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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 986

21 SEPTEMBER 2018

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004
(ACT NO. 10 OF 2004)

DRAFT REGULATIONS RELATING TO DOMESTIC TRADE IN RHINOCEROS HORN

I, Bomo Edna Edith Molewa, Minister of Environmental Affairs, hereby under section 97(1)(b)(ii), (iii), (iiiA) and (iv), read with section 100 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), give notice of my intention to make regulations relating to the domestic trade in rhinoceros horn, namely the selling or otherwise trading in, giving, donating, buying, receiving, accepting as a gift or donation, or in any way disposing or acquiring, and the export from the Republic of South Africa, of rhinoceros horn, or a part, product or derivative of such rhinoceros horn, belonging to the species black rhinoceros (*Diceros bicornis*) and white rhinoceros (*Ceratotherium simum*), in the Schedule hereto.

The draft regulations in respect of domestic trade in rhinoceros horn were published in the *Government Gazette*, No. 40601, Notice No. 74, on 08 February 2017, for public comment for a period of 30 days. The provisions of regulations 3(1)(a), 3(3), 4(1), 7(3), 10(2)(b), 12(2) and (3) and 13(1) in the Schedule below were not included in the afore-mentioned Government Notice.

Members of the public are therefore invited to submit written representations or objections to regulations 3(1)(a), 3(3), 4(1), 7(3), 10(2)(b), 12(2) and (3) and 13(1), within 30 days after the publication of this notice in the *Gazette*, to the following addresses:

By post: The Director-General
Department of Environmental Affairs
Attention: Ms Magdel Boshoff
Deputy Director: Threatened or Protected Species Policy Development
Private Bag X447
PRETORIA
0001

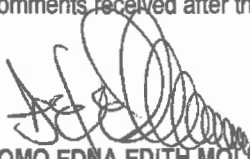
By hand: Environmental House, 473 Steve Biko Street, Arcadia, Pretoria, 0001.
By email: rhinohomregulations@environment.gov.za

The provisions of this notice must be read alongside the provisions of the following draft notices, which are also published in the *Government Gazette* for comment:

- a) prohibition of the carrying out of certain restricted activities involving rhinoceros horn; and
- b) amendment of the alien and invasive species list to remove Eastern black rhinoceros (*Diceros bicornis michaeli*), and amendment of the list of critically endangered, endangered, vulnerable and protected species to include Eastern black rhinoceros (*Diceros bicornis michaeli*) as a protected species.

Any enquiries in connection with this notice can be directed to Ms Magdel Boshoff at 012 399 9604.

Comments received after the closing date may be disregarded.



BOMO EDNA EDITH MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

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Chapter 1

Interpretation and purpose of these regulations

Definitions

1. (1) In these Regulations, a word or expression, or any derivative or other grammatical form of the word or expression, to which a meaning has been assigned in the Biodiversity Act or the TOPS Regulations, has the corresponding meaning, and unless the context indicates otherwise—

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

“CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

“CITES Regulations” means the regulations pertaining to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, promulgated in terms of section 97 of the Biodiversity Act;

“duly authorized” means authorized by means of a permit issued in terms of applicable biodiversity legislation;

“genetic profiling” means the use of biotechnology to identify the unique characteristics of a live rhinoceros or rhinoceros horn for forensic or diagnostic purposes;

“microchip” means a device that assigns a unique identification code to the rhinoceros or rhinoceros horn;

“Management Authority” has the same meaning as having been defined in the CITES Regulations;

“national database” means the database developed by the Department and used by the issuing authority for the recording of information relating to rhinoceros horn stock piles;

“pre-convention” has the same meaning as having been defined in the CITES Regulations;

“primarily non-commercial purpose” means for a purpose that is not directed towards the gaining of any economic benefit through sale, resale, exchange, provision or delivery of a service, or any other form of economic use or benefit, and may include the following purposes:

- (a) purely own or private use;
- (b) scientific purpose;
- (c) enforcement purpose; or
- (d) education or training;

“Republic” means the Republic of South Africa;

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

“Rhinoceros Norms and Standards” means the norms and standards pertaining to the marking of rhinoceros and rhinoceros horn, and the hunting of rhinoceros for trophy hunting purposes, promulgated in terms of section 9 of the Biodiversity Act;

“scientific purposes” means for the primary purpose of practicing science or conducting research;

“selling or sell” means to exchange, whether for cash or in kind, and includes—

- (a) bartering,
- (b) giving or offering in exchange, or
- (c) advertising, offering or presenting for sale,

and buying or buy shall be construed accordingly; and

“TOPS Regulations” means the regulations pertaining to listed threatened or protected terrestrial and fresh water fish species, promulgated in terms of section 97 of the Biodiversity Act.

Purpose and application

2. (1) The purpose of these Regulations is to regulate certain restricted activities involving rhinoceros horn, in particular the—

- (a) selling, giving, donating, buying, receiving, accepting as a gift or donation, or in any similar way disposing of or acquiring, rhinoceros horn within the borders of the Republic; and
- (b) export or re-export of rhinoceros horn from the Republic for primarily non-commercial purposes.

