this Act –
- (a) during the night, unless in possession of a night hunting permit issued in terms of this Act in respect of the species and on the property identified in the permit;
  - (b) during a canned hunt;
  - (c) with a self-loading firearm; or
  - (d) subject to subsection (6), accompanied by a dog.
- (6) The owner of a dog that is trained to point, flush, track a wounded animal, retrieve an animal lawfully hunted, or bay an animal, may apply for a permit in terms of section 82 to hunt accompanied by a dog, provided that the holder of such a permit may not allow the dog to run down or hunt an animal.
- (7) No person may enter for hunting purposes any property where Schedule 3, 4, 5 and 6 animal species are likely to be found while in possession of a firearm as described in the Firearms Control Act, 2000 and any other weapon, hunting instrument, (including bows, crossbows, spears and pistols, capable of being used to capture, kill or harm an animal, or accompanied by a dog, without prior written permission from the landowner;
- (8) A landowner or his or her relative may hunt specimens of animal species listed in Schedule 5 or 6, without a permit, provided that –
- (i) the hunt is restricted to the property of the landowner;
  - (ii) in respect of species listed in Schedule 5, the property of the landowner is situated in an area where the species is an alien species;
  - (iii) all other applicable restrictions and prohibitions in respect of hunting as set out in this Act and any other legislation regulating the hunting industry, are complied with; and
  - (iv) in the case of a relative, prior permission is obtained from the landowner.
- (9) No person may hunt any animal from a public road or public roadside within a road reserve, unless it is necessary to do so to prevent unnecessary suffering of an injured or wounded animal, or to prevent a risk of injury to human beings.

#### **Part 8 - Regulation of Harvesting, Gathering, Collecting and Transporting of Specimens of Plant Species from the Wild**

##### **79 Application of this Part**

This Part applies to prohibited or restricted activities in respect of plant species listed in Schedule 7 and 8 as provided for in the Schedules in respect of each species.

**80 Restricted activities**

- (1) Without a permit issued in accordance with the prohibitions and restrictions provided for in Schedule 7, no person may –
- (a) in respect of wild specimens of plant species listed in Schedule 7–
    - (i) harvest, gather, collect, transport, convey, import, export or re-export any specimen;
    - (ii) grow, breed or in any other way propagate or cause to multiply for commercial purposes any specimen;
    - (iii) have in his or her possession, or exercise physical control over any specimen;
    - (iv) sell, trade in, or buy any specimen;
    - (v) wilfully damage or destroy any specimen; or
    - (vi) destroy or damage the habitat of such plant species;
  - (b) in respect of artificially propagated specimens of plant species listed in Schedule 7 –
    - (i) transport, convey, import, export, or re-export any specimen;
    - (ii) grow, breed or in any other way propagate or cause to multiply for commercial purposes any specimen;
    - (iii) have in his or her possession, or exercise physical control over any specimen;
    - (iv) sell, trade in, or buy any specimen.
- (2) Without a permit issued in accordance with the prohibitions and restrictions provided for in Schedule 8, no person may in respect of a wild specimen of a plant species listed in Schedule 8 –
- (a) harvest, gather, collect, transport, convey or export such specimen; or
  - (b) sell or trade in such specimen.
- (3) No person may in respect of a specimen of a plant species listed in Schedule 7 and 8 –
- (a) buy any specimen from a person or facility selling the specimen in contravention of this Act or any other legislation; or
  - (b) buy, possess, convey or transport any specimen, without a receipt issued by a person or facility authorised to sell such plant species.
- (4) No person may in respect of a specimen of a plant species listed in Schedule 8, carry out any activity that may negatively impact on the survival of such species, ecological

communities of which the species forms part, or its habitat, unless the activity is specifically exempted in the Schedule.

- (5) Without the prescribed permit, no person may cut or chop off, damage or destroy any specimen of an indigenous tree –
- (a) with a height of 15 metres or greater, or a circumference of 160 centimetre or greater, or a diameter of 50 centimetres or greater; or
  - (b) in the case of a multi stemmed tree a combined circumference of 160 cm or greater, or a combined diameter of 50 centimetres or greater, being the sum of the circumferences or diameters of each stem of the tree,
- provided that when issuing a permit Ezemvelo KZN Wildlife may specify offsets in the permit, unless the tree is dead or diseased;
- (6) Any specimen of *Encephalartos* species referred to in subsection (6) (a) and (b) must be micro-chipped when exported from the Province –
- (a) the *Encephalartos* species with a circumference of 48 centimetres or greater, or a diameter of 15 centimetres or greater; and
  - (b) in the case of *Encephalartos caffer*, *Encephalartos cerinus*, *Encephalartos cupidos*, *Encephalartos humilis*, *Encephalartos ngoyanus*, *Encephalartos umbeluziensis*, with a circumference of 22 centimetres or greater, or a diameter of 7 centimetres or greater.
- (7) No person may carry out any activity prohibited or restricted in terms of this section without the prior written permission of the landowner of the property on which a plant specimen is found, irrespective of whether the person has a permit authorizing him or her to otherwise carry out the restricted activity.

#### Part 9 - Permits

##### 81 Types of permits

The following types of permits may be issued by Ezemvelo KZN Wildlife, subject to the provisions of this Act and any other applicable legislation –

- (a) permits authorising activities restricted in terms of this Act;
- (b) standing permits to –
  - (i) a holder of a registration certificate for a facility listed in Part 1 or 2 ;
  - (ii) landowners of registered game farms;
  - (iii) landowners of declared private nature reserves;
  - (iv) registered wildlife traders;

- (v) environmental management inspectors and any other authorised staff member of Ezemvelo KZN Wildlife;
  - (vi) plant harvesters; and
  - (vii) persons conveying or transporting specimens of species provided for in the standing permit;
- (c) Game farm hunting permits;
- (d) Scientific research permits.

## 82 Application procedure

An application for a permit must be -

- (a) submitted on a duly completed prescribed application form for the permit in respect of which the application is made, provided by Ezemvelo KZN Wildlife;
- (b) submitted electronically, where possible;
- (c) accompanied by -
  - (i) all documentation or information required by Ezemvelo KZN Wildlife; and
  - (ii) the prescribed processing fee.

## 83 Application affecting rights of others

- (1) If the granting of a permit will affect the rights of another person or persons, the applicant must give notice of the application to such other person or persons;
- (2) Any person notified in terms of subsection (1) may within 15 days of having been notified, submit in writing to Ezemvelo KZN Wildlife any objections to the granting of a permit.

## 84 Consideration of application

- (1) On receipt of an application for a permit, Ezemvelo KZN Wildlife may arrange for a duly authorized official of the authority to conduct an inspection of the premises in respect of which the application is lodged, and thereafter to submit written recommendations to Ezemvelo KZN Wildlife as to -
  - (a) Whether the permit must be granted or refused; and
  - (b) If the permit is granted, any conditions that must be attached to the permit.
- (2) When considering an application for a permit Ezemvelo KZN Wildlife must take into account -
  - (a) Any written recommendations in terms of sub-sections (1)(a) and (b), where applicable;

- (b) All applicable legal requirements to ensure that any decisions with respect to the permit is consistent with those requirements;
  - (c) Whether the species to which the application relates is listed in terms of this Act or section 56 of the National Environmental Management: Biodiversity Act as a critically endangered species, an endangered species, a vulnerable species or a protected species;
  - (d) The purpose for which the permit is required;
  - (e) The risks to and potential impacts on the environment resulting from the issuing of a permit in respect of the activity applied for;
  - (f) The desirability of determining a biodiversity offset or other mitigation measure to compensate for the loss of or harm to biodiversity that may result from the issuing of a permit in respect of the activity applied for;
  - (g) All other relevant factors, including all relevant documentation and information submitted to it by the applicant; and
  - (h) Any objections received in terms of section 83(2) to the approval of an application for a permit.
- (3) Before making a decision on the application for a permit Ezemvelo KZN Wildlife may request the applicant to furnish additional information deemed necessary for the proper consideration of the application.

#### **85 Decision on application**

- (1) A decision on an application for a permit must be made within 30 days of receipt of the application.
- (2) Ezemvelo KZN Wildlife may –
  - (a) grant an application for a permit conditionally or unconditionally;
  - (b) defer a decision to issue a permit if the applicant is under investigation for the contravention or failure to comply with any provision of this Act, until such time that the investigation is concluded and –
    - (i) no prosecution in respect of such contravention or failure is instituted against the applicant;
    - (ii) the applicant is acquitted where a prosecution in respect of such contravention or failure has been instituted; or
    - (iii) the applicant has been convicted by a court of law of an offence in respect of such contravention or failure and has exhausted all legal remedies pertaining to appeal or review in respect of the conviction; or
  - (c) refuse the application.

