

# NATURE CONSERVATION Ordinance 12 of 1983

as amended by

Gauteng General Law Amendment Act 4 of 2005

## AN ORDINANCE

**To consolidate and amend the laws relating to nature conservation and to provide for matters incidental thereto.**

[NB. The administration of the whole of this Ordinance, excluding sec 55(c) and (d), has under Proclamation 22 of 1995, published in *Government Gazette* 16340 of 31 March 1995, been assigned to the Province of Gauteng with effect from 31 March 1995.]

*(Assented to on 1.11.1983)*  
*(Afrikaans copy signed by the State President)*  
*(Date of operation 1 January 1984)*

### PRELIMINARY (sec 1)

#### 1 Definitions

In this Ordinance, unless the context otherwise indicates-

**"Administration"** means the Gauteng provincial administration;

[Definition of "Administration" substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995 and by sec 11(a) of Act 4 of 2005 wef 26 January 2006.]

**"Administrator"** . . .

[Definition of "Administrator" deleted by Procl. R. 22, 1995 w.e.f. 31.3.1995 and by sec 11(b) of Act 4 of 2005 wef 26 January 2006.]

**"advisory committee"** means an advisory committee established in terms of section 7;

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

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

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

**"Board"**, in so far as a provision of this Ordinance is applied in or with reference to a particular province, means a Nature Conservation Advisory Board contemplated in section 6(1);

[As substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995.]

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

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

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

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

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

**"closed season"** means a period contemplated in section 68;

**"club"** means a club established for the hunting of problem animals and registered in terms of section 59;

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

**"endangered species"** means a species of fauna and flora contemplated in <sup>i1</sup>section 97;

**"exotic animal"** means any live vertebrate, including a bird and reptile but excluding a fish, belonging to a species which is not a recognized domestic species and the natural habitat of which is not in the Republic, the territory of South West Africa or a territory which was formerly part of the Republic, and includes the egg of such animal;

**"fish"**-

- (a) includes aquatic fauna generally excluding mammals and birds, whether indigenous or exotic and whether alive or dead, and the ova or spawn thereof;
- (b) in relation to angling, means only those species of water fauna commonly known as fish;

**"fisheries"** includes all waters and the fish therein;

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

**"game"** means any protected game, specially protected game, ordinary game or protected wild animal, whether alive or dead, contemplated in section 15(1);

[Substituted by s. 1(a), A. Procl. 25/1991 w.e.f. 17.7.1991.]

**"honorary nature conservator"** means an honorary nature conservator appointed in terms of section 5(1);

**"hunt"**, in relation to-

- (a) a problem animal, means to hunt, shoot at, to kill, to pursue or to search in an organized manner for;
- (b) any other animal, means to hunt, to shoot at, to kill, to pursue, to search for or to lie in wait of <sup>ii2</sup> with the intent to kill or to shoot, to disturb wilfully or to collect or destroy the eggs of a bird or reptile;

**"hunting area"** means an area in respect of which a club has been registered in terms of section 59;

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

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

**"indigenous plant"** means any plant, herb, shrub or tree, whether alive or dead, indigenous to the Republic, the territory of South West Africa or a territory which was formerly part of the Republic, whether it is or has been cultivated or whether or not it is growing in the wild state, or has for some time not been growing in the wild state, and includes the flower, seed, cone, fruit, bulb, tuber, stem or root or other part of such a plant herb, shrub or tree, but excluding a plant, herb, shrub or tree declared to be a weed in terms of any law;

**"invertebrate"** means an invertebrate, whether alive or dead, of which the habitat is either temporarily or permanently in the Republic, the territory of South West Africa or a

territory which was formerly part of the Republic, and includes any part of an invertebrate and any stage in the life cycle thereof;

**"keep"** means to keep live, to keep in captivity, to exercise control over or to supervise;

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

**"MEC"** means the Member of the Executive Council responsible for conservation and environmental affairs in the Province;

[Definition of "MEC" inserted by sec 11(c) of Act 4 of 2005 wef 26 January 2006.]

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

**"nature conservator"** means-

- (a) a nature conservator appointed in terms of section 4;
- (b) a member of the South African Police;

**"nature reserve"** means an area declared to be a nature reserve in terms of section 14:

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

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

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

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

**"open season"** means a period contemplated in section 17(1)(a);

**"ordinary game"** means a wild animal contemplated in section 15(1)(b);

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

- (a) the person registered as the owner thereof in a deeds registry;
- (b) the *bona fide* purchaser thereof prior to the registration of the deed of transfer in his or

her name, but after the contract of sale has been concluded, to the exclusion of the person contemplated in paragraph (a);

- (c) the lawful heir of the person contemplated in paragraph (a) or the purchaser contemplated in paragraph (b), as the case may be, at the death of such person or purchaser or, where the land is subject to a usufruct, the usufructuary;
- (d) the lessee of the land who has entered into a lease for a period of not less than 10 years or for the natural life of the lessee or any other person referred to in the lease, or the person to whom the land has been allotted in terms of the laws on land settlement subject to the right to purchase that land;

**"pick"** includes to gather, to cut off, to chop off, to uproot, to damage or to destroy;

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

**"prescribe"** means to prescribe by regulation;

**"problem animal"** means a wild animal contemplated in section 56(1);

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

**"protected game"** means a wild animal contemplated in section 15(1)(a);

**"protected plant"** means a plant contemplated in section 86(1)(a);

**"protected wild animal"** means a wild animal contemplated in section 15(1)(c);

**"Province"** means the Gauteng Province;

[Definition of "Province" substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995 and by sec 11(a) of Act 4 of 2005 wef 26 January 2006.]

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

**"public sale"** means a sale-

- (a) at a public market;
- (b) by a butcher who is the holder of a licence contemplated in section 32(1)(v);
- (c) by the holder of a permit contemplated in section 32(1);

**"rare species"**, means a species of fauna and flora contemplated in <sup>iii</sup>1 section 97;

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

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

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

**"specially protected game"** means a wild animal contemplated in section 15(1)(aA);

[Inserted by s. 1(b) of A. Procl. 25/1991 w.e.f. 17.7.1991.]

**"specially protected plant"** means a plant contemplated in section 86(1)(b);

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

**"testing-team"** means a testing-team contemplated in section 51(4);

**"the repealed Ordinance"** means the Nature Conservation Ordinance, 1967 (Ordinance 17 of 1967);

**"this Ordinance"** includes a regulation made or a notice issued in terms thereof;

**"trout waters"** means the waters contemplated in section 70(1);

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

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

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

## **CHAPTER I**

### **ESTABLISHMENT OF NATURE CONSERVATION DIVISION, NATURE**

# **CONSERVATION ADVISORY BOARD AND NATURE CONSERVATION ADVISORY COMMITTEES, AND APPOINTMENT OF OFFICERS (secs 2-13)**

[As substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995.]

## **2 Establishment of Nature Conservation Division**

(1) A Nature Conservation Division is hereby established for the Province.

(2) The Nature Conservation Division which in terms of this Ordinance existed immediately before the assignment of the administration of this Ordinance under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), to the Province, shall cease to exist with effect from the date of such assignment.

[Sec 2 substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995 and by sec 12 of Act 4 of 2005 wef 26 January 2006.]

## **3 Objects of Nature Conservation Division**

The objects of the Nature Conservation Division shall be the advancement, control and administration of nature conservation in the Province.

[Sec 3 substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995 and by sec 13 of Act 4 of 2005 wef 26 January 2006.]

## **4 Appointment of Head: Nature and Conservation and staff**

The MEC may, subject to the laws governing the Public Service of the Republic, appoint for the Nature Conservation Division-

- (a) a person who is in charge thereof, who shall be known as the Head: Nature Conservation;
- (b) nature conservators and such staff as he or she may from time to time deem necessary,

and he or she shall determine their powers, functions and duties.

[As substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995 and amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006.]

## **5 Appointment of honorary nature conservators and issue of certificates of appointment**

(1) The MEC may appoint honorary nature conservators.

[Subsec (1) amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

(2) The MEC shall issue a certificate of appointment to every nature conservator appointed in terms of section 4 and to every honorary nature conservator appointed in terms of

sub-section (1).

[Subsec (2) amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

(3) The Nature Conservation Advisory Board which in terms of this Ordinance existed immediately before the assignment of the administration of this Ordinance under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), to the Province, shall cease to exist with effect from the date of such assignment.

[Subs. (3) added by Procl. R. 22, 1995 w.e.f. 31.3.1995 and substituted by sec 14 of Act 4 of 2005 wef 26 January 2006.]

## **6 Establishment of Nature Conservation Advisory Board**

(1) The MEC may by notice in the *Provincial Gazette* establish a Nature Conservation Advisory Board.

[Subsec (1) amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

(2) The Nature Conservation Advisory Board which in terms of this Ordinance existed immediately before the assignment of the administration of this Ordinance under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), to a competent authority within the government of a province, shall lapse with effect from the date of such assignment..

[Substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995.]

## **7 Establishment of nature conservation advisory committees**

The MEC may establish a nature conservation advisory committee in any magisterial district in the Province.

[Sec 7 amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

## **8 Appointment of members of Board and advisory committees**

The MEC shall appoint such number of persons as he or she may deem expedient as members of the Board and an advisory committee.

[Sec 8 amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

## **9 Period of office, qualifications and disqualifications of members of board and advisory committees**

(1) Subject to sub-section (3), a member of the Board and an advisory committee shall be appointed for the period prescribed.

(2) The qualifications and disqualifications of a member at the Board and an advisory



committee shall be as prescribed.

(3) The MEC may, if he or she is of the opinion that there is good reason for doing so, at any time remove a member of the Board or an advisory committee from office.

[Subsec (3) amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

## **10 Vacancy on board and advisory committees**

When the office of a member of the Board or an advisory committee becomes vacant, the MEC may appoint any person to fill the vacancy for the unexpired portion of the period of office of the member whose office has become vacant.

[Sec 10 amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

## **11 Powers, functions and duties of Board and advisory committee**

(1) The powers, functions and duties of the Board and an advisory committee shall be as prescribed.

(2) Any person who wilfully obstructs, hinders or interferes with the Board or an advisory committee or a member thereof in the exercise of any power or the performance of any function or duty conferred, assigned or imposed in terms of this Ordinance shall be guilty of an offence.

## **12 Chairperson of Board**

The MEC shall nominate a member of the Board as chairperson for such period as he or she may determine.

[Sec 12 amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

## **13 Remuneration and allowances of members of Board and advisory committees**

(1) The MEC may from time to time determine the remuneration, travelling and subsistence allowances and other allowances payable to a member of the Board and an advisory committee who is not a member of the Public Service of the Republic.

[Subsec (1) amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

(2) The remuneration and allowances determined in terms of sub-section (1) shall be paid from moneys appropriated by the *provincial legislature concerned* for that purpose.

[Words in italics as substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995.]

## **CHAPTER II DECLARATION OF NATURE RESERVES (sec 14)**

## **14 Declaration of nature reserves**

The MEC may by notice in the *Provincial Gazette* declare an area defined in the notice to be a nature reserve and he or she may at any time by like notice amend the definition of such an area or withdraw the declaration of such an area to be a nature reserve.

[Sec 14 amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006]

### **CHAPTER III WILD ANIMALS (secs 15-50)**

## **15 Protected game, ordinary game and protected wild animals**

(1) The wild animals referred to-

- (a) in Schedule 3 to this Ordinance shall be protected game;
- (aA) in Schedule 2A to this Ordinance is specially protected game;

[Inserted by s. 2(a) of A. Procl. 25/1991 w.e.f. 17.7.1991.]

- (b) in Schedule 3 to this Ordinance shall be ordinary game;
- (c) in Schedule 4 to this Ordinance shall be protected wild animals.

(2) The MEC may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 2, 2A, 3 or 4 to this ordinance.