(2) The provisions of these Regulations apply in respect of rhinoceros horn originating from—

- (a) *Ceratotherium simum simum*;
- (b) *Diceros bicornis bicornis*;
- (c) *Diceros bicornis minor*; and
- (d) *Diceros bicornis michaeli*.

(3) The provisions of these Regulations do not absolve a person from complying with the requirements of any other legislation, and must be read and applied alongside the provisions of—

- (a) the Consumer Protection Act, 2008 (Act No. 68 of 2008);
- (b) the National Environmental Management Act, Act No. 107 of 1998;
- (c) the Biodiversity Act;
- (d) the species listing notice published in terms of section 56 of the Biodiversity Act;

- (e) the prohibition notice published in terms of section 57(2) of the Biodiversity Act;
- (f) the TOPS Regulations;
- (g) the CITES Regulations;
- (h) any applicable norms and standards issued in terms of section 9 of the Biodiversity Act;
and
- (i) applicable provincial conservation legislation.

(4) In the event of any conflict between these Regulations and the TOPS Regulations or the CITES Regulations, the provisions of these Regulations will prevail.

(5) If a matter pertaining to rhinoceros horn is not specifically dealt with in terms of these Regulations, the matter must be dealt with in accordance with the provisions of the TOPS Regulations or the CITES Regulations.

Chapter 2

Domestic trade in rhinoceros horn

Restrictions

3. (1) A person may sell, give, donate, buy, receive, accept as a gift or donation, or in any similar way dispose of or acquire, rhinoceros horn of South African origin, only if—

- (a) the rhinoceros horn is 5cm or more in length, irrespective of the weight of the rhinoceros horn;
- (b) the rhinoceros horn is marked in accordance with the provisions of the TOPS Regulations and the Rhinoceros Norms and Standards, regardless of the size of the rhinoceros horn; and
- (c) a permit that authorises the selling, giving, donating, buying, receiving, accepting as a gift or donation, or in any similar way disposing of or acquiring the rhinoceros, has been issued in terms of the Biodiversity Act.

(2) A person may sell, give, donate, buy, receive, accept as a gift or donation, or in any similar way dispose of or acquire, rhinoceros horn originating from another country, only if—

- (a) the requirements contemplated in subregulation (1) are met; and

(b) proof is provided that the rhinoceros horn is pre-convention.

(3) A person may not sell, give, donate, or in any similar way dispose of, rhinoceros horn contemplated in subregulation (1), to—

- (a) a person who is not a citizen of the Republic, or who has not been granted a permanent residency permit in terms of the Immigration Act, 2002 (Act No. 13 of 2002);
- (b) a company which is not registered in the Republic in terms of the Companies Act, 2008 (Act No. 71 of 2008) or which is not a pre-existing company recognised in terms of that Act;
- (c) a company of which any of the directors or shareholders is not a citizen of the Republic, or has not been granted a permanent residency permit in terms of the Immigration Act, 2002 (Act No. 13 of 2002); or
- (d) a trust of which any of the trustees authorised in terms of the Trust Property Control Act, 1988, (Act No. 57 of 1988) to administer the trust, is not a citizen of the Republic, or has not been granted a permanent residency permit in terms of the Immigration Act, 2002 (Act No. 13 of 2002).

Provisions relating to rhinoceros horn that do not meet the minimum size requirement for selling, giving, donating, buying, receiving, accepting as a gift or donation, or in any similar way disposing of or acquiring

4. (1) The selling, giving, donating, buying, receiving, accepting as a gift or donation, or in any similar way disposing or acquiring, of any rhinoceros horn that is less than 5 cm in length, irrespective of the weight of the rhinoceros horn, is prohibited in accordance with a notice published in terms of section 57(2) of the Biodiversity Act.

(2) The prohibition contemplated in subregulation (1) does not apply to—

- (a) the lawful owner of the rhinoceros horn, who gives or donates the rhinoceros horn to the State, or to a registered scientific institution;
- (b) a registered scientific institution, who gives or donates the rhinoceros horn to the State, or receives or accepts as a gift or donation, the rhinoceros horn for scientific purposes;
- (c) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, who receives or

accepts as a gift or donation, the rhinoceros horn for the purpose of performing or conducting the genetic profiling in accordance with the Rhinoceros Norms and Standards; or

(d) the State, who gives, donates, receives, or accepts as a gift, the rhinoceros horn.

(3) In the event that the lawful owner of rhinoceros horn contemplated in subregulation (1) does not give or donate the rhinoceros horn in the circumstances contemplated in subregulation (2) (a), him or her—

(a) may destroy the rhinoceros horn in accordance with the provisions of the Rhinoceros Norms and Standards; or

(b) must keep the rhinoceros horn in a place of safe-keeping in accordance with the provisions of the Rhinoceros Norms and Standards.

(4) The donating of rhinoceros horn by the lawful owner thereof in the circumstances contemplated in subregulation (2) (a), or the possession of rhinoceros horn in the circumstances contemplated in subregulation (3) (b), is subject to the issuance of a permit in terms of the Biodiversity Act.