- (3) After a decision on an application for a permit is made, Ezemvelo KZN Wildlife must within 10 days give written notice of the outcome of the decision to the following persons -
  - (a) the applicant; and
  - (b) any person who lodged an objection to the granting of a permit.
- (4) If a decision is made to refuse an application for a permit, or to grant the application with conditions, Ezemvelo KZN Wildlife must –
  - (a) give reasons for the decision to the applicant; and
  - (b) draw the applicant's attention to the fact that an appeal may be lodged against the decision in terms of Chapter 8 of this Act.

#### **86 Issuing of permit**

- (1) If a decision is made to grant an application for a permit Ezemvelo KZN Wildlife must issue such a permit to the applicant within 10 days after the decision is made.
- (2) A permit must contain the following information –
  - (a) the name, identity number or passport number and physical address of the person to whom the permit is issued;
  - (b) if applicable, the physical address of the premises where the permit holder will operate from, or from where it will conduct its business;
  - (c) particulars of the species in respect of which the permit is issued, including the scientific (genus, species and sub-species) and common name, where available;
  - (d) particulars of the activities authorised by the permit;
  - (e) if applicable, the specific conditions subject to which the permit is issued; and
  - (f) the period of validity of the permit which may not exceed a period of 1 year, except in the case of a standing permit which may not exceed a period of 5 years.
- (3) If any norms and standards issued under this Act or any other legislation apply to an activity in respect of which a permit is issued, the permit must be issued on condition that the permit holder is bound by, and must act in accordance with, the norms and standards in carrying out the activities in respect of which the permit is issued.
- (4) Any permit issued under this section is not transferrable and is specific to the person to whom and the property in respect of which it is issued.
- (5) Ezemvelo KZN Wildlife may temporarily by notice in the *Gazette*-
  - (a) suspend the issuing of permits in respect of activities for which a permit is required for a period not exceeding 12 months; and

- (b) specify additional prohibited or restricted activities in respect of any species or ecosystem, and the area where these are to be applied;

where such suspension or additional prohibited or restricted activities are necessary in the interest of protection of the environment.

#### **87 Production of permit on request**

- (1) The holder of a permit must, when requested by any authorized official of Ezemvelo KZN Wildlife –
  - (a) produce the permit; and
  - (b) proof of his or her identity.
- (2) Failure to produce the permit or proof of identity on request in terms of subsection (1) is an offence under section 106 of this Act.

#### **88 Cancellation of permit**

A permit issued in terms of section 86 may be cancelled by Ezemvelo KZN Wildlife if the person to whom the permit is issued –

- (a) knowingly misrepresented any relevant facts, or submitted any false information to Ezemvelo KZN Wildlife in the permit application;
- (b) subsequent to the issuing of the permit falsifies, forges or in any way alters the permit;
- (c) uses the permit for any purpose other than that provided for therein;
- (d) is in persistent breach of any of the terms and conditions set out in the permit;  
or
- (e) is found guilty of any other offence in terms of this Act or any other relevant legislation.

#### **89 Notice of cancellation of permit**

- (1) If Ezemvelo KZN Wildlife intends to cancel a permit as provided for in section 88, it must –
  - (a) notify the holder of the permit that the cancellation of the permit issued to the holder is being considered, together with the reasons for the proposed cancellation; and
  - (b) afford such holder a reasonable opportunity to submit written representations to Ezemvelo KZN Wildlife regarding the proposed cancellation.
- (2) Where in the opinion of Ezemvelo KZN Wildlife it is necessary, Ezemvelo KZN Wildlife may either –

- (a) require the holder of the permit to take specified measures to address the reasons for the proposed cancellation; or
  - (b) take the measures referred to in subsection (a).
- (3) If, after considering any representations made by the holder of a permit in terms of sub-section 1(b), Ezemvelo KZN Wildlife decides to cancel the registration of the facility, it must –
- (a) give reasons to the holder of the registration certificate for the decision; and
  - (b) draw his or her attention to the fact that an appeal may be lodged against the decision in terms of Chapter 8 of this Act.

#### **90 Loss and replacement of permit**

- (1) If the holder of a permit loses a permit issued under section 86 of this Act, he or she must report such loss as soon as reasonably possible to Ezemvelo KZN Wildlife; and
- (2) Ezemvelo KZN Wildlife must within 10 days from the date on which the loss of a permit is reported to it, issue a replacement permit on the same terms and conditions as the original permit for the remaining period of the validity of the original permit.

### **CHAPTER 8 : RECONSIDERATION AND APPEALS IN RESPECT OF DETERMINATIONS, REGISTRATION AND PERMITS**

#### **91 Right of reconsideration or appeal**

This Chapter applies to any decision made in respect of -

- (a) a biodiversity offset or other mitigation measure determined in terms of section 39;
- (b) an application for registration made in terms of section 62;
- (c) the cancellation of a registration in terms of section 66;
- (d) an application for an amendment to a registration in terms of section 68;
- (e) an application for a permit made in terms of section 85; or
- (f) the cancellation of a permit in terms of section 88.

#### **92 Reconsideration**

- (1) Any person who is aggrieved by a decision referred to in section 91 may, within 10 days of receiving notice of the decision, request the Chief Executive Officer to appoint a review officer or review committee to reconsider the decision, provided that the review officer or members of a review committee may not be the official or officials who made the decision under reconsideration.

- (2) Where requested by an aggrieved applicant or holder, a review officer or review committee must reconsider the decision in respect of which reconsideration was requested, and notify the aggrieved person of the outcome of the reconsideration within 10 days of receipt of a request for reconsideration.
- (3) If the review officer, or review committee, fails to notify the aggrieved person of the outcome of the reconsideration within 10 days of receipt of the request, then the original decision referred to in section 91 will be deemed to be confirmed by the review officer, or review committee.
- (4) Ezemvelo KZN Wildlife must appoint a review officer or review committee in writing.

### 93 Appeal

- (1) Any person who remains aggrieved by a decision referred to in section 91 after reconsideration by a review officer, or review committee, or where the review officer or review committee failed to notify the aggrieved person of the outcome of the reconsideration within 10 days of receipt of the request, may appeal to the MEC.
- (2) The appeal must be -
  - (a) Lodged within 30 days of receiving notice of the outcome, or deemed outcome of a reconsideration referred to in subsections 92(2) or (3);
  - (b) In writing and include reasons for the appeal.
  - (c) submitted to the Chief Executive Officer for referral to the MEC.
- (3) The MEC may appoint an appeal panel consisting of no less than 3 suitably qualified persons to consider the merits of the appeal, and thereafter to make recommendations to the MEC on whether the appeal should be upheld or dismissed.
- (4) The MEC must apply his or her mind to the appeal and any written submissions made by the appellant, or recommendations by the appeals panel, before making a decision on the appeal.
- (5) No further appeal may be lodged in terms of this Act in respect of a decision made by the MEC in terms of subsection (4).

## CHAPTER 9: LAW ENFORCEMENT

### 94 Application

- (1) This Chapter applies to the enforcement of –
  - (a) this Act; and
  - (b) any other specific environmental management Act, powers or duties assigned or delegated to the Province.
- (2) In this Chapter, unless inconsistent with the context, a word or expression to which a meaning has been assigned in a specific environmental management Act assigned or

delegated to the Province has, in relation to the administration or enforcement of that Act, the meaning assigned to it in that Act.

- (3) For the purposes of this Chapter, Schedule 1 to the Criminal Procedure Act is deemed to include an offence committed in terms of this Act or any specific environmental management Act assigned or delegated to the Province.

#### **95 Designation of environmental management inspectors by MEC**

- (1) The MEC may in accordance with the provisions of the National Environmental Management Act -
- (a) designate as an environmental management inspector, any staff member of –
    - (i) the department responsible for environmental affairs in the Province;
    - (ii) Ezemvelo KZN Wildlife;
    - (iii) any other provincial organ of state; or
    - (iv) any municipality in the Province; and
  - (b) at any time withdraw a designation made in terms of subsection (a).
- (2) A designation in terms of subsection (1) (a) (ii), (iii) or (iv) may only be made by agreement between the MEC and the relevant provincial organ of state or municipality.
- (3) The MEC may only designate an environmental management inspector for the enforcement of the provisions of -
- (a) this Act; or
  - (b) any other specific environmental management Act -
    - (i) administered by the MEC or a provincial organ of state; or
    - (ii) in respect of which the MEC or a provincial organ of state exercises or performs assigned or delegated powers or duties.
- (4) When designating a person as an environmental management inspector as provided for in subsections (1) (2) and (3), the MEC must -
- (a) determine whether the person is designated for the enforcement of –
    - (i) this Act or specific provisions of this Act;
    - (ii) a specific environmental management Act;
    - (iii) specific provisions of a specific environmental management Act;
    - (iv) all specific environmental management Acts; or
    - (v) any combination of such Acts or provisions of such Acts,

subject to any limitations to the powers and functions of such environmental management inspector in accordance with his or her grading as prescribed in terms of this Act or the National Environmental Management Act;

- (b) in writing –
  - (i) notify such person of his or her designation; and
  - (ii) clearly stipulate the specific mandate for which he or she is designated, as provided for in sub-section (4)(a).
- (5) The MEC may only appoint a person as an environmental management inspector who complies with the qualification criteria and training requirements prescribed in terms of this Act, or provided for in any other applicable legislation, procedures, or norms and standards.
- (6) An environmental management inspector designated by the MEC must carry out his or her duties and functions, and exercise his or her powers –
  - (a) in accordance with the terms and conditions of a written designation by the MEC in terms of sub-section (4)(b); and
  - (b) subject to any other limitations, procedures, or norms and standards prescribed in terms of this Act, or any other relevant legislation.