[Ss. (2) as substituted by s. 2(b) of Procl. 25 (Admin-) dd. 10.7.1991 w.e.f. 17.7.1991 and amended by sec 26(8) of Act 4 of 2005 wef 26 January 2006.]

## **16 Hunting of protected game**

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

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

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of this section or section 19 or 20 or a provision of the repealed Ordinance corresponding to this section or section 19 or 20, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of this section or section 19 or 20 or a provision of the repealed Ordinance corresponding to this section or section 19 or 20, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

## 16A Hunting of specially protected game

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

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

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Inserted by s. 3 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

[NB. Please *see* section 34 and Part (b) of Schedule 3 of Act 107 of 1998 for provisions in respect of criminal proceedings.]

## 17 Hunting of ordinary game

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

- (a) the MEC may by notice in the *Provincial Gazette* declare a period to be an open season during which the persons or category of persons referred to in the notice may, subject to the provisions of this Ordinance, hunt the species and sex of ordinary game referred to therein in the area defined therein;
- (b) the owner of land may hunt ordinary game on land of which he or she is the owner during an open season;

<sup>iv1</sup>(c) a relative of the owner of land may with the prior written permission of the owner hunt

ordinary on the land of the game owner during an open season, and that relative shall carry the permission with him or her while he or she so hunts on that land;

- (d) the holder of a licence which authorizes him or her to do so may, with the prior written permission of the owner of land, hunt ordinary game on the land of the owner during an open season;
- (e) the owner or occupier of land may hunt ordinary game on land of which he or she is the owner or occupier at any time during the day while it is damaging cultivated trees or cultivated crops;
- (f) upon the written application of the owner of land a permit may be issued-
  - (i) to the owner;
  - (ii) to any other person indicated by the owner in the application,

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R750 or to imprisonment for a period not exceeding 9 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

## **18 Hunting of protected wild animals**

(1) Subject to the provisions of this Ordinance, no person shall hunt a protected wild animal: Provided that-

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

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

<sup>v1</sup>(b) the owner of land, or a relative of his or her or an occupier of that land, to whom the owner has granted written permission to hunt on his or her land, which permission shall be carried by that relative or occupier with him or her while he or she so hunts on that land-

- (i) may hunt a buffalo if cattle are kept on that land;
- (ii) may hunt any other protected wild animal during the day or night while it is causing or is about to cause damage to stock or is in the immediate vicinity of the carcass of stock which it has or apparently has killed.

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

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

- (a) where such person has not been previously convicted of a contravention of that sub-section or section 16 or 23 or a provision of the repealed Ordinance corresponding to that sub-section or section 16 or 23, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of that sub-section or section 16 or 23 or a provision of the repealed Ordinance corresponding to that sub-section or section 16 or 23, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

## **19 Hunting in nature reserves**

(1) Subject to the provisions of this Ordinance, no person shall hunt game in a nature reserve: Provided that-

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

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

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

(3) Notwithstanding the provisions of sub-section (2), any person convicted of a contravention of sub-section (1) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Subs. (3) added by s. 4 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

## **20 Hunting during night**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both the fine and such imprisonment.

(3) Notwithstanding the provisions of sub-section (2), any person convicted of a contravention of sub-section (1) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such

fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Subs. (3) added by s. 5 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

## **21 Hunting of game with certain weapons**

(1) Subject to the provisions of this Ordinance, no person shall hunt game with-

- (a) a weapon which, after it has been discharged automatically reloads <sup>vi</sup> and fires when the trigger thereof is pulled or held in a discharged position;
- (b) a weapon discharging a rimfiring cartridge of 22, of an inch or smaller calibre;
- (c) a shotgun;
- (d) an air-gun,

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

- (i) any person may hunt a hare or a bird with a shotgun;
- (ii) the owner of land or a relative of his or her may with his or her permission hunt game, excluding specially protected game, with any firearm on the land of the owner.

[Subpar. (ii) substituted by s. 6 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **22 Prohibited acts with certain devices or means**

(1) Subject to the provisions of this Ordinance, no person shall, on land on which any wild animal is found or is likely to be found-

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

Provided that-

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

or constructed by-

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

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

[Added by s. 7 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **23 Hunting of protected wild animals under certain circumstances**

(1) Subject to the provisions of this Ordinance, no person shall hunt a protected wild animal which-

- (a) is under the influence of a tranquilizing, narcotic, immobilising or similar agent;
- (b) has been allured-
  - (i) by a simulation or recording of the natural sound made by an animal;
  - (ii) by a sound made by man;
  - (iii) by bait, whether alive or dead, or anything else on account of the edibility, smell or taste thereof;
- (c) has been confined to a cage or an enclosure the area of which is less than 400 hectare and from which it cannot escape readily,

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

(2) When any person has killed or wounded or has presumably wounded a lion, leopard,



cheetah <sup>viii</sup>2 or wild dog in the circumstances contemplated in the proviso to sub-section (1), he or she shall report it within 24 hours at the police station or the office of the nature conservator nearest to the place where the lion, leopard, cheetah <sup>ix</sup>2 or wild dog was killed or wounded or was presumably wounded.

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

- (a) where such person has not been previously convicted of a contravention of that sub-section or section 18 or 27 or a provision of the repealed Ordinance corresponding to that sub-section or section 18 or 27, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of that sub-section or section 18 or 27 or a provision of the repealed Ordinance corresponding to that sub-section or section 18 or 27, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

## **24 Entering upon land with weapons and conveyance of firearms**

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

(2) For the purposes of sub-section (1) "land" shall not include a public road.

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

- (a) the owner or occupier of such land or any person who is authorised in terms of this Ordinance to hunt or catch a wild animal or an exotic animal on such land may convey a firearm;
- (b) any person may convey a revolver or pistol with a barrel not longer than 100 mm or a firearm whereof the barrel, bolt, chamber, tube or magazine is not loaded, in a thoroughly closed gunbag, guncase or gunholder designed and made for that purpose,

on such road.

(4) Any person who contravenes or fails to comply with sub-section (1) or (3) shall be guilty of an offence.

## **25 Catching of game**

(1) Subject to the provisions of this Ordinance, no person shall catch game: Provided that-

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

(i) to the owner;

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

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

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

(a) where such person has not been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and imprisonment;

(b) where such person has been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

(3) Notwithstanding the provisions of sub-section (2), any person convicted of a contravention of sub-section (1) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Added by s. 8 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

## **26 Leaving or making of openings in certain fences**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

(a) where such person has not been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 500

or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment;

- (b) where such person has been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

## **27 Hunting or catching of wild animals in certain manners**

(1) Subject to the provisions of this Ordinance, no person shall hunt or catch a wild animal with the aid of, by means of or by the use of-

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

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

- (i) the owner of land or a relative of his or her with his or her permission may, on the land of the owner, or the occupier of land may, on land of which he or she is the occupier, hunt or catch a wild animal with the aid of, by means of or by use of a trap, trap-cage or set gun-
  - (aa) where it is in the immediate vicinity of the carcass of stock which it has or apparently has killed;
  - (bb) where there is a reasonable suspicion that it is about to cause damage to stock;
- <sup>x1</sup>(iA) any person may, with the aid of, by means of or by the use of any of such weapons contemplated in <sup>xii2</sup> paragraph (b) as the Administrator may from time to time <sup>xii2</sup> [prescribed] hunt any of such species of wild animals as the Administrator may likewise prescribe;
- (ii) a dog may be used-
  - (aa) for the lawful hunting of a bird;

- (bb) for the pursuit of a wild animal which has been wounded during the lawful hunting thereof;
- (iii) a problem animal may be hunted or caught with the aid of, by means of or by the use of a trap, gin, pitfall, setgun or dog.

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

[Added by s. 9(a) of A. Procl. 25/1991 w.e.f. 17.7.1991.]

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of this section or section 23 or a provision of the repealed Ordinance corresponding to this section or section 23, to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of this section or section 23 or a provision of the repealed Ordinance corresponding to this section 23, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

(3) Notwithstanding the provisions of sub-section (2), any person convicted of a contravention of sub-section (1) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Subs (3) added by s. 9(b) of A. Procl. 25/1991 w.e.f. 17.7.1991.]

## **28 Hunting or catching of wild animals which are not game**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **29 Hunting or catching of exotic animals**

<sup>xiii</sup> (1) Subject to the provisions of this Ordinance, no person shall hunt or catch an exotic animal unless he or she has obtained the written permission of the owner of the land on which he

or she hunts or catches the animal beforehand, and that person shall carry that permission with him or her while he or she so hunts or catches on that land.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **30 Administrator may cause wild animals or exotic animals to be hunted or caught**

(1) Where the MEC is of the opinion that a wild animal or an exotic animal-

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

he or she may instruct an officer of the Nature Conservation Division or authorize any other person to hunt or to catch the wild animal or exotic animal.

(2) The officer instructed in terms of sub-section (1) to hunt or catch a wild animal or an exotic animal or any other person so authorized may enter upon any land to hunt or catch the animal.

(3) Any person who wilfully obstructs, hinders or interferes with an officer in the execution of an instruction or any other person in the exercise of a power given or granted in terms of sub-section (1) shall be guilty of an offence.

### **31 Poisoning of game**

(1) Subject to the provisions of this Ordinance, no person shall poison game, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment;

- (b) where such person has been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

(3) Notwithstanding the provisions of sub-section (2), any person convicted of a contravention of sub-section (1) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Subs. (3) added by s. 11 of A. Procl. 25/1991 w.e. f. 17.7.1991.]

### **32 Sale of game**

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

- (a) the owner of land may sell the meat, excluding biltong, or the carcass of game which he or she has hunted in terms of this Ordinance on land of which he or she is the owner or cause it to be sold at a public sale;
- (b) a butcher who is the holder of a licence issued in terms of this Ordinance may sell the meat or a carcass sold to him or her in terms of paragraph (a).

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

(3) Notwithstanding the provisions of sub-section (2), any person convicted of a contravention of sub-section (1) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Subs. (3) added by s. 11 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

### **33 Sale of biltong**

(1) Subject to the provisions of this Ordinance, no person shall sell biltong, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that the holder of a licence issued in terms of the Licences Ordinance, 1974 (Ordinance 19 of 1974), who purchases biltong from the holder of a permit issued in term of this sub-section, may sell the biltong on the premises in respect of which such licence has been issued in a packing approved by the MEC and on which shall be indicated-

- (a) that the contents thereof is game biltong;
- (b) the name and residential address of the holder of the permit from whom the biltong was purchased; and
- (c) the number of the permit contemplated in paragraph (b).

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **34 Purchase of game**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **35 Donation of game**

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

- (i) the name and residential address of the donor;
- (ii) the date on which and the address where the game is delivered;
- (iii) a description of the game donated;
- (iv) particulars of the manner in which the game came into possession of the donor;
- (v) the name and residential address of the donee; and
- (vi) the signature of the donor.

(2) No person shall receive game as a donation, unless the donor has delivered to him or her a document as contemplated in sub-section (1).

(3) Any person to whom game has been donated shall carry the document contemplated in sub-section (1) with him or her when he or she conveys the game.

(4) Any person who contravenes or fails to comply with sub-section (1), (2) or (3) shall be guilty of an offence.

### **36 Picking up or removal of game**

(1) No person shall pick up or remove game not hunted or caught lawfully, unless he or

she has obtained the written permission of the owner or occupier of the land on which such game was found beforehand or, where the owner or occupier is not available, of the official in charge of the police station or office of the nature conservator nearest to the land on which the game was found.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **37 Receipt, possession, acquisition or handling of dead game**

(1) Any person who-

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

shall be guilty of an offence.

(2) For the purposes of sub-section (1) "dead game" shall not include dead game purchased at a public sale.