(5) The giving, donating, receiving, or accepting as a gift or donation, of rhinoceros horn in the circumstances contemplated in subregulation (2)(b), (c) or (d), and the subsequent possession thereof, is subject to the issuance of a permit in terms of the Biodiversity Act.

(6) A possession permit contemplated in subregulations (4) and (5) must specify the reference number of the genetic profiling certificate.

Requirements to obtain a permit in respect of the selling, giving, donating, or in any similar way disposing of rhinoceros horn

5. (1) The lawful owner of rhinoceros horn who intends to sell, give, donate or in any similar way dispose of rhinoceros horn contemplated in regulation 3(1), must complete and sign an application form prescribed in terms of the TOPS Regulations and submit it to the relevant issuing authority.

(2) The application contemplated in subregulation (1) must be accompanied by—

(a) a certified copy of the identity document, permanent residence permit, work permit or passport of the applicant;

(b) proof of payment of the permit processing fee, as set out in the TOPS Regulations;

- (c) a certified copy of a possession permit as proof of lawful possession of the rhinoceros horn to which the application relates, issued in terms of—
 - (i) the Biodiversity Act; and
 - (ii) provincial conservation legislation, if applicable;
 - (d) a certified copy of the genetic profiling certificate for each rhinoceros horn to which the application relates, as proof that the rhinoceros horn has been subject to genetic profiling in accordance with the Rhinoceros Norms and Standards;
 - (e) a photograph of suitable quality to allow for easy identification, of each individual rhinoceros horn to which the application relates;
 - (f) details of the markings contemplated in regulation 3(1)(b), of each individual rhinoceros horn to which the application relates;
 - (g) the following measurements of each individual rhinoceros horn to which the application relates:
 - (i) circumference at the base;
 - (ii) length measured along the inner curve;
 - (iii) length measured along the outer curve; and
 - (iv) weight; and
 - (h) any relevant additional information that the issuing authority may request.
- (3) In addition to the supporting information and documents contemplated in subregulation (2), the application must be accompanied by the following if the lawful owner of rhinoceros horn intends to sell the rhinoceros horn by auction:
- (a) the conditions of sale; and
 - (b) a copy of the advertisement of the auction.

Requirements to obtain a permit in respect of the buying, receiving, accepting as a gift or donation, or in any similar way acquiring rhinoceros horn

6. (1) A person who intends to buy, receive, accept as a gift or donation, or in any similar way acquire rhinoceros horn contemplated in regulation 3(1), must complete and sign an application form and submit it to the relevant issuing authority.

(2) The application contemplated in subregulation (1) must be accompanied by—

- (a) a certified copy of the identity document or permanent residency permit of the applicant;
- (b) proof of payment of the permit processing fee, as set out in the TOPS Regulations;
- (c) a certified copy of a permit that authorises the lawful selling, giving, donating or in any similar way disposing of the rhinoceros horn to which the application relates, issued in terms of—
 - (i) the Biodiversity Act; and
 - (ii) provincial conservation legislation (if applicable);
- (d) a photograph of suitable quality to allow for easy identification, of each individual rhinoceros horn to which the application relates;
- (e) details of the markings contemplated in regulation 3(1)(b), of each individual rhinoceros horn to which the application relates; and
- (f) the following measurements of each individual rhinoceros horn to which the application relates:
 - (i) circumference at the base;
 - (ii) length measured along the inner curve;
 - (iii) length measured along the outer curve; and
 - (iv) weight; and
- (g) any relevant additional information that the issuing authority may request.

(3) A person who applies for a permit to buy, receive, accept as a gift or donation, or in any similar way acquire rhinoceros horn contemplated in regulation 3(1), must, to the extent possible, at the same time apply for a permit to possess and transport such rhinoceros horn.

Conditions to be met for the issuance of a permit

7. (1) The issuing authority may not issue a permit in respect of the selling, giving, donating or in any similar way disposing of a rhinoceros horn contemplated regulation 3(1), unless the following conditions have been met:

- (a) the issuing authority has received a complete application contemplated in regulation 5(1) and all supporting information contemplated in regulation 5(2);
- (b) an inspection has been conducted upon receipt of the application—
 - (i) by an official of the Department or an official of any provincial conservation authority who has the authority in terms of his or her appointment to conduct the inspection; and
 - (ii) to verify the information contemplated in regulation 5(2)(c), (d), (e), (f) and (g);
- (c) the official contemplated in paragraph (b)(i) has confirmed, in writing, the correctness of the verified information contemplated in paragraph (b)(ii);
- (d) the information contemplated in regulation 5(2)(f) and (g) has been included in the national database; and
- (e) the genetic profiling as required in terms of the Rhinoceros Norms and Standards, in respect of each rhinoceros horn to which the application relates, has been concluded and the information included in the national database.

(2) The issuing authority may not issue a permit in respect of the buying, receiving, accepting as a gift or donation, or in any similar way acquiring, a rhinoceros horn contemplated in regulation 3(1), unless an inspection has been conducted by an official contemplated in subregulation (1)(b) to verify the place of safe-keeping of such rhinoceros horn.