#### **96 Proof of designation**

- (1) An identity card must be issued by the MEC to each person designated as an environmental management inspector.
- (2) When exercising any powers or performing any duties assigned to him or her, an environmental management inspector must, on demand by a member of the public, produce the identity card referred to in sub-section (1).

#### **97 Duties, functions and general powers of environmental management inspectors**

- (1) An environmental management inspector, within his or her mandate in terms of section 95(4) -
  - (a) must monitor and enforce compliance with an Act for which that inspector has been designated;
  - (b) may demand the full names, identification number and residential address of any person –
    - (i) reasonably suspected of committing, having committed or attempted to commit any offence in terms of this Act or a specific environmental management Act for which that inspector has been designated in terms of section 95(4); or
    - (ii) who may have knowledge of or be in possession of any evidence of the commission or attempt to commit any such offence.

- (c) may investigate any act or omission, or question a person about such act or omission, in respect of which there is a reasonable suspicion that it may constitute -
- (i) an offence in terms of such Act;
  - (ii) a breach of such Act; or
  - (iii) a breach of a term or condition of registration, a permit, authorisation or other instrument issued in terms of such Act;
- (d) may issue a written notice to a person who refuses to answer questions in terms of sub-section (1)(b) requiring that person to answer the questions put to him or her in terms of that sub-section, provided that –
- (i) such a written notice must be in the format prescribed in terms of this Act or any other legislation, and must require a person to answer specified questions either orally or in writing, and either alone or in the presence of a witness, and may require that questions are answered under oath or affirmation; and
  - (ii) a person who receives a written notice in terms of subsection (1)(c), must answer all questions put to him or her truthfully and to the best of his or her ability, notwithstanding that an answer may incriminate him or her, provided that any answer that incriminates such person may not be used against him or her in any subsequent criminal proceedings for an offence in terms of this Act, or any other specific environmental management Act administered by, or assigned or delegated to the Province;
- (e) may inspect or question a person about any document, book or record or any written or electronic information which -
- (i) may be relevant for the purpose of an investigation in terms of sub-section (1)(b); or
  - (ii) relates to a provision of this Act or a specific environmental management Act for which that inspector has been designated in terms of section 95(4);
- (f) may copy, or make extracts from, any document, book or record or any written or electronic information referred to in sub-section (1)(d), or remove such document, book, record or written or electronic information in order to make copies or extracts;
- (g) may require a person to produce or deliver to a place specified by the inspector, any document, book or record or any written or electronic information referred to in sub-section (1)(d) for inspection;
- (h) may inspect or question a person about, and if necessary remove, any specimen, article, substance or other item which, on reasonable suspicion, may have been used in-

- (i) committing an offence in terms of an Act for which that inspector has been designated in terms of section 95(4);
    - (ii) breaching such Act; or
    - (iii) breaching a term or condition of registration, a permit, authorisation or other instrument issued in terms of such law;
  - (i) may, when necessary for the purposes of an investigation or for a routine inspection in terms of this Chapter –
    - (i) take photographs or make audio-visual recordings of anything or any person; and
    - (ii) dig, bore into, or take soil samples on land in respect of which such investigation is conducted;
  - (j) may remove any waste or other matter deposited or discharged in contravention of an Act or a term or condition of registration, a permit, authorisation or other instrument issued in terms of such law; and
  - (k) may carry out any other duty or function not inconsistent with this Act or a specific environmental management Act for which that inspector has been designated in terms of section 95(4).
  - (l) Any environmental management inspector who carries out any designated duty or function, or exercises any designated power in terms of section 95(4) in the reasonable belief that he or she is acting correctly and in accordance with the law, is not liable for any claim arising from such action.
- (2) An environmental management inspector –
- (a) must exercise his or her powers in a way that minimises any damage to, loss or deterioration of any premises or thing;
  - (b) may be accompanied by an interpreter or any other person whose assistance may reasonably be required.
- (3) An environmental management inspector must-
- (a) provide a receipt for-
    - (i) any document, book, record or written or electronic information removed or delivered in terms of subsection (1)(e) or (f); or
    - (ii) any specimen, article, substance or other item removed in terms of subsection (1)(g); and
  - (b) return anything removed within a reasonable period or, at the conclusion of any relevant criminal proceedings, where possible and appropriate.
- (4) An environmental management inspector may-

- (a) In the case of a specimen of a threatened or protected species or alien, invasive or hybrid species being imported into the Province, at the port of entry, request the person responsible for the import or that person's agent, to produce the original copies of the import permit, together with such other documentation as may be required; and
  - (b) in the case of a specimen of a threatened or protected species, being exported or re-exported from the Province, at the port of exit, request the person responsible for the export or re-export or that person's agent to produce the original copy of the export or re-export permit, together with such other documentation as may be required.
- (5) In addition to the powers set out in this Chapter, an environmental management inspector must be regarded as being a peace officer and may exercise all the powers assigned to a peace officer, or to a police official who is not a commissioned officer, in terms of Chapters 2, 5, 7 and 8 of the Criminal Procedure Act -
- (a) to comply with his or her mandate in terms of section 95(4), and .
  - (b) within the area of jurisdiction for which he or she has been designated.

**98 Power to stop, enter and search vehicles, vessels and aircraft**

- (1) An environmental management inspector may, within his or her mandate in terms of section 95(4), without a warrant enter and search any vehicle, vessel or aircraft, or search any pack-animal or any other mechanism of transport, on reasonable suspicion that that vehicle, vessel, aircraft, pack animal or other mechanism of transport -
- (a) is being or has been used, or contains or conveys anything which is being or has been used, to commit-
    - (i) an offence in terms of an Act for which that inspector has been designated in terms of section 95(4); or
    - (ii) a breach of such Act or a term or condition of registration, a permit, authorisation or other instrument issued in terms of such law; or
  - (b) contains or conveys anything which may serve as evidence of such offence or breach.
- (2) An environmental management inspector may, within his or her mandate in terms of section 95(4), without a warrant seize a vehicle, vessel, aircraft, pack-animal or any other mechanism of transport or anything contained in or on any vehicle, vessel, aircraft, pack-animal or other mechanism of transport -
- (a) which is concerned in or is on reasonable grounds believed to be concerned in the commission of an offence;
  - (b) which may afford evidence of the commission or suspected commission of an offence;

- (c) which is used, or is on reasonable grounds believed to be intended to be used –
  - (i) in the commission of an offence; or
  - (ii) in a manner that is likely to have a negative impact on, or cause significant pollution or degradation of the environment
- (3) The provisions of section 99 apply to anything seized in terms of subsection (2), subject to such modifications as the context may require.
- (4) An environmental management inspector may, within his or her mandate in terms of section 95(4), at any time, for the purpose of implementing subsection (1), without a warrant –
  - (a) order the driver of a vehicle or vessel to stop, or the pilot of an aircraft to land; or
  - (b) if necessary and possible, having taken the necessary safety precautions, force the driver or pilot to stop or land, as the case may be.
- (5) An environmental management inspector may, within his or her mandate in terms of section 95(4), exercise in respect of such vehicle, vessel or aircraft any of the powers mentioned in section 97, where appropriate.
- (6) An environmental management inspector may apply to the National or Provincial Commissioner of Police for written authorisation in terms of section 13(8) of the South African Police Service Act, 1995 (Act No. 68 of 1995), to establish a roadblock or a checkpoint.
- (7) An environmental management inspector has, within his or her mandate in terms of section 95(4), all the powers of a member of the South African Police Service in terms of section 13(8) of the South African Police Service Act, 1995.