### **38 Conveyance of dead game**

(1) No person shall convey dead game: Provided that dead game may be conveyed-

- <sup>xiv</sup>1 (a) by the owner of the land if he or she has hunted the game in terms of this Ordinance or by any person on his or her behalf who shall carry with him or her, when he or she conveys that game, a document from the owner which shall contain the following particulars:
  - (i) the name and address of the owner;
  - (ii) a description of the land on which the game was hunted,
  - (iii) the species and number of game to be conveyed;
  - (iv) the destination of the game;
  - (v) the name of the person who conveys the game;



- (vi) the signature of the owner and the date on which the owner signed the document;
- (b) by any person who has purchased it at a public sale;
- <sup>xv2</sup>(c) by any person who has imported such game which is an endangered species or a rare species into the Province-
  - (i) from any place, excluding another province, and carries a permit issued in terms of section 98(1) with him or her when he or she conveys it.
  - (ii) from another province and carries documentary proof of the hunting, purchase or donation thereof with him or her when he or she conveys it;
- (d) by any person who has hunted or caught it in terms of a licence, permit or exemption and who carries the licence, permit or exemption with him or her when he or she conveys it;
- <sup>xvi2</sup>(e) by any person who has imported such game which is not an endangered species or a rare species from any place outside the Province and carries documentary proof of the hunting, purchase or donation thereof with him or her when he or she conveys it;
- (f) by any person who has hunted or caught it in terms of a permission contemplated in section 47(2) and who carries the permission with him or her when he or she conveys it;
- (g) by a relative of the owner of land who has hunted it on the land of the owner with the written permission of the owner and who carries the permission with him or her when he or she conveys it;
- (h) by any person who has picked it up and who carries the permission contemplated in section 36(1) with him or her when he or she conveys it;
- (i) by any person to whom it has been donated and who carries the document contemplated in section 35(1) with him or her when he or she conveys it;
- (j) by any person who has purchased it lawfully.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **39 Keeping or conveyance of live game**

(1) No person shall keep or convey live game, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of

an offence.

#### **40 Keeping or conveyance of wild animals or exotic animals in certain conditions**

(1) No person shall keep or convey or cause a wild animal or an exotic animal to be kept or conveyed in conditions which are unhygienic or in which such animal may be injured or unnecessarily disturbed.

(2) A nature conservator may, if he or she is of the opinion that a wild animal or an exotic animal is being kept or conveyed in the conditions contemplated in sub-section (1), instruct the person who keeps or conveys the animal in such conditions in writing to take the steps referred to in the instruction or to rectify such conditions.

(3) Any person who contravenes or fails to comply with sub-section (1) or (2) shall be guilty of an offence.

#### **41 Importing of live wild animals**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

#### **42 Exporting or removal of wild animals from Province**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

(3) Notwithstanding the provisions of sub-section (2), any person convicted of a contravention of sub-section (1) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Subs. (3) added by s. 12 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

[NB. Please *see* section 34 and Part (b) of Schedule 3 of Act 107 of 1998 for provisions in respect of criminal proceedings.]

#### **43 Prohibited acts with certain live wild animals**

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

<sup>xvii</sup>1 (2) The MEC may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 5 to this ordinance.

(3) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

#### **44 Prohibited acts with exotic animals**

(1) No person shall-

<sup>xviii</sup>1 (a) import into the Province or convey or set free therein a live exotic animal;

(b) convey, keep, possess, sell, purchase, donate or receive as a donation a live exotic animal referred to in Schedule 6 to this Ordinance,

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

<sup>xix</sup>2 (2) The MEC may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 6 to this ordinance.

(3) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

#### **45 Prohibited acts with certain invertebrata**

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

<sup>xx</sup>3 (2) The MEC may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 7 to this Ordinance.

(3) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

(a) where such person has not been previously convicted of a contravention of this section, to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment;

- (b) where such person has been previously convicted of a contravention of this section, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

#### **46 Power of Administrator in respect of survival of certain wild animals**

(1) Where the MEC deems it necessary for the survival of any species of wild animal, he or she may, after consultation with the owner or occupier of the land on which the species of wild animal is found, instruct an officer of the Nature Conservation Division in writing to catch such species of wild animal and to release it on the land defined in the instruction.

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

(3) Any person who wilfully obstructs, hinders or interferes with an officer in the carrying out of an instruction given in terms of sub-section (1) shall be guilty of an offence.

(4) The MEC may pay the owner of the land on which a wild animal has been caught in terms of sub-section (1) such compensation as he or she may deem reasonable.

#### **47 Exemption to hunt, catch or sell game**

(1) Where the MEC is of the opinion that land is fenced in such manner-

- (a) that game on land outside the fence cannot readily gain access to the land which is fenced;
- (b) that game cannot readily escape from the land which is fenced,

he or she may, on the written application of the owner of the land, exempt-

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

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

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

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

(b) authorize any other person to assist with the catching of the game referred to in the exemption on the land contemplated therein.

(3) A permission contemplated in sub-section (2) shall contain-

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

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

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

(6) Any person who contravenes or fails to comply with sub-section (5) shall be guilty of an offence.

#### **48 Prohibited acts**

(1) Any person who-

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

shall be guilty of an offence and liable on conviction to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

(2) Notwithstanding the provisions of sub-section (1), any person convicted of a contravention of sub-section (1)(b) or (c) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Subs. (2) added by s. 13 of A. Procl. 25/1991 w.e.f. 17.7.1991 while existing section became subs. (1).]

#### **49 Written permission**

The written permission contemplated in paragraphs (c) and (d) of the proviso to section 17(1) and in section 29 shall contain-

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

#### **50 Establishment or operating of game parks or similar institutions**

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

(2) Sub-section (1) shall not apply to an institution which is subject to the provisions of the Cultural Institutions Act, 1969 (Act 29 of 1969).

(3) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **CHAPTER IV**

### **PROFESSIONAL HUNTERS AND HUNTING-OUTFITTERS (secs 51-54)**

#### **51 Acting as professional hunters or hunting-outfitters**

(1) Subject to the provisions of this Ordinance, no person shall act-

- (a) as professional hunter;
- (b) as a hunting-outfitter,

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

(2) The MEC may, by notice in the *Provincial Gazette*, exempt any group or class of professional hunters or hunting-outfitters from the provisions of sub-section (f).

(3) The requirements to be complied with by a professional hunter or hunting-outfitter shall be as the MEC may from time to time determine or prescribe.

(4) The MEC may appoint such number of persons as he or she may deem expedient as a testing-team to advise him or her whether an applicant complies with the requirements determined or prescribed in terms of subsection (3) and may from time to time determine the remuneration, travelling and subsistence allowances and other allowances payable to a member of a testing-team who is not a member of the Public Service of the Republic.

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

(6) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

## **52 Hunting of wild animals or exotic animals by clients**

(1) A client shall not hunt a wild animal or an exotic animal, unless-

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

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

(3) A client shall obey any instruction given in terms of sub-section (2).

(4) Any person who contravenes or fails to comply with sub-section (1), (2) or (3) shall be guilty of an offence and liable on conviction, in the case of a contravention of sub-section (2), to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

## **53 Transfer of hunting-rights**

(1) The owner of the land may transfer in writing any of his or her hunting-rights, excluding those conferred by paragraph (b) of the proviso to section 18(1), paragraph (ii) of the proviso to section 21(1), the proviso to section 23(1) and paragraph (i) of the proviso to section 27(1), to any other person.

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

## **54 Hunting-outfitters to be holders of hunting-rights**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty on an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of this section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R750 or to imprisonment for a period not exceeding 9 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of this section or a



corresponding provision of the repealed Ordinance, to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

(3) Notwithstanding the provisions of sub-section (2), any person convicted of a contravention of sub-section (1) in respect of specially protected game shall be liable to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal in respect of which the offence was committed.

[Added by s. 14 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

## **CHAPTER V**

### **PROBLEM ANIMALS (secs 55-66)**

#### **55 Application of Chapter**

Subject to section 66(1)(b), the provisions of this Chapter shall not apply within an area which <sup>xxii1</sup> -

- (a) has in terms of section 3 of the repealed Ordinance been declared to be a nature reserve or in terms of section 14 of this Ordinance is declared to be a nature reserve;
- (b) in terms of any other law is a nature reserve or similar reserve or is declared to be such a reserve;
- (c) and (d) ...

[The administration of pars. (a) and (b) has not been assigned to the Province of Gauteng.]

#### **56 Problem animals**

(1) The wild animals referred to in Schedule 8 to this Ordinance shall be problem animals and are deemed to be vermin or other animals causing damage.

<sup>xxiii2</sup> (2) The MEC may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 8 to this ordinance.

#### **57 Clubs for hunting of problem animals**

(1) Seven or more occupiers of land may establish a club to hunt problem animals in an area, hereinafter referred to as a hunting area.

(2) One club only may be established for a hunting area.

#### **58 Constitution of clubs and office-bearers**

The members of a club established in terms of section 57 shall draft a constitution for the club and shall elect a captain, vice-captain, secretary and such other office-bearers as may be necessary.

## **59 Registration of clubs**

(1) The secretary of a club established in terms of section 57 shall forthwith after establishment thereof apply to the MEC for the registration of the club and at the same time submit such documents and furnish such information as may be prescribed.

(2) If the MEC approves the application, he or she shall-

- (a) publish a notice to that effect in the *Provincial Gazette* and define therein the hunting area of the club;
- (b) register the club by recording-
  - (i) the name thereof;
  - (ii) the definition of the hunting area contemplated in paragraph (a);
  - (iii) the name and residential address of every office-bearer;
  - (iv) the number of members;
  - (v) such other particulars as he or she may deem fit,

in a register kept for that purpose.

## **60 Powers of Administrator**

(1) The MEC may by notice in the *Provincial Gazette*-

- (a) amend the definition of the hunting area of a club;
- (b) cancel the registration of a club;
- (c) on the application of the majority of owners <sup>xxiv</sup>**1** of land within the hunting area of a club, declare that membership of the club shall be compulsory.

(2) Where the MEC-

- (a) has amended the definition of the hunting area of a club in terms of subsection 1(a), he or she shall forthwith amend the register contemplated in section 59(2) accordingly;
- (b) has cancelled the registration of a club in terms of subsection (1)(b), he or she shall

notify the secretary of the club forthwith by registered post at his or her last-known address of the cancellation and thereafter the club shall cease to exist;

- (c) has in terms of sub-section (1)(c) declared that the membership of a club shall be compulsory, every owner<sup>xxv1</sup> of land within the hunting area of the club shall be a member of the club and such a member shall pay such membership fee as the club may levy and which shall not exceed the membership fee approved by the MEC.

## **61 Hunting by clubs**

(1) A club shall not hunt a problem animal prior to the publication of the notice contemplated in section 59(2)(a).

(2) A club may, without the permission of the occupier of land hunt a problem animal on the land of such occupier situated within the hunting area of the club.

(3) A club may forthwith pursue a problem animal which flees while it is hunted lawfully and kill it on the land to which it has fled.

(4) Any person approved by the MEC may be nominated by a club to hunt on behalf of the club, and for the purposes of a hunt such person shall be deemed to be a member of such club.

(5) Where a club kills a problem animal found on land contemplated in sub-section (2) or (3) and the occupier of the land is not a member of the club, the club may, within 7 days from the date on which the problem animal was killed, claim the reasonable expenditure incurred in connection with the hunting of the problem animal or the average membership fee for the immediate preceding financial year, whichever amount is the greater, from the occupier who shall, subject to sub-section (6), pay the amount within 30 days from the date of the claim.

(6) If the occupier contemplated in sub-section (5) disputes the claim or the amount claimed, he or she may, within 10 days from the receipt of the claim, make representations to the MEC in writing and forward a copy thereof to the secretary of the club for comment, and the MEC shall, on receipt of the comment of the club, if any, consider the representations and comment and shall either exempt the occupier from payment of the amount claimed or determine the amount to be paid, and the occupier shall pay the amount so determined within 30 days from the date of the determination.