(3) The issuing authority may not issue a permit in respect of the selling, giving, donating, buying, receiving, accepting as a gift or donation, or in any similar way disposing of or acquiring, a rhinoceros horn to—

- (a) a person who is not a citizen of the Republic, or who has not been granted a permanent residency permit in terms of the Immigration Act, 2002 (Act No. 13 of 2002);
- (b) a company which is not registered in the Republic in terms of the Companies Act, 2008 (Act No. 71 of 2008) or which is not a pre-existing company recognised in terms of that Act;

- (c) a company of which any of the directors or shareholders is not a citizen of the Republic or who has not been granted permanent residency permits in terms of the Immigration Act, 2002 (Act No. 13 of 2002); or
- (d) a trust of which any of the trustees authorised in terms of the Trust Property Control Act, 1988, (Act No. 57 of 1988) to administer the trust, is not a citizen of the Republic, or has not been granted a permanent residency permit in terms of the Immigration Act, 2002 (Act No. 13 of 2002).

Compulsory conditions for permits in respect of the selling, giving, donating, or in any similar way disposing of rhinoceros horn

8. (1) A permit in respect of the selling, giving, donating or in any similar way disposing of rhinoceros horn contemplated in regulation 3(1) must be issued subject to the following conditions:

- (a) the permit holder may not sell, give, donate or in any similar way dispose of rhinoceros horn to a person who is not the holder of a permit to buy, receive, accept as a gift or donation, or in any similar manner acquire, the rhinoceros horn;
- (b) the permit holder may not sell, give, donate or in any similar way dispose of rhinoceros horn other than the rhinoceros horn to which the permit relates;
- (c) the permit does not authorise the export of the rhinoceros horn to which the permit relates, nor does it guarantee that an export permit will be granted; and
- (d) the permit holder must notify the Department of—
 - (i) his or her intention to sell the rhinoceros horn to which the permit relates, by auction; and
 - (ii) the date or dates, as the case may be, of the auction.

(2) In addition to the conditions contemplated in subregulation (1), a permit in respect of the selling, giving, donating or in any similar way disposing of a single rhinoceros horn contemplated in regulation 3(1), must be issued subject to the conditions that the holder thereof must—

- (a) return the original permit to the relevant issuing authority, within 5 working days of selling, giving, donating, or disposing of the rhinoceros horn in respect of which the permit was issued; and

(b) retain a certified copy thereof upon return of the original permit to the relevant issuing authority.

(3) In addition to the conditions contemplated in subregulation (1), a permit in respect of the selling, giving, donating or in any similar way disposing of multiple rhinoceros horn contemplated in regulation 3(1), must be issued subject to the conditions that the holder thereof must—

- (a) report the following information to the relevant issuing authority, within 5 working days of each rhinoceros horn being sold, given, donated or in any similar way disposed of:
 - (i) the name and physical address of the buyer or receiver;
 - (ii) the permit number of the buyer or receiver;
 - (iii) the species and subspecies in respect of each rhinoceros horn sold, given, donated, or in any similar way disposed of;
 - (iv) the markings of each rhinoceros horn sold, given, donated, or in any similar way disposed of; and
 - (v) the reference number of the genetic profiling certificate in respect of each rhinoceros horn sold, given, donated, or in any similar way disposed of;
- (b) at the same time as reporting the information contemplated in paragraph (a), also apply to the relevant issuing authority for an amendment of his or her possession permit;
- (c) return the original permit relating to the selling, giving, donating or in any similar way disposing of such rhinoceros horn, to the relevant issuing authority, within 5 working days of selling, giving, donating, or in any similar way disposing of the last remaining rhinoceros horn in respect of which the permit was issued; and
- (d) retain a certified copy thereof upon return of the original permit to the relevant issuing authority.

Compulsory conditions for permits in respect of the buying, receiving, accepting as a gift or donation, or in any similar way acquiring rhinoceros horn

9. A permit in respect of the buying, receiving, accepting as a gift or donation, or in any similar way acquiring rhinoceros horn contemplated in regulation 3(1), must be issued subject to the following conditions:

- (a) the permit holder may not buy, receive, accept as a gift or donation, or in any similar way acquire rhinoceros horn from a person who is not the holder of a permit to sell, give, donate, or in any similar way dispose of the rhinoceros horn;
- (b) the permit holder may not buy, receive, accept as a gift or donation, or in any similar way acquire any rhinoceros horn other than the rhinoceros horn to which the permit relates;
- (c) the permit does not authorise the holder thereof to possess or transport the rhinoceros horn bought, received, accepted as a gift or donation, or in any similar way acquired; and
- (d) the permit does not authorise the holder thereof to export the rhinoceros horn to which the permit relates, nor does it guarantee that an export permit will be granted.

Additional requirements

10. (1) A person who sells, gives, donates, or in any similar way disposes of rhinoceros horn contemplated in regulation 3(1) on behalf of the lawful owner of the rhinoceros horn, must be—

- (a) authorised to do so, both in writing by the lawful owner, and by means of a permit issued in terms of—
 - (i) the Biodiversity Act; and
 - (ii) provincial conservation legislation, if applicable,prior to the selling, giving, donating, or in any similar way disposing of the rhinoceros horn; and
- (b) a citizen of the Republic or a permanent resident within the Republic.