#### **99 Procedure in respect of seized items**

- (1) The provisions of sections 30 to 35 of the Criminal Procedure Act apply, with the necessary changes as the context may require, to the disposal of anything seized by an environmental management inspector in terms of this Chapter.
- (2) When an item is seized in terms of this Chapter, the environmental management inspector may request the person who was in control of the item immediately before the seizure of the item, to take it to a place designated by the inspector, and if the person refuses to take the item to the designated place, the inspector may do so.
- (3) In order to safeguard a vehicle, vessel or aircraft that has been seized, the environmental management inspector may immobilise it by removing a part.
- (4) Any item seized in terms of this Chapter, including a part of a vehicle, vessel or aircraft referred to in subsection (3), must be kept by Ezemvelo KZN Wildlife in such a manner that –
  - (a) it is secured against damage or loss;

- (b) where an item is to be used as evidence of the commission of an offence, such evidence is not contaminated in any way; and
  - (c) where an item is to be used as part of a sequence of evidence, such evidence is clearly identified and numbered as part of such sequence.
- (5) Ezemvelo KZN Wildlife must keep and maintain proper records of all items seized in terms of this Chapter.

#### **100 Routine inspections**

- (1) An environmental management Inspector, within his or her mandate in terms of section 95(4), and subject to subsection (2) may –
- (a) at any reasonable time conduct routine inspections and, without a warrant, enter and inspect any building, land or premises or search, including but not limited to, any vehicle, vessel, aircraft, pack-animals, container, bag, box, or item for the purposes of ascertaining compliance with -
    - (i) any Act for which that inspector has been designated in terms of section 95(4); or
    - (ii) a term or condition of registration, a permit, authorisation or other instrument issued in terms of such legislation.
  - (b) with a warrant obtained in terms of subsection (2), but subject to subsection (3), enter and inspect any residential premises for the purposes of ascertaining compliance with -
    - (i) an Act for which that inspector has been designated in terms of section 95(4); or
    - (ii) a term or condition of registration, a permit, authorisation or other instrument issued in terms of such legislation.
- (2) A magistrate may issue a warrant referred to in sub-section (1)(b) only on written application by an environmental management Inspector setting out under oath or affirmation that it is necessary to enter and inspect the specified residential premises for the purposes of ascertaining compliance with the Acts for which that inspector has been designated in terms of section 95(4).
- (3) An environmental management inspector may enter and inspect any residential premises without a warrant, only if -
- (a) the person in control of the premises consents to the entry and inspection; or
  - (b) there are reasonable grounds to believe that a warrant would on application be issued, but that the delay that may be caused by applying for a warrant would defeat the object of the entry or inspection.
- (4) While carrying out a routine inspection, an environmental management inspector may seize anything, including but not limited to, in or on any business or residential premises, land, vehicle, vessel, aircraft, pack-animal, container, bag, box, or item that

may be used as evidence in the prosecution of any person for an offence in terms of this Act or a specific environmental management Act.

- (5) The provisions of section 99 apply to anything seized in terms of subsection (4), subject to such modifications as the context may require.
- (6) An environmental management inspector may exercise any of the powers mentioned in section 97 in respect of such building, land, premises, vehicle, vessel, aircraft, pack-animal, container, bag, box, or any other item.

#### **101 Issuing of compliance notice**

- (1) An environmental management inspector, within his or her mandate in terms of section 95(4) may issue a compliance notice in the format prescribed in terms of this Act or any other applicable legislation, if there are reasonable grounds for believing that a person has not complied-
  - (a) with a provision of an Act for which that inspector has been designated in terms of section 95(4); or
  - (b) with a term or condition of registration, a permit, authorisation or other instrument issued in terms of such law.
- (2) A compliance notice must set out-
  - (a) details of the conduct constituting non-compliance;
  - (b) any steps that the person must take and the period within which those steps must be taken to ensure compliance;
  - (c) any activity which the person may not carry out, and the period during which the activity is prohibited; and
  - (d) the procedure to be followed in lodging an objection to the compliance notice with the MEC.
- (3) An environmental management inspector may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice.
- (4) A person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the MEC has agreed to suspend the operation of the compliance notice in terms of subsection (5).
- (5) A person who receives a compliance notice and who wishes to lodge an objection in terms of section 97 may make representations to the MEC to suspend the operation of the compliance notice pending the outcome of the decision by the MEC on the objection so lodged.

**102 Objections to compliance notice**

- (1) Any person who receives a compliance notice in terms of section 101 may object to the notice by making representations, in writing, to the MEC within 30 days of receipt of the notice.
- (2) After considering any representations made in terms of subsection (1) and any other relevant information, the MEC -
  - (a) may confirm, modify or cancel a notice or any part of a notice; and
  - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

**103 Failure to comply with compliance notice**

- (1) If a person fails to comply with a compliance notice, the environmental management inspector must report the non-compliance to the MEC who may-
  - (a) withdraw or vary the relevant registration, permit, authorisation or other instrument which is the subject of the compliance notice; and
  - (b) take any other necessary steps and recover the costs of doing so from the person who failed to comply.

**104 Powers of the South African Police Service members**

- (1) A member of the South African Police Service has, in respect of an offence in terms of this Act or a specific environmental management Act, all the powers of an environmental management inspector in terms of this Chapter, excluding the power to conduct routine inspections in terms of section 100 and the power to issue and enforce compliance notices in terms of sections 101 and 103.
- (2) Notwithstanding subsection (1), the MEC may, with the concurrence of the Minister responsible for safety and security, by written notice to a member of the South African Police Service, assign to that member all the powers contemplated in sections 100, 101 and 103.

**105 Miscellaneous provisions**

- (1) No person may -
  - (a) intentionally frustrate, hinder or obstruct an environmental management inspector in the exercise of his duties, functions or powers; or
  - (b) falsely hold him or herself out to be an environmental management inspector.

**106 Offences and penalties**

- (1) Any person who contravenes -

- (a) any prohibition or restriction in terms of this Act, unless authorised by permit or any other form of authorisation;
- (b) any other provision of this Act which constitutes an offence; or
- (c) any provision which constitutes an offence under any specific environmental management Act;

is guilty of an offence.

- (2) Any court convicting a person in respect of an offence committed in terms of subsection (1) may impose on such person any sentence provided for in section 276 of the Criminal Procedure Act.
- (3) Where a fine or term of imprisonment is imposed on a person, the sentence may not exceed a fine of R200, 000.00 (two hundred thousand rand), a term of Imprisonment of three years, or both.
- (4) Notwithstanding the provisions of subsection (3), a court may sentence a person to a term of imprisonment not exceeding 5 years, or to pay a fine not exceeding R5,000,000.00 (five million Rand), or both, where the offence of which such person has been convicted –
  - (a) involved a protected animal or plant;
  - (b) was committed with the intent to gain commercially;
  - (c) was committed acting jointly with other persons with the common intention to repeatedly commit such offence or a series of similar offences; or
  - (d) was committed by a person who had previously been convicted of committing such offence, or similar offence in terms of this Act or any other environmental legislation.
- (5) The penalty provided for in subsections (3) and (4) may be amended by regulation from time to time.
- (6) Where any offence committed in terms of this Act also constitutes an offence under any other legislation, a person committing such offence may be prosecuted under either this Act, or such other legislation.

## CHAPTER 10: ADMINISTRATION OF THE ACT

### 107 Regulations

- (1) The MEC may, by notice in the *Gazette*, make regulations not inconsistent with the provisions of this Act, or any other legislation, regarding:
  - (a) the conditions of service of members of the Board;
  - (b) the conditions of appointment of consultants or advisory committees to the Board;

- (c) the financial and accounting administration of the Board;
  - (d) the management and administration of movable and immovable property of the Board;
  - (e) any temporary measures urgently required for the protection of animal and plant species, ecosystems, habitats and aquatic environments;
  - (f) the management of the importation, exportation or translocation of any animals into, out of, or within the Province;
  - (g) the management of the hunting, capturing, killing or utilisation of animal and plant species or hybrids;
  - (h) the management of professional hunters, wildlife traders, hunting outfitters, hunting schools, hunting agents and hunters;
  - (i) providing for the establishment of advisory committees for protected areas, the appointment of members and their role;
  - (j) the manner and form of any temporary amnesty provided for in this Act;
  - (k) any matter required or permitted to be prescribed in terms of this Act;
  - (l) any matter necessary or expedient to prescribe in order to achieve the objects of this Act;
  - (m) any other matters reasonably required to implement the provisions of this Act.
- (2) The absence of any regulations does not absolve any person from complying with the provisions of this Act, or hinder any person from applying for any permit or authorisation or proceeding with any matter contemplated by this Act.
- (3) The MEC may, by notice in the *Gazette*, publish regulations to implement recommendations made to him under this Act.
- (4) The MEC may, by notice in the *Gazette*, for any good reason:
- (a) specify additional controlled or prohibited activities in respect of any species and the area where these are to be applied;
  - (b) amend Schedules 2 to 10.
- (5) Prior to publishing any regulations, the MEC must consult with the Board in respect of the contemplated regulations.