(7) The secretary of a club shall, by at least 3 days' prior written notice, summon the members of the club who are to attend a hunt, and a member who-

- (a) subject to sub-section (8), without reasonable excuse fails to attend the hunt, may be fined by the club to an amount not exceeding R20 and the member shall pay the amount within 14 days from the date he or she is called upon to do so;
- (b) without reasonable excuse refuses or fails to render assistance to the club while a

problem animal is hunted on the land of which he or she is the occupier, shall be guilty of an offence.

(8) Where a member of a club is summoned in terms of sub-section (7) to attend a hunt he or she may, and if a juristic person it shall, procure the services of a male person above the age of 15 years to attend the hunt on his or her or its behalf.

## **62 Hunting of problem animals by employees of Administration**

The MEC may, upon the application of the occupier of land in respect of which no club has been established in terms of section 57, make an employee of the Administration available to hunt problem animals on the land of such occupier on such conditions, including the levying of fees, as the MEC may determine.

## **63 Research on problem animals**

<sup>xxvi</sup> (1) The MEC may authorize any person in writing to do such research as he or she may determine on a problem animal, or a wild animal or an exotic animal the name of which may, in the opinion of the MEC, be included in Schedule 8 to this ordinance in terms of section 56(2) and which he or she likewise determines.

(2) Any person authorized in terms of sub-section (1) to do research may, for that purpose, but on such conditions as the MEC may determine-

- (a) enter upon any land without the permission of the owner, lessee or occupier thereof;
- (b) catch or hunt the animal on which research is done with the aid of any device or means whatsoever or poison such animal.

## **64 Dogs for hunting of problem animals and licensing of such dogs**

The MEC may-

- (a) acquire, keep, breed or train dogs for the hunting of problem animals and sell such dogs to a club or any person on such conditions as he or she may determine;
- (b) notwithstanding the provisions of the Licensing and Control of Dogs Ordinance, 1933 (Ordinance 18 of 1933), or any other law relating to the licensing of dogs, exempt-
  - (i) a member of a club who is the owner of a dog which is registered by the club in the prescribed manner and which may be used by the club for the hunting of problem animals;
  - (ii) any person who breeds or train dogs for the hunting of problem animals;

from the payment of licence fees in respect of such dogs.

## **65 Financial assistance to clubs**

The MEC may, on such conditions as he or she may determine, render financial assistance to a club or body which is actively engaged in the hunting of problem animals and which is unable to function effectively as a result of a lack of funds or suitable equipment.

## **66 Offences**

(1) No person shall-

- (a) lay poison within the hunting area of a club, unless he or she has obtained the consent of the club beforehand or is in terms of any law authorized to do so;
- (b) keep, possess, sell, buy, donate, or receive as a donation, import, convey, breed or set free a live problem animal in the Province, including the areas contemplated in <sup>xxviii</sup>1 paragraphs (a), (b), (c) and (d) of section 55, or export or remove such an animal from the Province, unless he or she is the holder of a permit which authorizes him or her to do so;
- (c) wilfully obstruct, hinder or interfere with a club or a member thereof or any other person in the exercise of any power or the performance of any function or duty conferred, assigned or imposed in terms of this Chapter.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **CHAPTER VI FISHERIES (secs 67-85)**

## **67 Application of Chapter**

The provisions of this Chapter shall not apply-

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

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

## **68 Closed season for fish**

The MEC may by notice in the *Provincial Gazette* declare a period to be a closed season during which the catching of fish in the waters defined in the notice shall be prohibited.

## **69 Catching of fish during closed season**

Any person who-

- (a) catches fish during a closed season in the waters defined in a notice contemplated in section 68;
- (b) wilfully damages, disturbs or destroys the ova or spawn of fish or the spawning bed, bank or shallow whereon or wherein the spawn of fish is deposited,

shall be guilty of an offence.

## **70 Trout waters**

(1) The waters defined in Schedule 9 to this Ordinance shall be trout waters in so far as those waters are situated in a particular province.

[As substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995.]

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

[Substituted by s. 15 of A. Procl. 25/1991 w.e.f. 17.7.1991.]

## **71 Catching of fish otherwise than by angling**

(1) No person shall-

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **72 Permissible fishing tackle and bait**

(1) No person shall-

- (a) angle in trout waters otherwise than with one line with one or more non-spinning artificial flies attached to it;
- (b) angle in other waters with more than two lines with more than either two single hooks

with natural bait or one artificial lure or spoon attached to each line;

- (c) catch fish with a set-line, unless he or she is the holder of a permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **73 Possession of nets or traps**

(1) No person shall possess a net or trap with which fish may be caught: Provided that-

- (a) any person may possess a landing-net or keep-net designed for the purpose of landing or keeping fish caught with a line and a fish-hook;
- (b) such a net or trap may be possessed by-
  - (i) the owner or occupier of land surrounding waters;
  - (ii) a licensed dealer on the premises where he or she carries on business;
  - (iii) the holder of a permit issued in terms of section 71(1)(a).

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **74 Angling without licence**

(1) Subject to the provision of this Ordinance, no person of and above the age of 16 years shall angle, unless he or she is the holder of a licence which authorizes him or her to do so and carries a licence with him or her when angling.

(2) Notwithstanding sub-section (1)-

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

(3) Any person who contravenes or fails to comply with sub-section (1) or any person contemplated in sub-section (2)(c) who fails to obtain the permission contemplated therein or

fails to carry it with him or her while angling shall be guilty of an offence and liable on conviction-

- (a) where such person is not the holder of a licence or permission, to a fine not exceeding R750 or to imprisonment or a period not exceeding 9 months or to both such fine and such imprisonment;
- (b) where such person is the holder of a licence or permission but does not carry it with him or her while angling, to a fine not exceeding R250 or to imprisonment for a period not exceeding 3 months.

## **75 Permission necessary to catch fish**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **76 Entering upon land with fishing tackle**

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

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

(3) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **77 Placing of obstruction in waters and draining of waters**

Any person who-

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



shall be guilty of an offence.

## **78 Placing of certain objects in waters**

(1) No person shall place an object which floats in waters which-

(a) constitutes or is likely to constitute a danger-

(i) to a vessel;

(ii) to any person practising sport;

(iii) to any person who angles,

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

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

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **79 Placing or releasing of fish in waters**

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

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

(3) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **80 Sale of live fresh water fish**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **81 Importing of live fish**

(1) No person shall import live fish into the Province, unless he or she is the holder of a

permit which authorizes him or her to do so.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **82 Exemption to catch or sell trout**

Where the MEC is of the opinion that waters are so situated or are contained in such manner that fish cannot readily gain access to such waters, he or she may, upon the written application of the owner of the land on which such waters are situated, exempt-

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

in writing from all or any of the provisions of this Ordinance applicable to the catching or sale of fish in respect of the catching of trout in the waters referred to in the exemption and the sale thereof.

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

(3) A permission contemplated in sub-section (2) shall contain-

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

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

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

(6) Any person who contravenes or fails to comply with sub-section (5) shall be guilty of an offence.

## **83 Receipt, possession, acquisition or handling of fish**

Any person who-

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

shall be guilty of an offence.

#### **84 Pollution of waters**

Any person who-

- (a) carries on a business or follows an occupation having the effect that any substance or thing, whether solid, liquid or gaseous, is used or produced which is likely to be or become injurious to fish or fish food, and does not take the necessary steps to prevent such substance or thing from entering or percolating into waters in which there is fish;
- (b) deposits any substance or thing contemplated in paragraph (a) into waters in which there is fish or causes or allows it to enter or percolate therein,

shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment and may be fined to a further amount not exceeding R500 for every day the offence continues.

[NB. Please *see* section 34 and Part (b) of Schedule 3 of Act 107 of 1998 for provisions in respect of criminal proceedings.]

#### **85 Prohibited acts with certain aquatic growths**

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

<sup>xxviii</sup>1 (2) The MEC may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 10 to this Ordinance.

(3) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

### **CHAPTER VII INDIGENOUS PLANTS (secs 86-96)**

## 86 Protected plants and specially protected plants

(1) The plants referred to-

- (a) in Schedule 11 to this Ordinance shall be protected plants;
- (b) in Schedule 12 to this Ordinance shall be specially protected plants.

<sup>xxix</sup>1 (2) The MEC may by notice in the *Provincial Gazette* amend, substitute or repeal Schedule 11 or 12 to this Ordinance.

## 87

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

- (a) the flower of a protected plant;
- (b) a protected plant-
  - (i) as far as it is necessary for grazing, the making of hay or for any other *bona fide* farming purpose or by burning the veld;
  - (ii) on the portion of such land-
    - (aa) required for the cultivation, the erection of a building, the construction of a road, dam or airfield, or other development necessitating the destruction of vegetation;
    - (bb) set apart solely for the cultivation of such plant.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## 88 Picking of indigenous plants in nature reserves

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

- (a) an indigenous plant which is not a protected plant or specially protected plant;
- (b) a protected plant as contemplated in the proviso to section 87(1).

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **89 Picking of indigenous plants on or near public roads**

(1) Subject to the provisions of this Ordinance, no person shall pick an indigenous plant-

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

unless he or she is the holder of a permit which authorizes him or her to do so: Provided that the owner of land contemplated in paragraph (b) or a relative of his or her may pick on such land or the occupier of land contemplated in paragraph (b) or a relative of his or her may pick on such land an indigenous plant as contemplated in the proviso to section 87(1).

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **90 Picking of indigenous plants by any person other than owner or occupier**

(1) Subject to the provisions of this Ordinance, no person shall pick an indigenous plant which is not a protected plant or specially protected plant on land of which he or she is not the owner or occupier: Provided that-<sup>xxx1</sup>

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

such a plant.

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **91 Donation, sale, export or removal from Province of protected plants**

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

- (a) any person-
- (i) who is authorized in terms of the proviso to sub-section 87(1), 88(1) or 89(1) to pick a protected plant may donate the flower thereof;
  - (ii) may donate a protected plant planted on land set apart solely for the cultivation thereof;
- (b) a protected plant may be donated or sold by-
- (i) any person who is licensed in terms of the Licences Ordinance, 1974, to sell plants and who acquired the protected plant from any person who sold it lawfully;
  - (ii) a botanical garden which is subject to the provisions of the Cultural Institutions Act, 1969;
- <sup>xxxi2</sup>(c) a protected plant donated or sold in terms of this sub-section may be exported or removed from the Province by the donee or purchaser thereof, if he or she has documentary proof of the donation or purchase and carries it with him or her when he or she conveys the plant.

(2) and (3) ...

[Deleted by s. 3(b), Procl. 61/1987 w.e.f. 4.11.1987.]

(4) Any person who contravenes or fails to comply with sub-section (1), shall be guilty of an offence.

## **92 Purchase or receipt of protected plants**

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

(2) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence.

## **93 Importing into and conveyance within Province of protected plants**

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

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

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

(i) he or she is authorized in terms of the proviso to section 87(1), 88(1) or 89(1) to pick it;

<sup>xxxii</sup>2 (ii) the protected plant-

(aa) has been donated or sold to him or her in terms of sub-section (1) of section 91 and he or she complies with the provisions of paragraph (c) of the proviso to that section;

(bb) has been donated or sold to him or her by any person exempted in terms of sub-section (1) of section 94 and he or she complies with the provisions of sub-section (4) of that section.

when he or she conveys the plant.

(2) Any person who contravenes or fails to comply with sub-section (1) <sup>xxxiii</sup>1 shall be guilty of an offence.

#### **94 Exemption of owners of nurseries**

(1) The MEC may, upon written application of the owner of a nursery registered in terms of the provisions of the Plant Improvement Act, 1976 (Act 53 of 1976), exempt-

(a) the owner;

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

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

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

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

<sup>xxxiv</sup>1 (4) The holder of a permission contemplated in sub-section (2) shall carry such

permission with him or her when he or she conveys a protected plant in terms of sub-section (3).