(2) A person who buys, receives, accepts as a gift or donation, or in any similar way acquires rhinoceros horn contemplated in regulation 3(1), on behalf of another person, must be—

- (a) authorised to do so, both in writing by such other person, and by means of a permit issued in terms of—
 - (i) the Biodiversity Act;
 - (ii) provincial conservation legislation, if applicable; and

prior to the buying, receiving, accepting as a gift or donation, or in any similar way acquiring such rhinoceros horn; and

- (b) a person who is—
- (i) a citizen of the Republic or a person who has been granted a permanent residency permit in terms of the Immigration Act, 2002 (Act No. 13 of 2002);
 - (ii) a company which is registered in the Republic in terms of the Companies Act, 2008 (Act No. 71 of 2008) or which is a pre-existing company recognised in terms of that Act;
 - (iii) a company of which all the directors or shareholders are citizens of the Republic or have been granted permanent residency permits in terms of the Immigration Act, 2002 (Act No. 13 of 2002); or
 - (iv) a trust of which any of the trustees authorised in terms of the Trust Property Control Act, 1988, (Act No. 57 of 1988) to administer the trust, is not a citizen of the Republic, or has not been granted a permanent residency permit in terms of the Immigration Act, 2002 (Act No. 13 of 2002).

(3) A person contemplated in subregulation (1) or (2) must be present within the Republic at the time of selling, giving, donating, buying, receiving, accepting as a gift or donation, or in any similar way disposing of or acquiring the rhinoceros horn.

Chapter 3

Provisions relating to the selling of rhinoceros horn by auction

Special provisions relating to the selling of rhinoceros horn by auction

11. (1) A person may sell or buy rhinoceros horn contemplated in regulation 3(1) through an auction, only if the person—

- (a) who sells the rhinoceros horn is in possession of a permit authorising the selling thereof; and
 - (b) who buys the rhinoceros horn is in possession of a permit authorising the buying thereof,
- at the time of bidding at the auction.

(2) The permits contemplated in subregulation (1) must be issued with a validity period that corresponds with the date or period, as the case may be, of the auction.

Obligations of the seller and buyer of rhinoceros horn

12. (1) A person who intends to buy rhinoceros horn through an auction must apply for a buying permit in terms of the Biodiversity Act, at least 21 working days prior to the auction.

(2) A person who is the holder of a permit to buy rhinoceros horn must—

- (a) return the permit to the relevant issuing authority within 5 working days of the conclusion of the auction, if a successful bid has not been awarded to him or her; or
- (b) apply to the relevant issuing authority for a permit to possess and transport the rhinoceros horn, if a successful bid has been awarded to him or her.

(3) A person who sells rhinoceros horn by auction must—

- (a) as part of the advertisement of the auction, inform potential bidders of the requirement contemplated in subregulation (1);
- (b) at least 20 working days prior to the date of the auction, provide the Department with a list of registered bidders, containing the following information in respect of each bidder:
 - (i) full names;
 - (ii) identity number; and
 - (iii) residential address, e-mail address and telephone numbers; and
- (c) within 5 working days after conclusion of the auction, provide the Department with a report of successful bidders, containing the following information in respect of each bidder:
 - (i) full names;
 - (ii) identity number;
 - (iii) residential address, e-mail address and telephone numbers; and
 - (iv) detail of the rhinoceros horn, lot of rhinoceros horn, or lots of rhinoceros horn bought, as the case may be.

Chapter 4**Restrictions relating to export of rhinoceros horn**

Restrictions relating to the export or re-export of rhinoceros horn

13. (1) A person may export or re-export rhinoceros horn, only if—

- (a) such rhinoceros horn is 5cm or more in length, irrespective of the weight of such rhinoceros horn;
- (b) such rhinoceros horn is marked in accordance with the provisions of the TOPS Regulations and the Rhinoceros Norms and Standards; and
- (c) a permit authorising the export or re-export of such rhinoceros horn has been issued in terms of the Biodiversity Act.

(2) A person may export or re-export rhinoceros horn contemplated in subregulation (1) for primarily non-commercial purposes only.

(3) A person may not export or re-export rhinoceros horn contemplated in subregulation (1) through any port of entry or exit other than OR Tambo International Airport.

(4) A person may not export or re-export rhinoceros horn contemplated in subregulation (1) as hand baggage.

(5) A person may export or re-export rhinoceros horn contemplated in subregulation (1) through a duly authorised freight agent only.

(6) A duly authorised freight agent contemplated in subregulation (5) must report on a monthly basis the following information to the Department:

- (a) the name of the owner of the rhinoceros horn or person causing the rhinoceros horn to be exported or re-exported;
- (b) the number of the export or re-export permit;
- (c) the markings of each individual rhinoceros horn (serial number and microchip number) to be exported or re-exported;
- (d) the date of export or re-export of the rhinoceros horn; and
- (e) the physical address of the recipient of the rhinoceros horn in the country of import.