#### 108 Late lodging of applications or appeals

- (1) Any person who is entitled to lodge an application or appeal with Ezemvelo KZN Wildlife or the MEC may, within a reasonable time, apply to the relevant authority for –
- (a) an extension of the stipulated time limits; or
  - (b) condonation of non-compliance with the stipulated time period.

- (2) Ezemvelo KZN Wildlife or the MEC may grant the application for extension or condonation on good cause shown.

#### **109 Other environmental management legislation**

- (1) No registration, permit or any other authority granted in terms of this Act in respect of an activity relieves a person of the obligation to comply with the provisions of any other law prohibiting, restricting or controlling the activity.
- (2) The provisions of this Act must, insofar as is possible, be interpreted in harmony with the provisions of any other law providing for the same matters.

#### **110 Repeal of laws and savings**

- (1) The legislation specified in the first column of Schedule 1 hereto is repealed or amended to the extent indicated in the second column, on the basis that such repeal or amendment come into effect on a date determined by the MEC by notice published in the *Gazette*.
- (2) Any repeal or amendment in terms of Schedule 1 does not affect the validity of anything done in terms of or pursuant to the repealed or amended legislation referred to, including any approval, refusal, authority, appointment, notice, regulation, registration, permit, certificate or other actions duly taken by Ezemvelo KZN Wildlife, an environmental management Inspector, or any other person authorised to take such action.
- (3) Any regulation issued in terms of the Nature Conservation Ordinance, 1974 remains in force until specifically repealed.

#### **111 Transitional Arrangements**

- (1) With effect from the date when this Act comes into operation –
- (a) Ezemvelo KZN Wildlife will function as provided for in this Act;
- (b) the Board will be the successor in title and in law in respect of all rights, duties and obligations of the KwaZulu-Natal Nature Conservation Board appointed in terms of Section 4 of the KwaZulu-Natal Nature Conservation Management Act;
- (c) a board member of the KwaZulu-Natal Nature Conservation Board will become a member of the Board for the unexpired part of the term for which that person was appointed as a member of the KwaZulu-Natal Nature Conservation Board;
- (d) the chairperson and deputy chairperson of the KwaZulu-Natal Nature Conservation Board will respectively become the Chairperson and Deputy Chairperson of the Board for the unexpired part of the term for which those persons were appointed;
- (e) Ezemvelo KZN Wildlife established under section 3 of this Act will be the successor in title and in law to the KwaZulu-Natal Nature Conservation service

established in terms of Section 20 of the KwaZulu-Natal Nature Conservation Management Act;

- (f) all employees of the KwaZulu-Natal Nature Conservation Service referred to in Chapter 4 of the KwaZulu-Natal Nature Conservation Management Act will be regarded as having been employed in terms of section 26 of this Act, on the same terms and conditions as those that previously governed their employment;
  - (g) any person who was a designated environmental management inspector prior to the commencement of this Act will be an environmental management inspector referred to in section 95 of this Act;
  - (h) any person appointed as a member of a local board under Chapter 5 of the KwaZulu-Natal Nature Conservation Management Act will become a member of an advisory committee for the unexpired part of the term for which that person was appointed.
- (2) Any registration, permit or authorization which was valid immediately before the commencement of this Act, remains valid and effective on the same terms and conditions under which it was issued: Provided that –
- (a) the terms and conditions applicable to the registration, permit or authorisation are not inconsistent with the provisions of this Act; and
  - (b) in the event that the terms and conditions applicable to the registration, permit or authorisation are inconsistent with the provisions of this Act, then the provisions of this Act will apply, subject to the necessary changes;
  - (c) in the event that the terms and conditions applicable to the registration, permit or authorisation are prohibited or restricted under this Act, then the holder may apply to the MEC within 3 months for temporary amnesty, within which period that person must apply for registration, a permit or other authorisation as provided for by this Act.
- (3) Any application for a permit or authorization made under legislation repealed in Schedule 1 which has not been finalized when this Act commences must, despite the repeal of such legislation, be dispensed with and finalized as if this Act has not come into operation.
- (4) The repeal of any law in Schedule 1 will not affect any right, privilege, obligation or liability acquired or accrued or incurred under the law so repealed, unless the contrary is provided for under this Act.

#### 112 Short title and date of commencement

- (1) This Act is called the KwaZulu-Natal Environmental, Biodiversity and Protected Areas Management Act, 2014.
- (2) This Act comes into effect on a date determined by the MEC by notice in the *Gazette*.

**KWAZULU – NATAL ENVIRONMENTAL, BIODIVERSITY AND PROTECTED AREAS BILL, 2014****SCHEDULES**

<b>No.</b>	<b>SCHEDULE NUMBER</b>	<b>NAME OF SCHEDULE</b>	<b>PAGE NUMBERS</b>
1.	<u>SCHEDULE 1</u>	KwaZulu – Natal Repeal of Laws	1
2.	<u>SCHEDULE 2</u>	KwaZulu – Natal Protected Areas	2 - 9
3.	<u>SCHEDULE 3</u>	KwaZulu – Natal Protected Animal Species	10 – 236
4.	<u>SCHEDULE 4</u>	KwaZulu – Natal Restricted Use Protected Animal Species	237 – 243
5.	<u>SCHEDULE 5</u>	KwaZulu – Natal Restricted Use Animal Species	244 – 250
6.	<u>SCHEDULE 6</u>	KwaZulu – Natal Ordinary Use Animal Species	251 – 254
7.	<u>SCHEDULE 7</u>	KwaZulu – Natal Threatened Plant Species	255 – 385
8.	<u>SCHEDULE 8</u>	KwaZulu – Natal Protected Plant Species	386 – 447
9.	<u>SCHEDULE 9</u>	KwaZulu – Natal Exempted Alien Animal Species	448 – 457
10.	<u>SCHEDULE 10</u>	KwaZulu – Natal Alien Invasive Animal Species	458 – 465

Schedules 1 – 10 listed herein can be –

- (a) accessed through the Department's website: [www.kznded.gov.za](http://www.kznded.gov.za); or
- (b) obtained from the Department at 270 Jabu Ndlovu Street, Pietermaritzburg, 3201; or
- (c) requested from the Department by contacting Mr. Sithembiso Nsele on telephone no. (033) 264 2710.

**MEMORANDUM ON THE OBJECTS  
OF THE  
KWAZULU-NATAL ENVIRONMENTAL, BIODIVERSITY AND PROTECTED AREAS  
MANAGEMENT BILL, 2014**

**1. BACKGROUND**

1.1. The Constitution of the Republic of South Africa ("the Constitution") provides for environmental rights in section 24 of the Bill of Rights, namely that everyone the right –

- (a) to an environment that is not harmful to their health or well-being; and
- (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
  - (i) prevent pollution and ecological degradation;
  - (ii) promote conservation; and
  - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

1.2. Schedule 4 of the Constitution lists the functional areas of concurrent national and provincial legislative competence, and gives the Province the power to legislate, *inter alia* on the environment, nature conservation (excluding national parks, national botanic gardens and marine resources), and pollution control.

1.3. The environmental legislation currently in force in the Province –

- (a) is outdated and does not adequately provide for the Constitutional and other legal obligations of the Province in respect of the environment.
- (b) predates the Public Finance Management Act 1 of 1999 ("the PFMA") and is not aligned to its provisions. It is imperative that *Ezemvelo KZN Wildlife* is established as a provincial public entity subject to the provisions of the PFMA.

1.4. There is therefore an urgent need to enact new environmental legislation for the Province of KwaZulu-Natal that address the deficiencies outlined above.

## 2. PURPOSE OF THE BILL

2.1. The purpose of the KwaZulu-Natal Environmental, Biodiversity and Protected Areas Management Bill, 2014 is to address the deficiencies in the current legislation outlined above and to provide an up to date legislative regime that -

- (a) is aligned to the Constitution and the Bill of Rights;
- (b) is aligned to the PFMA and its Regulations;
- (c) is aligned to national environmental legislation and other instruments;
- (d) is free from outdated and obsolete terminology and references;
- (e) provides for legal certainty, good governance and sound financial management, as well as effective and efficient governance and administrative structures;
- (f) provides for the environmental needs, powers, functions and obligations of the Province in a coherent and comprehensive manner.

2.2. To facilitate ease of reference and simplified access to information and requirements, some provisions in the Bill incorporate existing provisions in national legislation applicable to provinces, while other provisions are new and innovative where KwaZulu-Natal breaks new ground within its legal mandate.

## 3. CLAUSE BY CLAUSE EXPLANATION OF THE BILL

In summary, the Bill provides for the following –

### 3.1. CHAPTER 1: Interpretation and Objectives of the Bill

#### (a) Clause 1: Definitions

This clause defines terms used in the Bill and includes terms specifically used in the context of the environment which may not be generally known.