## **95 Receipt, possession, acquisition or handling of protected plants**

Any person who-

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

shall be guilty of an offence.

## **96 Prohibited acts with specially protected plants**

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

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

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

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



(4) Any person who contravenes or fails to comply with sub-section (1) or (2) shall be guilty of an offence and liable on conviction in the case of a contravention of sub-section (1) to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the plant in respect of which the offence was committed.

[As substituted by s. 1 of Procl. (Admin.) 28/1994 w.e.f. 20.4.1994.]

[NB. Please *see* section 34 and Part (b) of Schedule 3 of Act 107 of 1998 for provisions in respect of criminal proceedings.]

## **CHAPTER VIII**

### **ENDANGERED AND RARE SPECIES OF FAUNA AND FLORA (secs 97-98)**

#### **97 Endangered and rare species of fauna and flora**

<sup>xxxv1</sup>(1) Every species of fauna and flora referred to in-

- (a) Appendix I;
- (b) Appendix II;

to the Convention of International Trade in Endangered <sup>xxxvi2</sup>Species of Wild Fauna and Flora (Washington DC 1973), as amended up to 6 June 1981, and any readily recognisable part or derivative thereof, shall be an endangered species or a rare species of fauna and flora respectively.

(2) After the commencement of this Ordinance the MEC shall publish forthwith in the *Provincial Gazette* a list of the endangered species and rare species of fauna and flora contemplated in sub-section (1).

(3) Where Annexure I or II to the Convention referred to in sub-section (1) is amended in accordance with the provisions of that Convention, the MEC shall amend the list contemplated in sub-section (2) or substitute therefor a list in which the amendments have been effected.

#### **98 Prohibited acts with endangered species or rare species <sup>xxxvii3</sup>**

(1) No person shall import into or export or remove from the Province an endangered species or a rare species, unless he or she is the holder of a permit which authorizes him or her to do so: Provided that a permit shall not be required for-

- (a) the importation into the Province from or the exportation or removal therefrom to another province of any endangered species or rare species;
- (b) the importation into the province from or the exportation or removal therefrom to the territory of South West Africa or a territory which was formerly part of the Republic of

such endangered species or rare species as the MEC may from time to time determine by notice in the *Provincial Gazette*.

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

(3) Any person who contravenes or fails to comply with sub-section (1) shall be guilty of an offence and liable on conviction-

- (a) where such person has not been previously convicted of a contravention of that sub-section, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment;
- (b) where such person has been previously convicted of a contravention of that sub-section, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

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

[As substituted by s. 2 of Procl (Admin.) 28/1994 w.e.f. 20.4.1994.]

[NB. Please *see* section 34 and Part (b) of Schedule 3 of Act 107 of 1998 for provisions in respect of criminal proceedings.]

## **CHAPTER IX**

### **TRADING IN AND PRESERVATION OF CAVE-FORMATIONS (sec 99)**

#### **99 Prohibited acts with caves or cave-formations**

(1) No person shall-

- (a) remove from a cave;
- (b) by way of sale, exchange or donation dispose of;
- (c) import into the Province or export or remove therefrom, a cave-formation, unless he or she is the holder of a permit which authorises him or her to do so.

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

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

(3) No person shall-

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

(4) Any person who-

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

shall be guilty of an offence and liable on conviction-

- (i) where such person has not been previously convicted of a contravention of this sub-section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R1 500 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment;
- (ii) where such person has been previously convicted of a contravention of this sub-section or a corresponding provision of the repealed Ordinance, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding 24 months or to both such fine and such imprisonment.

## **CHAPTER X**

## GENERAL (secs 100-116)

### 100 Licences, permits and exemptions

(1) Subject to the provisions of this Ordinance, the MEC may, upon application and payment of the prescribed fees, issue to any person a licence, permit or exemption provided for in this Ordinance which shall be valid for the period referred to in the licence, permit or exemption: Provided that-

- (a) the MEC may, without assigning any reason, refuse to issue such a licence, permit or exemption;
- (b) the Administrator may exempt any person from the payment of the prescribed fees.

(2) A licence, permit or exemption issued in terms of sub-section (1) shall be subject to such conditions-

- (a) as may be prescribed; and
- (b) as the MEC may deem fit to impose in any particular case.

(3) The MEC may at any time, without assigning any reason, amend, suspend or cancel a licence, permit or exemption issued in terms of sub-section (1) or amend, delete or add any condition contemplated in sub-section (2)(b).

(4) The MEC shall notify the holder of a licence, permit or exemption of the amendment, suspension or cancellation thereof or of the amendment, deletion or addition of any condition in terms of sub-section (3) and the holder shall submit the licence, permit or exemption forthwith to the MEC.

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

(6) The holder of a licence, permit or exemption issued in terms of sub-section (1)-

- (a) who contravenes or fails to comply with a condition to which the licence, permit or exemption is subject in terms of sub-section (2);
- (b) who fails to submit the licence, permit or exemption to the MEC in terms of sub-section (4) or to return it to him or her in terms of sub-section (5),

shall be guilty of an offence.

### 101 General powers of MEC

The MEC may-

- (a) by notice in the *Provincial Gazette* exclude any species of wild animal, exotic animal, invertebrate, fish, indigenous plant or exotic plant, either generally or specifically, from all or any of the provisions of this Ordinance for the area defined in the notice and indicate therein the persons or class or category of persons to whom the provision concerned shall not apply;
- (b) if he or she is of the opinion that it is or will be in the interests of nature conservation, exempt any person from all or any of the provisions of this Ordinance;
- (c) reserve for a particular purpose any land used by the Administration for the purposes of this Ordinance or portion thereof;
- (d) acquire movable or immovable property or a servitude thereon or any other right thereto for-
  - (i) the establishment, erection, extension or improvement of any nature reserve, recreation area, fishery or nursery;
  - (ii) the conservation of any wild animal, exotic animal, invertebrate, fish or plant;
- (e) admit visitors to land used by the Administration for the purposes of this Ordinance, limit the admission of visitors or close such land entirely or partially to all visitors or any category of visitors;
- (f) if he or she is of the opinion that it will be in the interest of nature conservation, provide in or on land on which there is a nature reserve, recreation area, fishery or nursery such facilities for visitors as he or she may deem expedient;
- (g) take such measures as he or she may deem necessary or expedient-
  - (i) for research in connection with any wild animal, exotic animal, invertebrate, fish, plant, cave or waters;
  - (ii) in connection with the propagation and preservation of any wild animal, exotic animal, invertebrate, fish or plant;
  - (iii) for the control of weed, invader plants or aquatic growths;
  - (iv) for the preservation of a cave-formation, waters or the environment;
- (h) take steps-
  - (i) for the importation and acclimatization of any wild animal, exotic animal, invertebrate, fish or plant;

- (ii) for the catching of any wild animal, exotic animal, invertebrate or fish or for the picking of any plant;
- (iii) for the destruction, reduction, removal or elimination, either generally or in a particular area, of any species of wild animal, exotic animal, invertebrate, fish or plant which may be harmful or injurious to the existence of any other species of wild animal exotic animal, invertebrate, fish or indigenous plant;
- (i) make any survey or institute any investigation in connection with any wild animal, exotic animal, invertebrate, fish, plant, cave-formation or waters;
- (j) purchase, sell or exchange any wild animal, exotic animal, invertebrate, fish or plant;
- (k) collect and publish statistics and information in connection with nature conservation;
- (l) in collaboration with any other public or private body take steps to develop and control land for the promotion of nature conservation;
- (m) render assistance, whether financial or otherwise, to any person who, in the opinion of the MEC, is promoting the conservation of any species of wild animal, invertebrate, fish, plant, cave-formation or of nature generally;
- (n) determine the fees to be levied for the right to enter upon land used by the Administration for the purposes of this Ordinance or to perform any particular act there on or to use any facility there on;
- (o) in general take such measures as he or she may deem necessary or expedient for the better carrying out of the provisions and objects of this Ordinance, and the generality of this provision shall not be limited by the preceding paragraphs of this section.

## **102 Regulations**

- (1) The MEC may make regulations relating to-
  - (a) the administration of-
    - (i) the land used by the Administration for the purposes of this Ordinance;
    - (ii) waters or caves on land contemplated in subparagraph (i);
  - (b) the control of the entry into or passage through or over land, waters or caves contemplated in paragraph (a) by-
    - (i) any person or animal;

- (ii) any float, vessel, hovercraft, aircraft or vehicle;
- (c) the control of-
  - (i) any person or an animal;
  - (ii) traffic or the use of any float, vessel, hovercraft, aircraft or vehicle;  
on any land or waters contemplated in paragraph (a);
- (d) the limiting of the power or type of engine or machine used to propel a boat, float or similar vessel on waters on land contemplated in paragraph (a);
- (e) the prohibition, regulation or control of-
  - (i) the use of;
  - (ii) any act by any person or category of persons on land reserved in terms of section 101(c);
- (f) the manner in which application shall be made in terms of this Ordinance for and the form of a licence, permit or exemption, the circumstances in which and conditions on which it shall be issued and the provisions thereof;
- (g) the granting of different types of licences, permits or exemptions to different categories of persons and the different fees payable for licences, permits or exemptions;
- (h) the number and species of wild animals, exotic animals, invertebrata, fish or plants which may be hunted, caught, angled or picked in terms of a licence, permit or exemption;
- (i) the control and regulation of the hunting or catching of a wild animal, an exotic animal, fish or invertebrate;
- (j) the taking, disturbing, destruction or collection of the eggs or egg shells of a bird or reptile;
- (k) the sale of a wild animal, exotic animal, invertebrate, fish, plant or cave-formation;
- (l) the importation into the Province or the exportation or removal therefrom of a wild animal, exotic animal, invertebrate, fish, plant, endangered species, rare species or cave-formation;
- (m) the possession, keeping, conveyance or removal from one place to any other place of a wild animal, exotic animal, invertebrate, fish, plant or cave-formation;

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

and in general relating to any other matter, whether or not connected with a matter stated in



paragraphs (a) up to and including (y), which shall or may be prescribed and which he or she may deem necessary or expedient to prescribe for the better carrying out of the objects of this Ordinance.

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

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

(4) Regulations made in terms of sub-section (1) may provide for penalties for a contravention thereof or failure to comply therewith, but no penalty shall exceed a fine of <sup>xxxix</sup>1 R750 or imprisonment for a period of 19 months or both such fine and such imprisonment.

(5) Notwithstanding the provisions of sub-section (4), regulations made in terms of sub-section (1) may provide in respect of a contravention thereof or a failure to comply therewith, in relation to specially protected game or specially protected plants, for a fine or for imprisonment for a period not exceeding 5 years or for both a fine and such imprisonment.

[As substituted by s. 3 of Procl. (Admin.) 28/1994 w.e.f. 20.4.1994.]

### **103 Power of MEC where land is held by more than one person, partnership or other body**

Where land is held by-

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

the MEC shall prescribe who shall, on behalf of such persons, partnership or body, exercise or perform the powers, functions or duties which an owner of land may exercise or perform in terms of the provisions of this Ordinance.

### **104**

The MEC may, on such conditions as he or she may deem expedient, grant official recognition to any society or association of persons, the activities of which, in his or her opinion, promote any object of this Ordinance and he or she may prescribe the powers and functions of such a society or association.

[In the original promulgation of this Ordinance there was no marginal note to the English version of s. 104.]

## **105 Delegation of powers, functions and duties**

The MEC may delegate any power or function conferred upon or assigned to him or her by this Ordinance, other than the power to issue a notice or make regulations, or any duty so imposed upon him or her to the *Head: Nature Conservation*, and the MEC may authorize the *Head: Nature Conservation* to delegate further such power, function or duty as the MEC may deem fit.

[Expressions in italics substituted by Procl. R. 22, 1995 w.e.f. 31.3.1995.]