(7) A rhinoceros horn may not be exported or re-exported, unless the holder of the export permit or re-export permit has such permit endorsed by an environmental management inspector, or by an official

from any other border law enforcement agency mandated to perform this function, prior to the exportation or re-exportation of the rhinoceros horn to which the permit relates.

Provisions relating to rhinoceros horn that do not meet the minimum size requirement for exporting or re-exporting

14. (1) The export or re-export of any rhinoceros horn that is less than 5 cm in length, irrespective of the weight of such rhinoceros horn, is prohibited in accordance with a notice published in terms of section 57(2) of the Biodiversity Act.

(2) The prohibition contemplated in subregulation (1) does not apply to:

- (a)** a registered scientific institution that exports or re-exports such rhinoceros horn for scientific purposes;
- (b)** a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, that exports or re-exports such rhinoceros horn for the purpose of genetic profiling in accordance with the Rhinoceros Norms and Standards; or
- (c)** the State.

Requirements to obtain a permit in respect of the export or re-export of rhinoceros horn

15. (1) A person who intends to export or re-export rhinoceros horn contemplated in regulation 13(1), must complete and sign an application form prescribed in terms of the TOPS Regulations and submit it to the relevant issuing authority.

(2) The application contemplated in subregulation (1) must be accompanied by—

- (a)** a certified copy of the identity document, permanent residence permit, work permit or passport of the applicant;
- (b)** proof of payment of the permit processing fee, as set out in the CITES Regulations;
- (c)** a certified copy of a permit that authorises the lawful possession of the rhinoceros horn to which the application relates, issued in terms of—
 - (i)** the Biodiversity Act; and
 - (ii)** provincial conservation legislation, if applicable;

- (d) a certified copy of an import permit issued by the Management Authority of the country of import; and
- (e) written confirmation from the Management Authority contemplated in paragraph (d) that domestic legislative provisions are in place to ensure that the imported rhinoceros horn will not be used in a manner that is in contravention with the provisions of CITES applicable to the importation of specimens of species included in Appendix I of the Convention.

Chapter 5

Miscellaneous

General provisions

16. (1) A person who has sold, given, donated, or in any similar way disposed of rhinoceros horn, is responsible for the safe-keeping of the rhinoceros horn in accordance with the provisions of the Rhinoceros Norms and Standards, until the possession permit is issued to the person who has bought, received, accepted as a gift or donation, or in any similar way acquired, the rhinoceros horn.

(2) The possession permit of a person who has sold, given, donated, or in any similar way disposed of rhinoceros horn, remains valid for the purpose of safe-keeping of the rhinoceros horn, until a possession permit is issued to the person who has bought, received, accepted as a gift or donation, or in any similar way acquired, the rhinoceros horn and the latter person has taken possession of the rhinoceros horn, or for a period of 90 days, whichever is the shortest.

(3) A person who buys, receives, accepts as a gift or donation, or in any similar way acquires rhinoceros horn, may not take possession of the rhinoceros horn, until a possession permit is issued to him or her in terms of the Biodiversity Act.

Offences

17. Any person who contravenes or fails to comply with a provision of regulation 3(1), (2) or (3), 4(3), (4) or (5), 10, 11(1), 12 or 13 is guilty of an offence.

Penalties

18. Any person convicted of an offence in terms of regulation 17 of these Regulations is liable on conviction to—

- (a) imprisonment for a period not exceeding five years;

- (b) a fine not exceeding five million rand, and in the case of a second or subsequent conviction, a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years, or in both instances to both a fine and such imprisonment; or
- (c) both a fine and such imprisonment.

Short title and commencement of these Regulations

19. These Regulations are called the Regulations relating to domestic trade in rhinoceros horn, 2018, and come into operation on a date determined by the Minister by notice in the *Gazette*.

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 987

21 SEPTEMBER 2018

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004
(ACT NO. 10 OF 2004)DRAFT NOTICE PROHIBITING THE CARRYING OUT OF CERTAIN RESTRICTED ACTIVITIES INVOLVING
RHINOCEROS HORN

I, Bomo Edna Edith Molewa, Minister of Environmental Affairs, hereby under section 57(2), read with section 100 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) give notice of my intention to publish a notice prohibiting the carrying out of certain restricted activities involving rhinoceros horn, or a part, product or derivative of such rhinoceros horn, belonging to the species *Diceros bicornis bicornis*, *Diceros bicornis minor*, *Diceros bicornis michaeli* and *Ceratotherium simum simum*, in the Schedule hereto.

Draft prohibitions relating to the carrying out of certain restricted activities involving rhinoceros horn were published in the *Government Gazette*, No. 40601, Notice No. 77, on 08 February 2017, for public comments, for a period of 30 days. The provisions of paragraphs 2(3)(b) and 2(5)(b) in the Schedule below were not included in the aforementioned Government Notice.

Members of the public are therefore invited to submit written representations or objections on paragraphs 2(3)(b) and 2(5)(b), within 30 days after the publication of this notice in the *Gazette*, to the following addresses:

By post: The Director-General
Department of Environmental Affairs
Attention: Ms Magdel Boshoff
Deputy Director: Threatened or Protected Species Policy Development
Private Bag X447
PRETORIA
0001

By hand: Environmental House, 473 Steve Biko Street, Arcadia, Pretoria, 0083.