#### (b) Clause 2: Objectives of the Bill

The objectives of the Bill are to –

- (i) establish Ezemvelo KZN Wildlife as a provincial public entity and to provide for matters incidental thereto;
- (ii) to provide for the protection of the environment, including the protection, conservation and management of habitats, ecosystems, species and biological diversity;
- (iii) to provide for the sustainable use of indigenous resources;
- (iv) to provide for the declaration and management of protected areas, their sustainable use and enjoyment, as well as control and management of ecotourism within protected areas;
- (v) to implement environmental legislation and agreements; and
- (vi) to provide a regulatory framework for implementation and enforcement of legislative provisions.

### **3.2. CHAPTER 2: EZEMVELO KZN WILDLIFE**

#### **Part 1 – Establishment, Functions and General Powers of Ezemvelo KZN Wildlife**

**(a) Clause 3: Establishment of Ezemvelo KZN Wildlife**

This clause establishes Ezemvelo KZN Wildlife as a juristic person and a provincial public entity.

**(b) Clause 4: Functions of Ezemvelo KZN Wildlife**

This clause provides for the functions of Ezemvelo KZN Wildlife as the entity responsible for the -

- (i) Protection, conservation and management of the environment in the Province as a whole; and giving assistance and advice, and make recommendations on such matters as required;
- (ii) management and control of protected areas and ecotourism within such areas;
- (iii) implementation of applicable legislation and agreements;
- (iv) promotion of associations, partnerships and agreements with organs of state, land owners and other stakeholders;

- (v) preparation and maintenance of a central register (available for use and inspection) of biodiversity targets, bioregional plans and biodiversity management plans, and monitoring the status of biodiversity;
- (vi) reporting on Ezemvelo KZN Wildlife's contribution to South Africa's attainment of targets in accordance with the Convention on Biological Diversity;
- (vii) establishment and maintenance of a central register of agreements;
- (viii) establishment and maintenance of a central register (available for use and inspection) of protected areas in the Province, buffer zones, identified ecosystems and habitats that are threatened or in need of protection;
- (ix) prevention of environmental harm by invasive or alien species or pollution;
- (x) participating in integrated development planning and other initiatives;
- (xi) performance of compliance and law enforcement duties.

These functions are performed in accordance with applicable principles, norms and standards and directives.

**(c) Clause 5: General Powers of Ezemvelo Wildlife**

This clause provides for the general powers of Ezemvelo KZN Wildlife necessary to perform its functions, and includes powers in respect of -

- (i) appointment of staff and other human resources, and matters incidental thereto;
- (ii) financial management and controls, funds and sources of funding, collection of fees, and matters incidental thereto, subject to the PFMA;

- (iii) the establishment of advisory and other committees;
- (iv) protection of the environment and management of protected areas under its control;
- (v) conducting research and development of policies, norms and standards and guidelines to give effect to its powers and functions.

#### **Part 2 – Role of MEC**

**(a) Clause 6: MEC's supervisory powers**

The MEC has a monitoring of and supervisory role over Ezemvelo KZN Wildlife.

#### **Part 3 – Governing Board, Composition and Membership**

**(a) Clause 7: Board**

The Board of Ezemvelo KZN Wildlife is the accounting authority of the public entity, in accordance with the provisions of the PFMA.

**(b) Clause 8: Composition of the Board**

This clause provides for a Board consisting of no fewer than 7 and no more than 9 members appointed by the MEC.

**(c) Clause 9: Qualifications**

Board member must be fit and proper persons, with appropriate qualifications or experience as prescribed by notice in the *Gazette*.

**(d) Clause 10: Appointment procedure**

This clause sets out the appointment procedure for the appointment of a member of the Board and requires the MEC to invite nominations through advertisements in the *Gazette* and at least 2 provincial newspapers, which must prescribe the required information, qualifications and experience.

**(e) Clause 11: Chairperson**

This clause provides for the appointment of the Chairperson and Deputy Chairperson of the Board from amongst its members, and their term of office.

(f) **Clause 12: Term of office**

Provision is made for the term of office of Board members and their eligibility for reappointment.

(g) **Clause 13: Conditions of appointment**

This clause deals with the determination of the conditions of appointment, remuneration and allowances of Board members.

(h) **Clause 14: Standard of members' conduct**

This clause provides for –

- (i) declaration and disclosure of interest by Board members and matters incidental thereto; and
- (ii) the performance of their functions of office in good faith and without favour or prejudice.

(i) **Clause 15: Termination of membership**

This clause regulates termination of the appointment of a Board member.

(j) **Clause 16: Removal from office**

The grounds for removal from office or suspension of a member of the Board are provided for in this clause.

(k) **Clause 17: Filling of vacancies**

In this clause provision is made for filling of vacancies on the Board.

(l) **Clause 18: Absence of functional Board**

In the absence of a functional Board their functions and powers revert to the MEC, who must take prompt steps to restore the functionality of the Board.

**Part 4 – Operating Procedures of Board**

(a) **Clause 19: Meetings**

This clause provides for the calling of Board meetings, presiding over meetings and determination of the Board's procedures.

**(b) Clause 20: Minutes of meetings**

This clause deals with the compilation, circulation, adoption and signing of minutes of Board meetings.

**(c) Clause 21: Quorum and decisions**

Provision is made for quorum requirements and decisions at Board meetings.

**(d) Clause 22: Committees**

This clause provides that the Board may establish committees to assist it in the performance of its functions, and matters incidental thereto.

**(e) Clause 23: Delegation of powers and assignment of duties**

Provision is made in this clause for the delegation of certain powers and assignment of certain duties of the Board, excluding the appointment of the Chief Executive Officer, determination of employment policy and related matters, financial management responsibilities and approval of the budget.

**Part 5 – Administration of Ezemvelo KZN Wildlife**

**(a) Clause 24: Appointment of Chief Executive Officer**

The Board must, with the concurrence of the MEC appoint a Chief Executive Officer for Ezemvelo KZN Wildlife. Provision is made for the CEO's term of office, terms and conditions of appointment, duties and powers and accountability.

**(b) Clause 25: Resignation and removal from office of Chief Executive Officer**

This clause provides for the resignation and removal from office of the CEO under certain circumstances.

**(c) Clause 26: Employment of staff**

Provision is made for the determination of a staff establishment for Ezemvelo KZN Wildlife by the CEO, with the concurrence of the Board and within the financial limits set by it. The clause also provides for the employment of staff, and matters incidental thereto.

**(d) Clause 27: Designation of employees as**

**environmental management inspectors**

The MEC may designate an employee of Ezemvelo KZN Wildlife as an environmental management inspector in accordance with the provisions of section 95.

**(e) Clause 28: Appointment of volunteer members of the public**

This clause provides for the appointment of members of the public as volunteers and sets out the terms and conditions for such appointment.

**Part 6 – Funding and Financial Management of Ezemvelo KZN Wildlife****(a) Clause 29: Financial accountability**

Ezemvelo KZN Wildlife must comply with the PFMA and sound corporate governance principles and practice.

**(b) Clause 30: Funds**

This clause provides for the sources of funding for Ezemvelo KZN Wildlife, as well as the utilization and management thereof

**(c) Clause 31: Financial management**

This clause contains provisions for –

- (i) the keeping of books of account and records; and
- (ii) the preparation and submission of the annual budgets, strategic plans, performance plans, reports, audited financial statements, business plans, statements of estimated income and expenditure, and matters incidental thereto.

**(d) Clause 32: Audit and annual report**

Provision is made in this clause for the auditing of the financial statements by the Auditor-General, as well as the tabling of reports to the Provincial Legislature and briefing its committees.

**3.3. CHAPTER 3: PROTECTED AREAS****(a) Clause 33: Protected areas**

Protected areas in the Province are listed in Schedule 2, which may be amended as provided for when necessary.

(b) **Clause 34: Internal rules**

The provisions of this clause allow the management authority of a protected area to make rules for the proper administration of the area.

(c) **Clause 35: Buffer zones**

This clause explains the purpose of a buffer zone and enables the MEC to declare a buffer zone around a protected area.

(d) **Clause 36: Establishment of protected areas and buffer zone advisory committees**

The Board may establish advisory committees for a protected area or buffer zone for certain purposes, and matters incidental thereto.

(e) **Clause 37: Procedure for appointment of advisory committee**

This clause provides for the procedures to be followed by the Board in establishing advisory committees for protected areas and buffer zones.

#### 3.4. CHAPTER 4: PROTECTION OF BIODIVERSITY

(a) **Clause 38: Environmental authorisations**

This clause provides that Ezemvelo KZN Wildlife must be notified of applications for environmental authorisations in the Province, for the purpose of enabling the entity to comment on and make recommendations in respect of such applications.

(b) **Clause 39: Biodiversity offsets and mitigation measures**

The MEC may identify activities for which biodiversity offsets or other mitigation measures may be determined in order to compensate for the loss of biodiversity in the Province as a result of such activities. Provision is also made for procedures to be followed in making any such determination.