## **106 Powers, functions and duties of nature conservators and honorary nature conservators**

(1) A nature conservator may-

- (a) at any time enter upon any land or premises and there carry out any investigation which he or she deems necessary to determine whether the provisions of this Ordinance are being complied with;
- (b) search any land, premises, building, tent, camping place, float, vessel, hovercraft, aircraft, vehicle or container, if he or she has reason to suspect that there is anything thereon or therein which is being or has been used for the purpose of or in connection with the commission of an offence in terms of this Ordinance or which may serve as proof of the commission of such offence;
- (c) at any time stop any float, vessel, hovercraft, aircraft or vehicle, whereon or wherein anything contemplated in paragraph (b) presumably is or was or order the driver or pilot thereof to stop;
- (d) seize anything which he or she reasonably believes to have been used in or in connection with the commission of an offence in terms of this Ordinance or which may serve as proof of the commission of such an offence;
- (e) at any time interrogate any person who, in his or her opinion, has information relating to the contravention of a provision of this Ordinance and order such person to furnish such information;
- (f) demand the name and address of any person-
  - (i) who has committed an offence in terms of this Ordinance or whom he or she reasonably suspects of having committed such an offence;
  - (ii) who is reasonably deemed to be able to give evidence relating to an offence committed in terms of this Ordinance or reasonably suspected of having been committed;

- (g) remove or cause to be removed any snare, trap, gin, net, birdlime, pitfall, holding pen, trap cage, set gun, fish-trap, setline, poison or other device or means which is presumably being used to hunt or capture a wild animal or fish unlawfully or, if it cannot be removed, destroy it or cause it to be destroyed or render it harmless or cause it to be rendered harmless;
- (h) instruct any person who, on land which is used for the purposes of this Ordinance, contravenes or fails to comply with-
  - (i) a provision of this Ordinance;
  - (ii) a regulation, requirement or condition prescribed or determined in terms of this Ordinance,
 to leave such land;
- (i) stop a boat or vessel on waters on land used by the Administration for the purposes of this Ordinance or stop a vehicle on such land and inspect it to ascertain whether it complies with the requirements prescribed or determined in terms of this Ordinance;
- (j) destroy a dog not used in lawful hunting and which is pursuing or searching for a wild animal;
- (k) demand from any person who is required in terms of this Ordinance to keep or carry with him or her any register, record, book, document, writing or written permission, to produce it for inspection;
- (l) demand from any person who performs an act or in respect of whom it is reasonably suspected that he or she has performed an act for which a licence, permit, exemption, document or written permission is necessary in terms of this Ordinance, to produce it;
- (m) in the exercise of a power or the performance of a function or duty in terms of this Ordinance, make use of an interpreter and, if necessary, of one or more persons, and such an interpreter or other person is deemed to be a nature conservator while acting under the control of the nature conservator.
- <sup>x1</sup>(n) seize any stock or other animal trespassing on land used by the Administration for the purposes of this Ordinance and, notwithstanding the provisions of the Pounds Ordinance, 1972 (Ordinance 13 of 1972), retain such stock or other animal on such land.

(2) An honorary nature conservator shall have the powers, functions and duties, excluding those referred to in paragraph (b), (c), (i) and (m) of sub-section (1), conferred upon, assigned to or imposed upon a nature conservator in terms of that sub-section.

(3) Whenever a nature conservator or an honorary nature conservator exercises a power or performs a function or duty conferred, assigned or imposed in terms of this Ordinance and is requested to produce his or her certificate of appointment contemplated in section 5(2), he or she shall produce it to the person so requesting him or her.

(4) Any person who-

- (a) falsely professes to be a nature conservator, the interpreter of such a conservator, a person contemplated in sub-section (1)(m) or an honorary nature conservator;
- (b) wilfully obstructs, hinders or interferes with any person referred to in paragraph (a) in the exercise of a power or the performance of a function or duty conferred, assigned or imposed in terms of this Ordinance;
- (c) refuses or fails to comply forthwith with an order, instruction or demand given or made by any person referred to in paragraph (a) in the exercise of a power or the performance of a function or duty conferred, assigned or imposed in terms of this Ordinance or furnishes false or misleading information when he or she complies with such an order, instruction or demand;
- (d) has been stopped in terms of sub-section (1)(c) and departs without permission of the nature conservator,

shall be guilty of an offence.

### **107 Powers of owners, occupiers or supervisors of land**

(1) The owner, occupier or supervisor of land may exercise on the land of which he or she is the owner, occupier or supervisor the powers conferred upon a nature conservator in terms of section 106.

(2) For the purposes of sub-section (1) "land" shall not include a public road.

(3) Any person who-

- (a) wilfully obstructs, hinders or interferes with an owner, occupier or supervisor of land in the exercise of a power conferred in terms of sub-section (1);
- (b) refuses or fails to comply forthwith with an order or demand given or made by an owner, occupier or supervisor of land in the exercise of a power conferred in terms of sub-section (1) or furnishes false or misleading information when he or she complies with such an order or demand,

shall be guilty of an offence.

### **108 Exercising or performing of certain powers, functions or duties by occupiers of land**

### **or their relatives**

The powers, functions or duties which an occupier of land or a relative of his or her may exercise or perform in terms of this Ordinance shall be exercised or performed by him or her with the prior written approval of the owner of such land: Provided that the occupier of land may exercise or perform any power, function or duty which he or she may exercise or perform in term of Chapter V or section 107 without such approval.

### **109 Reward for information**

The MEC may, upon the recommendation of the Commissioner of the South African Police, pay to any person not in the service of the State who gives information leading to a conviction of an offence in terms of this Ordinance and the imposition of a fine, a reward not exceeding one-fourth of the amount recovered as fine.

### **110 Presumptions and evidence**

(1) Where at criminal proceedings in terms of this Ordinance-

- (a) any person is charged with the unlawful hunting or catching of a wild animal, exotic animal or invertebrate, the unlawful catching of fish or the unlawful picking of an indigenous plant, it is proved that such person possessed or handled a wild animal, exotic animal, invertebrate, fish or indigenous plant, he or she shall be deemed to have hunted or caught such wild animal, exotic animal or invertebrate, to have caught such fish or to have picked such indigenous plant in contravention of the provisions of this Ordinance;
- (b) it is alleged that an offence has been committed in connection with or in respect of a particular species of wild animal, exotic animal, fish or indigenous plant or a particular sex of a species of wild animal or exotic animal, the species of such wild animal, exotic animal, fish or indigenous plant or the sex of the species of such wild animal or exotic animal shall be deemed to be as alleged;
- (c) it is proved that a wild animal, exotic animal, fish or indigenous plant was upon a float, vessel, hovercraft, aircraft or vehicle or at a camping place, every person who was upon or in any way associated with the float, vessel, hovercraft, aircraft or vehicle or who was at or in any way associated with the camping place shall be deemed to have been in possession of such wild animal, exotic animal, fish or indigenous plant;
- (d) it is proved that any person conveyed game during the night, such person shall be deemed to have hunted such game contrary to section 20;
- (e) it is proved that any person removed a wild animal or fish out of a snare, trap, gin, net, fish-trap, pitfall, holding pen, trapcage or other device intended or suitable for the hunting or catching of a wild animal or fish, or from bird-lime, a set-line or other means intended or suitable for such purpose, he or she shall be deemed to have constructed or

brought such snare, trap, gin, net, fish-trap, pitfall, holding pen, trap-cage, bird-lime, set-line or other device or means on the land where he or she so removed such wild animal or fish and to have hunted or caught such wild animal or fish therewith;

- (f) it is proved that a live wild animal or exotic animal was found in circumstances indicating that such animal is being kept, the owner or occupier of the land on which the animal was found shall be deemed to have kept such animal;
- (g) it is proved that a weapon referred to in section 21 was found in the possession of any person in circumstances indicating that game is being or was being hunted or presumably is being or was being hunted with such weapon, such person shall be deemed to have hunted game with such weapon;
- (h) it is proved that land is fenced as contemplated in section 26 and an opening was left or made in the fence, it shall be deemed that such opening was left or made by the owner or occupier of the land and that it is designed as contemplated in that section;
- (i) it is proved that live wild animals or exotic animals are being confined in an artificial manner on a piece of land and are being kept for exhibition, such piece of land shall be deemed to be a game park, zoological garden, bird sanctuary, reptile park, snake park or similar institution operated by the owner or occupier of such land;
- (j) it is proved that any game, a live wild animal referred to in Schedule 5, a live exotic animal referred to in Schedule 6, an invertebrate referred to in Schedule 7, an aquatic growth referred to in Schedule 10 to this Ordinance, a live freshwater fish, a protected plant, a specially protected plant or a caveformation was found in any shop or other place of sale, the person in whose possession it was found or who has control over such shop or place shall be deemed to have attempted to sell such game, wild animal, exotic animal, invertebrate, aquatic growth, fish, plant or cave-formation unlawfully;
- (k) it is proved that any person cast into waters and withdrew or reeled with jerking motions a line with an artificial lure, spoon or hook attached thereto, such person shall be deemed to have had the intention to hook fish, on any part other than in the mouth;
- (l) it is proved that any person placed an object which floats in water, it shall be deemed that such an object constitutes or is likely to constitute a danger to a vessel on such waters or to any person practising sport therein or thereon or to any person angling therein or that such an object serves as marker indicating the place where there is any object, substance, agent or product under the water which allures or is likely to allure fish;
- (m) it is proved that any person was in possession or in control of an endangered species or rare species, such person shall be deemed to have imported such species into the Province;
- (n) it is proved that any person was in possession of an invertebrate referred to in Schedule

7 to this Ordinance or a cave-formation, such person shall be deemed to have acquired such invertebrate or cave-formation unlawfully;

- (o) the certificate of appointment as nature conservator or as honorary nature conservator is produced, it shall be deemed that the person referred to therein has been appointed properly,

until the contrary is proved.

(2) Where at criminal proceedings in terms of this Ordinance the question arises-

- (a) whether the cage or enclosure is of the nature contemplated in section 23(1)(c), a certificate purporting to have been issued by or on the authority of the MEC declaring that the cage or enclosure is of such a nature, shall be *prima facie* proof of such fact;
- (b) whether land is fenced in the manner contemplated in section 26(1), a certificate purporting to have been issued by or on the authority of the MEC declaring that the land is so fenced, shall be *prima facie* proof of such fact;
- (c) whether a particular species of wild animal or invertebrate is or is not found on any particular land or whether a particular species of fish is or is not found in any particular water, a certificate purporting to have been issued by or on the authority of the MEC declaring that the particular species of wild animal or invertebrate is or is not found on the particular land or that the particular species of fish is or is not found in the particular waters, shall be *prima facie* proof of such fact;
- (d) whether a plant referred to in Schedule 11 to this Ordinance is, has or has not been improved, a certificate purporting to have been issued by or on the authority of the MEC declaring that such plant has not been improved, shall be *prima facie* proof of such fact.

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

<sup>xli</sup> (4) Where at criminal proceedings in terms of this Ordinance or any civil proceedings the question arises whether the land on which the stock or other animal seized in terms of section 106(1)(n) trespassed, is land as contemplated in that section, it shall be deemed that the land concerned is such land until the contrary is proved.

## 111 General penalty

(1) Any person convicted of an offence in terms of this Ordinance for which no penalty is expressly provided for shall be liable to a fine not exceeding R750 or to imprisonment for a period not exceeding 9 months or to both such fine and such imprisonment.

(2) Notwithstanding the provisions of sub-section (1), any person convicted of a contravention of this Ordinance in respect of specially protected game and for which no penalty is expressly provided for, shall be liable to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment, and to a fine not exceeding three times the commercial value of the wild animal or plant, as the case may be, in respect of which the offence was committed.

[As substituted by s. 4 of Procl. (Admin.) 28/1994 w.e.f. 20.4.1994.]