By email: rhinohornregulations@environment.gov.za

Any enquiries in connection with this notice can be directed to Ms Magdel Boshoff at 012 399 9604.

The provisions of this notice must be read alongside the provisions of the following draft notices, which are also published in the *Government Gazette* for public participation:

- a) draft regulations relating to domestic trade in rhinoceros horn; and
- b) amendment of the alien and invasive species list to remove Eastern black rhinoceros (*Diceros bicornis michaeli*), and amendment of the list of critically endangered, endangered, vulnerable and protected species to include Eastern black rhinoceros (*Diceros bicornis michaeli*) as a protected species.

Comments received after the closing date may be disregarded.



BOMO EDNA EDITH MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

1. Definitions

In this notice, a word or expression or any derivative or other grammatical form of such word or expression to which a meaning has been assigned in the Biodiversity Act or the TOPS Regulations, has the corresponding meaning, and unless the context indicates otherwise —

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

“genetic profiling” means the use of biotechnology to identify the unique characteristics of a rhinoceros horn for forensic or diagnostic purposes;

“person” includes a juristic person;

“registered” means registered in terms of the TOPS Regulations;

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

“scientific purposes” means for the primary purpose of practicing science or conducting research;

“TOPS Regulations” means the regulations pertaining to listed threatened or protected species and promulgated in terms of section 97 of this Act;

“Rhinoceros Norms and Standards” means the norms and standards pertaining to the marking of rhinoceros and rhinoceros horn, and the hunting of rhinoceros for trophy hunting purposes, promulgated in terms of section 9 of the Biodiversity Act.

Prohibitions

2. (1) A person may not—

- (a) powder a rhinoceros horn or cause the powdering of a rhinoceros horn;
- (b) form or create slivers, chips, drill bits or any similar derivative from rhinoceros horn, or cause such slivers, chips, drill bits or similar derivatives to be formed; or

- (c) remove parts or layers from a rhinoceros horn.
- (2) The prohibition contemplated in subparagraph (1) does not apply—
- (a) when powder, slivers, chips, drill bits or any similar derivative is formed during the process of inserting a microchip into a rhinoceros horn;
 - (b) when powder, slivers, chips, drill bits or any similar derivative is formed during the process of dehorning a rhinoceros, or when a person removes part of a rhinoceros horn, as a management intervention or for security purposes;
 - (c) when a person collects a sample of rhinoceros horn for the purpose of genetic profiling in accordance with the Rhinoceros Norms and Standards; or
 - (d) to the forming of powder, slivers, chips, drill bits or any similar derivative, or the removal of parts or layers from rhinoceros horn, when the activity is carried out by—
 - (i) a registered scientific institution for scientific purposes;
 - (ii) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, performing or conducting the genetic profiling in accordance with the Rhinoceros Norms and Standards; or
 - (iii) the State.
- (3) A person may not sell, give, donate, buy, receive, accept as a gift or donation, or in any similar way dispose of or acquire, rhinoceros horn—
- (a) contemplated in subparagraph (1), or
 - (b) that is less than 5 cm in length, irrespective of the weight of the rhinoceros horn.
- (4) Notwithstanding the prohibition contemplated in subparagraph (3) —
- (a) the lawful owner of rhinoceros horn may give or donate the rhinoceros horn contemplated in subparagraph (1) or (3)(b) to the State or to a registered scientific institution;
 - (b) a registered scientific institution may—

- (i) give or donate rhinoceros horn contemplated in subparagraph (1) or (3)(b) to the State; or
 - (ii) receive or accept as a gift or donation such rhinoceros horn for scientific purposes;
 - (c) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, may—
 - (i) give or donate rhinoceros horn contemplated in subparagraph (1) or (3)(b) to the State; or
 - (ii) receive or accept as a gift or donation such rhinoceros horn for the purpose of performing or conducting the genetic profiling, in accordance with the Rhinoceros Norms and Standards; or
 - (d) the State may give, donate, receive or accept as a gift or donation rhinoceros horn contemplated in subparagraph (1) or (3)(b).
- (5) A person may not export or re-export from the Republic, rhinoceros horn—
- (a) contemplated in subparagraph (1), or
 - (b) that is less than 5 cm in length, irrespective of the weight of such rhinoceros horn.
- (6) The prohibition of the carrying out of the activities contemplated in subparagraph (5) does not apply to—
- (a) a registered scientific institution for scientific purposes;
 - (b) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, for the purpose of genetic profiling, in accordance with the Rhinoceros Norms and Standards; or
 - (c) the State.
- (7) The prohibitions contemplated in subparagraphs (1), (3) and (5) are effective for a period of three years from the date of coming into operation of this notice, after which the Minister will assess and re-consider the prohibitions.

Short title and commencement date

3. This notice is called the notice prohibiting the carrying out of certain restricted activities involving rhinoceros horn, and comes into operation on a date determined by the Minister by notice in the *Gazette*.