(c) **Clause 40: Identified ecosystems**

The MEC may identify ecosystems that are endangered, vulnerable, threatened or in need of protection in order to reduce the rate of ecosystem decline and give effect to South Africa's international obligations in that regard.

### 3.5. CHAPTER 5: AQUATIC ENVIRONMENTS

(a) **Clause 41: Prohibited activities in aquatic environments**

This clause provides for certain activities that are prohibited in aquatic environments.

(b) **Clause 42: Restricted activities in aquatic environments**

This clause provides for certain activities that are restricted in aquatic environments without a permit issued in terms of the Act. It furthermore makes provision for specific exemptions or authorisations.

(c) **Clause 43: Development adjoining aquatic environments**

The removal of vegetation from an ecosystem identified by the MEC in terms of clause 42, situated in an aquatic environment, is prohibited without an environmental authorisation.

### 3.6. CHAPTER 6: GENERAL PROVISIONS IN RESPECT OF PROHIBITED AND RESTRICTED ACTIVITIES

(a) **Clause 44: General prohibitions**

Provision is made in this clause for general prohibitions of certain activities in respect of –

- (i) animal species listed in Schedules 3, 4,5,and 6;
- (ii) plant species listed in Schedules 7 and 8; and
- (iii) other harmful practices as set out.

(b) **Clause 45: General restrictions**

Provision is made in this clause for general restrictions on certain activities in respect of –

- (i) animal species listed in Schedules 3, 4,5,and 6;
- (ii) plant species listed in Schedules 7 and 8; and
- (iii) other activities as set out,

unless authorized in terms of a permit, exempted, or with the required permission.

(c) **Clause 46: Alien, invasive and hybrid species**

This clause provides for the control of alien, invasive and hybrid species, and the exemption by the MEC of specified alien, invasive and hybrid species.

**3.7. CHAPTER 7: REGISTRATION, PERMITS AND AUTHORISATIONS**

**Part 1 – Registration of Facilities for Breeding and Keeping of Animals in Captivity**

(a) **Clause 47: Types of registered facilities**

This clause provides for the types of facilities that may be registered for breeding and keeping of animals in captivity and prohibits the operation of such facilities without registration.

**Part 2 – Registration of facilities for propagation and keeping of Schedule 7 – KwaZulu-Natal Threatened Plant Species**

(a) **Clause 48: Types of registered facilities**

This clause provides for the types of facilities that may be registered for propagation and keeping of Schedule 7 – “KwaZulu-Natal Threatened Plant Species” and prohibits the operation of such a facility without registration.

**Part 3 – Game Farms**

(a) **Clause 49: Registration**

A game farm must be registered to qualify for hunting or standing permits

(b) **Clause 50: Game farm hunting permit**

This clause allows for the issuing of a game farm hunting permit for certain purposes, in accordance with prescribed procedures.

(c) **Clause 51: Game farm standing permit**

This clause allows for the issuing of a game farm standing permit for certain purposes, in accordance with prescribed procedures.

(d) **Clause 52: Withdrawal of game farm permit**

A game farm hunting or standing permit may be withdrawn when certain breaches are committed as provided for in this clause.

**Part 4 – Declared Private Nature Reserves****(a) Clause 53: Registration**

A declared private nature reserve must be registered to qualify for a standing permit.

**(b) Clause 54: Declared private nature reserve standing permit**

This clause allows for the issuing of a declared private nature reserve standing permit for certain purposes, in accordance with prescribed procedures.

**(c) Clause 55: Withdrawal of standing permit**

A declared private nature reserve standing permit may be withdrawn when certain breaches are committed as provided for in this clause.

**Part 5 – Trade in Animal and Plant specimens****(a) Clause 56: Registration of wildlife trader**

This clause provides for the registration of wildlife traders to trade in indigenous animal specimens, or specimens of plant species listed in Schedules 7 and 8, and matters incidental thereto.

**(b) Clause 57: Standing permit**

This clause allows for the issuing of a standing permit to a wildlife trader or a person conveying or transporting wildlife, in accordance with prescribed procedures.

**(c) Clause 58: Withdrawal of standing permit**

This clause provides for the withdrawal of a standing permit issued to a wildlife trader when certain breaches are committed as provided for in this clause.

**Part 6 – Requirements and Procedures for Registration of Facilities Listed in Part 1 and 2, Game Farms, Declared Private Nature Reserves and Wildlife Traders****(a) Clause 59: Application for registration**

This clause sets out the application procedure when application for registration is made by a facility listed in Parts 1 and 2, a game farm, a declared private nature reserve, or as a wildlife trader.

**(b) Clause 60: Application affecting rights of others**

This clause sets out the procedure to be followed by an applicant where the rights of others may be affected.

**(c) Clause 61: Consideration of application for registration**

On receipt of an application for registration, Ezemvelo KZN Wildlife must follow the required procedures, and take into account and consider all matters as provided for in the clause before making a decision.

**(d) Clause 62: Decision on application**

This clause provides for the time frames to be adhered to and procedures to be followed when a decision is made on an application for registration.

**(e) Clause 63: Registration certificate**

Provision is made in this clause for the issuing of a registration certificate to successful applicants within a specified timeframe. It furthermore provides for the contents and other terms and conditions applicable to a registration.

**(f) Clause 64: Production of registration certificate**

This clause requires the holder of a registration certificate to produce the certificate on request by an authorized official of Ezemvelo KZN Wildlife.

**(g) Clause 65: Cancellation of registration**

Provision is made for the cancellation of a registration certificate under certain circumstances set out in this clause.

**(h) Clause 66: Notice of cancellation of registration**

This clause sets out the procedure to be followed by Ezemvelo KZN Wildlife when it considers cancellation of a registration, including the giving of notice to the holder of a registration certificate.

**(i) Clause 67: Loss and replacement of registration certificate**

This clause provides for reporting the loss, and issuing of a replacement of a lost registration certificate.

**(j) Clause 68: amendment of registration certificate**

Where the holder of a registration certificate intends to change the nature, purpose, scope, size or any other material aspect of a registered facility, game farm, declared private nature reserve, or wildlife trading operation, an application must be lodged for an amended registration certificate prior to making the intended changes, as provided for in this clause. The clause furthermore provides for the procedure to be followed by Ezemvelo KZN Wildlife in considering such application.

**Part 7 – Regulation of Hunting, Capture and collecting of Animal Species**

**(a) Clause 69: Application of this Part**

Part 7 applies to the hunting, capture and collecting of specimens of animal species listed in Schedules 3, 4, 5 and 6.

**(b) Clause 70: Recognition of hunting organizations**

This clause provides for the recognition of hunting organizations operating in the Province, and the adoption of a code of ethical conduct and good practice by recognised hunting organizations.

**(c) Clause 71: Withdrawal of recognition of hunting organizations**

This clause provides for the withdrawal of recognition of a hunting organization, and matters incidental thereto.

**(d) Clause 72: Registration for purpose of professional hunting**

This clause requires registration with Ezemvelo KZN Wildlife for professional hunting purposes.

**(e) Clause 73: Compulsory registration requirements**

This clause sets out the registration requirements for professional hunting purposes.

**(f) Clause 74: Hunting by foreign client**

The requirements for hunting by a foreign client are set out in this clause.

**(g) Clause 75: General powers and duties of hunting outfitters and professional hunters**

This clause provides for the powers and duties of hunting outfitters and professional hunters.

**(h) Clause 76: Marketing of a hunt to a foreign client**

This clause regulates the marketing of a hunt to a foreign client.

**(i) Clause 77: Marketing of a hunt to a local client**

This clause regulates the marketing of a hunt to a local client

**(j) Clause 78: restricted and prohibited activities in respect of hunting**

In this clause clear provision is made for certain restricted and prohibited activities in respect of hunting, and includes provisions in respect of –

- (i) Hunting permits;
- (ii) Reporting of wounded animals;

(iii) ammunition;

(iv) Canned hunting;

(v) Landowners,

and matters incidental thereto.

#### **Part 8 – Regulation of Harvesting, Gathering, Collecting and Transporting of Specimens of Plant Species from the Wild**

##### **(a) Clause 79: Application of this Part**

Part 8 applies to prohibit and restricted activities in respect of plant species listed in Schedules 7 and 8 as provided for in such Schedules.

##### **(b) Clause 80: Restricted activities**

This clause makes provision for certain restricted activities in respect of plant species listed in Schedules 7 and 8 for which permits are required; the micro-chipping of certain specimens of Encephalartos; and permission from landowners.

#### **Part 9 – Permits**

##### **(a) Clause 81: Types of permits**

This clause provides for the different types of permits that may be issued by Ezemvelo KZN Wildlife.

##### **(b) Clause 82: Application procedure**

This clause sets out the procedure to be followed when applying for a permit.