## **112 Forfeiture of certain goods and privileges**

(1) The court convicting any person of an offence in terms of this Ordinance-

(a) shall-

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

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

(b) may in any other case-

- (i) declare a float, vessel, hovercraft, aircraft, vehicle or any fishing tackle, excluding fishing tackle contemplated in paragraph (a)(ii),<sup>xlii</sup> used for the purpose of or in connection with the commission of an offence, to be forfeited to the Administration: Provided that the court shall not declare a float, vessel, hovercraft, aircraft or vehicle to be forfeited where it is proved that the convicted person is not the owner thereof and that the owner did not know that it was used or would be used for or in connection with an unlawful purpose or that he or she could not prevent such use;
- (ii) cancel a licence, permit or exemption issued to the convicted person in terms of this Ordinance in respect of the wild animal, invertebrate, fish or plant in connection with which the offence was committed;
- (iii) declare the convicted person unfit for a period not exceeding 5 years to obtain any



licence, permit or exemption in terms of this Ordinance in respect of the wild animal, invertebrate, fish or plant in connection with which the offence was committed.

(2) The MEC or any person authorized thereto by him or her may cause anything declared to be forfeited in terms of sub-section (1) to be destroyed or sold.

(3) Any person who, without the written permission of the MEC, obtains or attempts to obtain a licence, permit or exemption in terms of this Ordinance while he or she is unfit in terms of sub-section (1)(b)(iii) to obtain such a licence, permit or exemption, shall be guilty of an offence.

### **113** <sup>xlili</sup>1

Ordinance does not bind State.

### **114 Limitation of liability**

No person, including the State, shall be liable in respect of anything done in good faith in the exercise of a power or the performance of a function or duty conferred, assigned or imposed in terms of this Ordinance.

### **115 Repeal of laws and saving**

(1) Subject to sub-section (2), the laws referred to in Schedule 1 to this Ordinance are hereby repealed.

(2) Anything done in terms of a provision of a law repealed by sub-section (1) and which may be done in terms of a provision of this Ordinance, is hereby deemed to have been done in terms of the last mentioned provision.

### **116 Short title and commencement**

This Ordinance shall be called the Nature Conservation Ordinance 1983, and shall come into operation on 1 January 1984.

## **SCHEDULE 1 LAWS REPEALED (SECTION 115)**

<b>Number and year of Law</b>	<b>Short title</b>
17 of 1967	Nature Conservation Ordinance
22 of 1968	Nature Conservation Amendment Ordinance
7 of 1969	Nature Conservation Amendment Ordinance
12 of 1971	Nature Conservation Amendment Ordinance

8 of 1975	Nature Conservation Amendment Ordinance
18 of 1976	Nature Conservation Amendment Ordinance
15 of 1979	Nature Conservation Amendment Ordinance
6 of 1980	Nature Conservation Amendment Ordinance
21 of 1981	Nature Conservation Amendment Ordinance

## SCHEDULE 2 PROTECTED GAME (SECTION 15(1)(a))

### A. REPTILES AND MAMMALS

Common name	Scientific name
bullfrog	<i>Pyxicephalus adspersus</i>
all species of reptiles excluding the water leguan, rock leguan and all species of snakes	all species of the Class <i>Reptilia</i> excluding <i>Varanus niloticus</i> , <i>Varanus Albigularis</i> and all species of the Sub Order <i>Serpentes</i>
hedgehog	<i>Erinaceus frontalis</i>
samango monkey	<i>Cercopithecus albogularis</i>
bushbaby	<i>Galago crassicaudatus</i>
night ape	<i>Galago senegalensis</i>
pangolin	<i>Manis temminckii</i>
aardwolf	<i>Proteles cristatus</i>
brown hyaena	<i>Hyaena brunnea</i>
antbeat	<i>Orycteropus afer</i>
mountain zebra	<i>Equus zebra zebra</i>
Hartmann's zebra	<i>Equus zebra hartmannae</i>
hippopotamu	<i>Hippopotamus amphibius</i>
giraffe	<i>Giraffa camelopardalis</i>
nyala	<i>Tragelaphus angasi</i>
eland	<i>Taurotragus oryx</i>
red duiker	<i>Cephalophus natalensis</i>
blue duiker	<i>Cephalophus monticola</i>
reedbuck	<i>Redunca arundinum</i>
mountain reedbuck	<i>Redunca fulvorufula</i>
waterbuck	<i>Kobus ellipsiprymnus</i>

sable antelope	<i>Hippotragus niger</i>
roan antelope	<i>Hippotragus equinus</i>
gemsbok	<i>Oryx gazella</i>
black wildebeest	<i>Connochaetes gnou</i>
red hartebeest	<i>Alceltiphus buselaphus</i>
bontebok	<i>Damaliscus dorcas dorcas</i>
tsessebe	<i>Damaliscus lunatus</i>
klipspringer	<i>Oreotragus oreotragus</i>
oribi	<i>Ourebia ourebi</i>
steenbok	<i>Raphicerus campestris</i>
Sharpe's grysbok	<i>Raphicerus sharpei</i>
suni	<i>Neotragus moschatus</i>
grey rhebuck	<i>Pelea capreolus</i>

["Elephant", "white rhinoceros" and "black rhinoceros" deleted from Schedule 2 by s. 19 of A. Procl. 25/1991 w.e.f. 17.7 1991].

## B. BIRDS

Common name	Scientific name
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(a) . . .

[Deleted by A.N. 566 dd. 21.11.1990.]

- (b) any (other) bird which is a wild animal excluding-
- (i) a bird which is ordinary game; (Schedule 3) and
  - (ii) the following species:

white breasted cormorant	<i>Phalacrocorax lucidus</i>
reed cormorant	<i>Phalacrocorax africanus</i>
red-eyed turtle dove	<i>Streptopelia semitorquata</i>
Cape turtle dove	<i>Streptopelia capicola</i>
laughing dove	<i>Streptopelia senegalensis</i>
all species of mousebirds	<i>Family colidae</i>
piebald crow	<i>Corvus albus</i>
black crow	<i>Corvus capensis</i>

red-eyed bulbul	<i>Pycnonotus nigricans</i>
black-eyed bulbul	<i>Pycnonotus barbatus</i>
red-winged starling	<i>Onychognathus morio</i>
Cape sparrow	<i>Passer melanurus</i>
spotted-backed weaver	<i>Ploceus cucullatus</i>
Cape weaver	<i>Ploceus Capensis</i>
Masked weaver	<i>Ploceus velatus</i>
red -billed quelea	<i>Quelea quelea</i>
red bishop	<i>Eulecites orix</i>
ostrich	<i>Struthio camelus</i>

[Paragraph (b)(ii) amended by A.N. 566 dd. 21.11.1990 by the addition of "ostrich".]

## SCHEDULE 2A SPECIALLY PROTECTED GAME (SECTION 15(1)(aA))

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

[Schedule 2A inserted by s. 20 of A. Procl 25/1991 w.e.f. 17.7.1991.]

## SCHEDULE 3 ORDINARY GAME (SECTION 15(1)(b))

Common name	Scientific name
spur-winged goose	<i>Plectropterus gambensis</i>
Egyptian goose	<i>Alopochen aegyptiacus</i>
yellow-billed duck	<i>Anas undulata</i>
red -billed teal	<i>Anas erythrorhyncha</i>
coqui partridge	<i>Francolinus coqui</i>
crested partridge	<i>Francolinus sephaena</i>
greywing partridge	<i>Francolinus africanus</i>
Shelley's partridge	<i>Francolinus shelleyi</i>
redwing partridge	<i>Francolinus levillantii</i>
Orange River partridge	<i>Francolinus levillantoides</i>

red-billed francolin	<i>Francolinus adspersus</i>
Natal francolin	<i>Francolinus natalensis</i>
Swainson's francolin	<i>Pternistis swainsoni</i>
red-necked francolin	<i>Pternistis afer</i>
helmeted guinea-fowl	<i>Numida meleagris</i>
red-knobbed coot	<i>Fulica cristata</i>
rock pigeon	<i>Columba guinea</i>
all species of hare	Family Leporidae
Burchell's zebra	<i>Equus burchelli</i>
bushbuck	<i>Tragelephus scriptus</i>
kudu	<i>Tragelaphus strepsiceros</i>
grey duiker	<i>Sylvicapra grimmia</i>
blue wildebeest	<i>Connochaetes taurinus</i>
blesbok	<i>Damaliscus dorcas phillipsi</i>
impala	<i>Aepyceros melampus</i>
springbok	<i>Antidorcas marsupialis</i>

#### SCHEDULE 4 PROTECTED WILD ANIMALS (SECTION 15(1)(c))

Common name	Scientific name
wild dog	<i>Lycaon pictus</i>
cheetah	<i>Acinonyx jubatus</i>
leopard	<i>Panthera pardus</i>
lion	<i>Panther leo</i>
African Buffalo	<i>Syncerus caffer</i>

#### SCHEDULE 5 WILD ANIMALS TO WHICH THE PROVISIONS OF SECTION 43 APPLY

- (a) any bird which is a wild animal but which is not game, excluding the ostrich - *Struthio camelus*;
- (b) the following wild animals:

Common name	Scientific name
water leguan	<i>Varanus niloticus</i>

rock leguan  
all species of snakes

*Varanus albigulans*  
Sub Order *Serpentes*

[ Par. (a) amended by A.N. 566 dd. 21.11.1990.]

## SCHEDULE 6 EXOTIC ANIMALS TO WHICH THE PROVISIONS OF SECTION 44 APPLY

Common name	Scientific name
all species of exotic tortoises, turtles and terrapins	all exotic species of the <i>Order Checlonia</i>
<sup>xliv</sup> 1 [all exotic species of New world rats and mice. hamsters, mole rats, Malagasy rats, maned rats, voles, lemmings and gerbils, excluding the Golden hamster.]	all exotic species of the <i>Family Cricetidae</i> , excluding <i>Mesocricetus auratus</i>
nutria	<i>Myocastor coypus</i>
<sup>xlv</sup> 2 ferret	<i>Mustela putorius</i> and all subspecies thereof
bobwhite quail	<i>Colinus virginianus</i>
chukar partridge	<i>Alectoris graeca</i>

## SCHEDULE 7 INVERTEBRATA (SECTION 45)

Common name	Scientific name
<sup>xlvi</sup> 3 All species of baboon spiders belonging to the genera referred to hereby	<i>Ceratogyrus spp. Harpactira spp Pterinochilus spp.</i>
golden copper butterfly	<i>Poecilmitis aureus</i>
all species of charaxes (emperor butterflies)	<i>Charaxes spp.</i>
<sup>xlvii</sup> 4 scarce copper butterfly	<i>Aloeides dentatis dentatis.</i>

## SCHEDULE 8 PROBLEM ANIMALS (SECTION 56)

Common name	Scientific name
chacma baboon	<i>Papio ursinus</i>
vervet monkey	<i>Cercopithecus pygerythrus</i>
black-backed jackal	<i>Canis mesomelas</i>
caracal (red lynx)	<i>Felis caracal</i>

## SCHEDULE 9 TROUTWATERS (SECTION 70)

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

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

25. The Great Letaba River (also known as dit Broederstroom) to its entrance to the Ebenezer Dam.
26. The Klein-Spekboom, River to the railway bridle on the farm Potlood Spruit 30 JT.
27. The Waterval Spruit to its confluence with the Blyde River.
28. The Gladde Spruit to the common boundary of the farms Slaaihoek 540 JT and Uitkomst 541 JT.
29. The tributary of the Komati River on the farms Waaikraal 385 JT, Leeukloof 403 JT and Drenthe 402 JT to its confluence with the Komati River.
30. The tributary of the Komati River on the farms Zevenfontein 388 JT and Welgelegen 400 JT to its confluence with the Komati River.