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 988

21 SEPTEMBER 2018

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004
(ACT NO. 10 OF 2004)PROPOSED AMENDMENT OF THE ALIEN AND INVASIVE SPECIES LIST AND LIST OF CRITICALLY
ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED SPECIES

I, Bomo Edna Edith Molewa, Minister of Environmental Affairs, hereby under section 72 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) give notice of my intention to amend the Alien and Invasive Species Lists, published in terms of sections 66(1), 67(1), 70(1)(a), 71(3) and 71A of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), under Government Notice No. 864, Government Gazette No. 40166 of 29 July 2016, by the deletion of *Diceros bicornis michaeli* (Black rhinoceros (Kenya)), Species No.12, List 3: National List of Invasive Mammal Species of Notice 3: National Lists of invasive species, and under section 58 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) amend the lists of Critically endangered, Endangered, Vulnerable and Protected Species published under Government Notice No. R.151, Government Gazette No. 29657 of 23 February 2007 by the insertion of Eastern black rhinoceros (*Diceros bicornis michaeli*) in Category: Protected Species, in the Schedule hereto.

Members of the public are invited to submit, within 30 days after the publication of the notice in the *Gazette*, written comments or inputs to the following addresses:

By post: The Director-General
Department of Environmental Affairs
Attention: Ms Magdel Boshoff
Deputy Director: Threatened or Protected Species Policy Development
Private Bag X447
PRETORIA
0001

By hand: Ground Floor (Reception), Environmental House, 473 Steve Biko Street, Arcadia, Pretoria, 0001.


By email: rhinohornregulations@environment.gov.za

Any enquiries in connection with the notice can be directed to Ms Magdel Boshoff at 012 399 9604.

The provisions of this notice must be read alongside the provisions of the following draft notices, which are also published in the *Government Gazette* for public participation:

- a) draft regulations relating to domestic trade in rhinoceros horn; and
- b) prohibition of the carrying out of certain restricted activities involving rhinoceros horn.

Comments received after the closing date may be disregarded.



BOMO EDNA EDITH MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

Definitions

1. In this Schedule unless the context requires otherwise—

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

“Rhinoceros Norms and Standards” means the norms and standards pertaining to the marking of rhinoceros and rhinoceros horn, and the hunting of rhinoceros for trophy hunting purposes, promulgated in terms of section 9 of the Biodiversity Act.

Amendment of the Alien and Invasive Species List, published under Government Notice No. 599 in Government Gazette No. 37886 of 01 August 2014, as amended by Government Notice No. 864 Government Gazette No. 40166 of 29 July 2016, in terms of sections 70(1), 71(3) and 71A of the Biodiversity Act

- 2.** The Alien and Invasive Species list is hereby amended by the deletion of species No. 12, *Diceros bicornis michaeli* Zukowsky, 1965 (Black Rhinoceros (Kenya)) in List 3: National List of invasive Mammal Species of Notice 3: National List of Invasive Species in terms of section 70(1) of the Biodiversity Act.

Amendment of the lists of critically endangered, endangered, vulnerable and protected species, published under Government Notice No. R. 151 in Government Gazette 29657 of 23 February 2007, as amended by Government Notice R1187 Government Gazette 30568 of 14 December 2007, in terms of section 56(1) of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004)

- 3.** The following species is hereby inserted in the Category: Protected Species, Mammalia, of the lists of critically endangered, endangered, vulnerable and protected species, after *Crocuta crocuta* (Spotted Hyaena):

Scientific Name *Diceros bicornis michaeli*; Common Name Eastern black rhinoceros

Transitional Arrangements

4. (1) A person who, immediately prior to the coming into operation of this notice, carries out a restricted activity involving a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*) under a permit issued in terms of Chapter 5 of the Biodiversity Act, must, within three months after the coming into operation of this notice, apply for a permit in terms of Chapter 4 of the Biodiversity Act.

(2) A person who submitted an application for a permit in terms of Chapter 5 to carry out a restricted activity involving a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*), must consider such an application withdrawn and such a person must, within three months of the coming into operation of this notice, apply for a permit in terms of Chapter 4 of the Biodiversity Act.

(3) A person who, immediately prior to the coming into operation of this notice, carries out a restricted activity involving a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*) without a permit issued in terms of Chapter 5 of the Biodiversity Act, must apply for and obtain a permit contemplated in Chapter 4 of the Biodiversity Act, within 30 days after the coming into operation of this notice.

(4) A person who intends to carry out a restricted activity involving a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*), for which a permit is not required in terms of Chapter 5 of the Biodiversity Act, must apply for a permit in terms of Chapter 4 of the Biodiversity Act, if such restricted activity will be carried out more than three months after the coming into operation of this notice.

(5) A person who is in possession of or exercising physical control over a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*), or who intends to hunt a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*) must, within three months of the coming into operation of this notice, in addition to complying with Chapter 4 of the Biodiversity Act, comply with the provisions of the Rhinoceros Norms and Standards.

Short title and Commencement date

5. This notice is called the notice amending the alien and invasive species list and the lists of critically endangered, endangered, vulnerable and protected species, and comes into operation on a date determined by the Minister by notice in the *Gazette*.

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