##### **(c) Clause 83: Application affecting rights of others**

This clause sets out the procedure to be followed when the granting of a permit may affect the rights of others.

##### **(d) Clause 84: Consideration of application**

This clause provides for the consideration of an application for a permit by Ezemvelo, and matters that need to be taken into account.

##### **(e) Clause 85: Decision on application**

This clause provides for the time frames to be adhered to and procedures to be followed when a decision is made on an application for a permit.

##### **(f) Clause 86: Issuing of permit**

Provision is made in this clause for the issuing of permits and timeframes. It furthermore provides for the contents and other terms and conditions applicable to a permit, as well as the temporary suspension of the issuing of permits.

**(g) Clause 87: Production of permit on request**

This clause provides for the production of a permit on request by an authorized official of Ezemvelo KZN Wildlife.

**(h) Clause 88: Cancellation of permit**

Provision is made in this clause for the cancellation of a permit where the holder commits certain offences and breaches any terms or conditions attached to the permit.

**(i) Clause 89: Notice of cancellation of permit**

This clause sets out the procedure to be followed by Ezemvelo KZN Wildlife when it considers cancellation of a permit, including the giving of notice to the holder of a permit, and matters incidental thereto.

**(j) Clause 90: Loss and replacement of permit**

This clause provides for reporting the loss of a permit and the subsequent replacement thereof.

**3.8. CHAPTER 8: RECONSIDERATION AND APPEALS IN RESPECT OF DETERMINATIONS, REGISTRATION AND PERMITS**

**(a) Clause 91: Right of reconsideration of appeal**

This clause lists decisions made in terms of the Act that may be reconsidered or appealed against.

**(b) Clause 92: Reconsideration**

This clause provides for an aggrieved applicant to request reconsideration of decisions listed in clause 91, and matters incidental thereto.

**(c) Clause 93: Appeal**

Provision is made in this clause for a person who remains aggrieved after invoking the provisions of clause 92 to appeal to the MEC, and incidental matters.

**3.9. CHAPTER 9: LAW ENFORCEMENT**

(a) **Clause 94: Application**

This Chapter provides for the enforcement of this Act and certain other legislation, powers and duties assigned or delegated to the Province.

(b) **Clause 95: Designation of environmental management inspectors by MEC**

(i) The MEC may designate environmental management inspectors in accordance with the provisions of the National Environmental Management Act for the enforcement of specific legislation as determined by the MEC;

(ii) provision is furthermore made that only persons who comply with certain qualification and training requirements may be designated as environmental management inspectors; and

(iii) any designation by the MEC must be in writing and clearly stipulate the specific mandate of an inspector.

(c) **Clause 96: Proof of designation**

The MEC must issue an identity card to an environmental management inspector, which must be produced on demand.

(d) **Clause 97: Duties, functions and general powers of environmental management inspectors**

This clause provides in detail for the duties, functions and general powers of environmental management inspectors to be performed strictly within the mandate for which such inspector was designated.

(e) **Clause 98: Power to stop, enter and search vehicles, vessels and aircraft**

An environmental inspector may, if mandated in terms of his or her designation to do so, stop, enter and search vehicles, vessels and aircraft on reasonable suspicion in instances provided for in the clause.

(f) **Clause 99: Procedure in respect of seized items**

This clause sets out the procedure to be followed when an item is seized, and matters incidental thereto.

**(g) Clause 100: Routine inspections**

This clause enables an environmental management inspector to conduct routine inspections for the purpose of ascertaining compliance with legislation or the terms and conditions of registration, a permit, authorisation or other legal instrument, and matters incidental thereto.

**(h) Clause 101: Issuing of compliance notice**

An environmental management inspector may, within his or mandate, issue a compliance notice for the purpose of ensuring compliance. The clause also provides for representations to the MEC to suspend a compliance notice pending the outcome of an objection.

**(i) Clause 102: Objections to compliance notice**

This clause enables a person who receives a compliance notice to object to the notice to the MEC, who may confirm, modify or cancel the notice.

**(j) Clause 103: Failure to comply with compliance notice**

Failure to comply with a compliance notice must be reported to the MEC who may take certain steps as provided for in the clause.

**(k) Clause 104: Powers of the South African Police Service members**

This clause confirms the powers of members of the South African Police Service in respect of offences in terms of this Act and other specific environmental legislation.

**(l) Clause 105: Miscellaneous provisions**

This clause prohibits the intentional interference with an environmental management inspector in the performance of his or her duties, or impersonation of such an inspector.

**(m) Clause 106: Offences and penalties**

Provision is made in this clause for certain offences, as well as prosecution and sentencing of offenders.

### 3.10. CHAPTER 10: ADMINISTRATION OF THE ACT

**(a) Clause 107: Regulations**

This clause enables the MEC to make regulations by notice in the *Gazette* in respect of matters required by the Act, permits, or matters which are reasonably necessary for the purpose of implementing the Act and achieving its objectives.

**(b) Clause 108: Late lodging of applications or appeals**

This clause makes provision for condonation of late lodging of applications or appeals, which may be granted on good cause shown.

**(c) Clause 109: Other environmental management legislation**

This clause confirms the obligation to comply with this Act as well as any other law providing for the same matters, in a manner that seeks to harmonise provisions.

**(d) Clause 110: Repeal of laws and savings**

This clause provides for the repeal of legislation in accordance with Schedule 1 of the Bill, and necessary savings as set out in the clause.

**(e) Clause 111: Transitional arrangements**

This clause provides for the transitional arrangements necessitated by the repeal of certain legislation in accordance with Schedule 1, effective from the date when this Act comes into operation. The transitional arrangements provide for a smooth transition from the existing legislative regime to the new Act, including the continued functioning of Ezemvelo KZN Wildlife, the Board and current members of staff. The clause also ensures that rights, privileges, obligations or liabilities acquired, incurred or accrued under any legislation repealed will not be affected, unless provided for to the contrary in the Act.

**(f) Clause 112: Short title and date of commencement**

This clause provides for the short title and effective date of the Act and is self-explanatory.

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**4. SCHEDULES TO THE BILL**

The Bill consists of 10 Schedules as set out and explained below:-

No.	SCHEDULE NUMBER	NAME OF SCHEDULE
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1.	<b><u>SCHEDULE 1</u></b>	<b>KwaZulu – Natal Repeal of Laws:</b> Schedule 1 lists the legislation to be repealed when the Act comes into effect.
2.	<b><u>SCHEDULE 2</u></b>	<b>KwaZulu – Natal Protected Areas:</b> Schedule 2 lists the Protected Areas in the Province.
3.	<b><u>SCHEDULE 3</u></b>	<b>KwaZulu – Natal Protected Animal Species:</b> Schedule 3 lists protected animal species and provides for certain prohibited and restricted activities in respect of such species.
4.	<b><u>SCHEDULE 4</u></b>	<b>KwaZulu – Natal Restricted Use Protected Animal Species:</b> Schedule 4 lists the restricted use protected animal species and provides for certain prohibited and restricted activities in respect of such species.
5.	<b><u>SCHEDULE 5</u></b>	<b>KwaZulu – Natal Restricted Use Animal Species:</b> Schedule 5 lists the restricted use animal species and provides for certain prohibited and restricted activities in respect of such species.
6.	<b><u>SCHEDULE 6</u></b>	<b>KwaZulu – Natal Ordinary Use Animal Species:</b> Schedule 6 lists the ordinary use animal species and provides for certain prohibited and restricted activities in respect of such species.
7.	<b><u>SCHEDULE 7</u></b>	<b>KwaZulu – Natal Threatened Plant Species:</b> Schedule 7 lists the threatened plant species and provides for certain prohibited and restricted activities in respect of such species.
8.	<b><u>SCHEDULE 8</u></b>	<b>KwaZulu – Natal Protected Plant Species:</b> Schedule 8 lists the protected plant species and provides for certain prohibited and restricted activities in respect of such species.
9.	<b><u>SCHEDULE 9</u></b>	<b>KwaZulu – Natal Exempted Alien Animal Species:</b> Schedule 9 lists the exempted alien animal species
10.	<b><u>SCHEDULE 10</u></b>	<b>KwaZulu – Natal Alien Invasive Animal Species:</b> Schedule 10 lists the alien invasive animal species.

## 5. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

Ezemvelo KZN Wildlife already exists, has a Board and a staff complement and has been functioning since 1997 when the KwaZulu-Natal Nature Conservation Management Act, Act 9 of 1997, came into effect. Provision is made for this function of the Department in the Provincial Budget. No additional financial implications emanating from the Bill are therefore envisaged.

## 6. DEPARTMENTS/ BODIES/ PERSONS CONSULTED

To initiate consultation before introduction of the Bill in the Provincial Legislature the Bill is hereby published in the *Provincial Gazette* to invite written public comment within 30 days of publication.