## SCHEDULE 10 PROHIBITED AQUATIC GROWTHS (SECTION 85)

Common name	Scientific name
azolla	Azolla spp.
pond weed	Egeria densa
parrots feather	Myriophyllum aqualicum
kariba weed	Salvinia molesta
water lettuce	Pistia stratiotes
water hyacinth	Eichomia crassipes

## SCHEDULE 11 PROTECTED PLANTS (SECTION 86(1)(a))

In this Schedule-

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

Common name	Scientific name
all species of tree moss	<i>Porothamnium, Pilotrichella and Papillaria</i> spp.
all species of true ferns excluding the bracken fern	Class Filicinae excluding <i>Ptendium aquilinum</i>
<sup>xlviii</sup> <i>all plants of cycads not occurring in Transvaal and the seedlings of the species of cycads referred to in Schedule 12(a)</i>	<i>all plants of the genus Encephalartos not occurring in Transvaal and the seedlings of the species if Encephalartos referred to in Schedule 12(a)</i>
all species of yellow wood	<i>Podocarpus</i> spp.
all species of wild cypress	<i>Widdringtonia</i> spp.
borassus palm	<i>Borassus aethiopicum</i>



all species of arum lilies	<i>Zantedeschia</i> spp.
all species of flame lilies	<i>Gloriosa</i> spp.
all species of christmas bells	<i>Littonia</i> spp.
all species of red-hot pokers	<i>Kniphofia</i> spp.
all species of aloes excluding-	<i>Aloe</i> spp. excluding-
(a) all species not occurring in the Transvaal: and	(a) all species not occurring in the Transvaal: and
(b) the following species:	(b) the following species:
aculeata, ammophilla	<i>A. aculeata</i> , <i>A. ammophilla</i> ;
arborescens, barbertoniae	<i>A. arborescens</i> , <i>A. barbertoniae</i> ,
castanea, davyana,	<i>A. castanae</i> , <i>A. davyana</i> ,
globuligemma, grandidentata,	<i>A. globuligemma</i> , <i>A. grandidentata</i> ,
lutescens, marlothii,	<i>A. lutescens</i> , <i>A. marlothii</i> ,
mutatis, parvibracteata,	<i>A. mutans</i> , <i>A. parvibracteata</i> ,
transvaalensis and wickensii	<i>A. transvaalensis</i> and <i>A. wickensii</i>
all species of gasteria	<i>Gasteria</i> spp.
all species of hawarthias	<i>Haworthia</i> spp.
all species of agapanthus	<i>Agapanthus</i> spp.
blue squill	<i>Schilla natalensis</i>
all species of pineapple	<i>Eucomis</i> spp.
all Species of galtonia	<i>Bower Eucomis</i> spp.
all species of dracaena	<i>Galtonia</i> spp.
all species of paint brushz	<i>Dracaena</i> spp.
all species of paint brush	<i>Haemanthus</i> spp.
all species of clivia	<i>scadoxis</i> spp.
all species of nerine	<i>Clivia</i> spp:
pink brunsvigia	<i>Nerine</i> spp.
	<i>Brunsvigia radulosa</i>
<b>Common name</b>	<b>Scientific name</b>
all species of crinum	<i>Crinum</i> spp.
ground lily	<i>Ammocharis coramica</i>
all species of fire lily	<i>Cyrtanthus</i> spp.
all species of elephantsfoot	<i>Dioscorea</i> spp.
all species of irises	<i>Diets</i> spp.

river lily	<i>Schizostylis coccinea</i>
all species of hairbells	<i>Dierama spp.</i>
all species of babiana	<i>Babiana spp.</i>
all species of gladioli	<i>Gladiolus spp.</i>
all species of laparousia	<i>Lapeirousia spp.</i>
all species of watsonias	<i>Watsonia spp.</i>
wild banana	<i>Ensete ventricosum</i>
Transvaal strelitzia	<i>Strelitzia caudata</i>
wild ginger	<i>Kaempferia aethiopica</i>
wild ginger	<i>Burmannia madagascariensis</i>
all species of orchids excluding those species not occurring in Transvaal	<i>Orchidaceae spp.</i> excluding those species not occurring in Transvaal
all species of proteas excluding those species not occurring in Transvaal	<i>Protea spp.</i> excluding those species not occurring in Transvaal
pincushion	<i>Leucospermum gerrardii</i>
pincushion	<i>Leucospermum saxosum</i>
stone plant	<i>Frithia pulchra</i>
stone plant	<i>Lithops lesliei</i>
Schreber's waterlily	<i>Brasenia schreberi</i>
all species of waterlilies	<i>Nymphaea spp.</i>
wonder plant	<i>Tinospora fragosum</i>
black stinkwood	<i>Ocotea bullata</i>
stinkwood	<i>Ocotea kenyensis</i>
kiaat	<i>Pterocarpus angolensis</i>
tamboti	<i>Spirostachys africana</i>
the following euphorbias:	the following species of the Genus Euphorbia:
barnardii, clivicola.	<i>E. barnardii, E. clivicola,</i>
grandialata, groenewaldii.	<i>E. grandialata, E. groenewaldii,</i>
knobelii, perangusta.	<i>E. knobelii, E. perangusta,</i>
restricta, rowlandii.	<i>E. restricta, E. rowlandii,</i>
tortirama and waterbergensis	<i>E. tortirama and E. waterbergensis</i>
boabab	<i>Adansonia digitata</i>
all species of begonias	<i>Begonia spp.</i>
all species of cabbage trees	<i>Cussonia spp.</i>

the following species of ericas (heaths):

alopecurus, cerinthoides and oatesii  
big leaf fever tree

the following species of impala lilies:

obesum, oleifolium and swazicum

kudu lily

all species of brachystelma

all species of ceropegia

all species of riocreuxias

all species of ghaap

all species of Huerniopsis and heurnia

all species of duvalia

all species of stapeliads

stapeliad

all species of orbeanthus

all species of orbeas

all species of pachycymbiums

all species of orbeopsis

an species of primulas

the following species of the genus erica:

*E. alopecurus*, *E. cerinthoides* and *E. oatesii*

*Anthocleista grandiflora*

the following species of the Genus Adenium:

*A. obesum*, *A. oleifolium* and *A. swazicum*

*Pachypodium saundersii*

*Brachystelma* spp.

*Ceropegia* spp.

*Riocreuxia* spp.

*Tavaresia* spp.

*Huerniopsis* and *Huernia* spp.

*Duvalia* spp.

*Stapelia* spp.

*Hoodia lugardii*

*Orbeanthus* spp.

*Orbea* spp.

*Pachycymbium* spp.

*Orbeopsis* spp.

*Streptocarpus* spp.

## SCHEDULE 12 SPECIALLY PROTECTED PLANTS (SECTION 86(1)(b))

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

### Common name

### Scientific name

(a) all plants, excluding seedlings, of the following  
cycads:

(a) all plants, excluding seedlings of the following  
species of the Genus *Encephalanos*:

xlix<sup>1</sup> dolomiticus

*E. dolomiticus*

li<sup>1</sup> dyer

*E. dyerianus*

li<sup>1</sup> middelburg

*E. middelburgensis*

eugene marais

*E. eugene, marassii*

heenani

*E. heenanii*

inopinus

*E. unopinus*

laevifolius

*E. laevifolius*

lanatus	<i>E. lanalus</i>
lebombo	<i>E. lebomboensis</i>
ngoyanus	<i>E. ngoyanus</i>
paucidentatus	<i>E. paucidentatus</i>
modjadje	<i>E. transvenosus</i>
villosus	<i>E. villosus</i>
(b) all plants of the following cycads:	(b) all plants of the following species:
cupidus	<i>Encephalanos cupidus</i>
humilus	<i>Encephalanos humilus</i>

i Expression substituted by s. 1 Procl 61/1987 w.e.f. 4.11.1 1987.

ii "of" appears in original promulgation instead of "for".

iii Expression "section 97" substituted by s. 1. Procl 61/1987 w.e.f. 4.11.1987.

iv Par. (c) as substituted by s. 2 of Proc 38 (Admin-) dd 26.7. 1989.

v Par (b) as substituted by s. 3 of Proc 38 (Admin.) dd 26.7.1989.

vi Words "and fires" inserted by s. 1, O. 11./1984 w.e.f. 24.10.1984.

vii Proviso to ss. (1) as substituted by s. 4(b) of Procl 38 (Admin-) dd 26.7.1989)

viii "brown hyaena" which previously appeared after "cheetah", deleted by s. 2, O. 11. 1984 w.e.f. 24,10.1984.

ix "brown hyaena" which previously appeared after "cheetah", deleted by s. 2, O. 11. 1984 w.e.f. 24,10.1984.

x Par (iA) as inserted by s. 1, O. 18/1986 w.e.f. 8.10.1986.

xi Word in square brackets substituted by s. 2, Procl. 61 1987 w.e.f. 4. 11.1987.

xii Word in square brackets substituted by s. 2, Procl. 61 1987 w.e.f. 4. 11.1987.

xiii Subs. (1) substituted by s. 5 of Proc 38 (Admin.) dd. 26.7.1989.

xiv Par (a) as substituted by s 6 of Procl 38 (Admin.) dd. 26.7. 1989 w.e.f. 26.7.1989.

xv Pars (c) and (e) as substituted by s. 3, O. 11/1984 w.e.f. 24.10.1984.

xvi Pars (c) and (e) as substituted by s. 3, O. 11/1984 w.e.f. 24.10.1984.

xvii Subs. (2) as substituted by s. 7 of Proc 38 (Admin-) dd 26.7.1989.

xviii Par (a) and proviso as substituted by s. 4, O. 11/ 1984 w.e.f. 24.10.1984.

xix Subs (2) as substituted by s. 8 of Proc. 38 dd 26.7.1989.

xx Subs (2) as substituted by s. 9 of Proc. 18 dd 26.7.1989.

xxi Subs. (5) amended by s. 2, O. 18/1986 w.e.f. 8.10. 1986.

xxii Preceding expression substituted by s. 5, O. 11/1984 w.e.f. 24.10.1984.

xxiii Subs. (2) as substituted by s. 10 Proc. 38 (Admin.) dd. 26.7.1989.

xxiv "Owner" as substituted for "occupiers" and "owner, substituted for "occupier" by s. 1(1), O. 7/1985 w.e.f.1.1.1986, while s. 1(2) provides as follows:

"(2) Where the Administrator has in terms of the provisions of the principal Ordinance declared the membership of a club to be compulsory and such declaration was still in force immediately prior to the commencement of this Ordinance, it shall, with effect from such commencement, be deemed-

- (a) that the membership of such club was declared to be compulsory in term of section 60(1)(c) of the principal Ordinance, as amended by sub-section (1); and

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(b) that every owner of land within the hunting area of such club is a member thereof."  
xxv "Owner" as substituted for "occupiers" and "owner, substituted for "occupier" by s. 1(1), O. 7/1985 w.e.f.1.1.1986, while s. 1(2) provides as follows:

"(2) Where the Administrator has in terms of the provisions of the principal Ordinance declared the membership of a club to be compulsory and such declaration was still in force immediately prior to the commencement of this Ordinance, it shall, with effect from such commencement, be deemed-

(a) that the membership of such club was declared to be compulsory in term of section 60(1)(c) of the principal Ordinance, as amended by sub-section (1); and

(b) that every owner of land within the hunting area of such club is a member thereof."  
xxvi Subs. (1) as substituted by s. 11 of Proc 38 dd. 26.7.1989.  
xxvii Expression "paragraphs (a), (b), (c) and (d)" as substituted by s. 6, O. 11/1984 .w.e.f. 24.10.1984.  
xxviii Subs. (2) as substituted by s. 12 of Proc 38 dd. 26.7.1989.  
xxix Subs. (2) as substituted by s. 13 of Proc. 38 dd. 26.7.1989.  
xxx Preceding words as substituted by s. 7, O. 11/1984 w.e.f. 24.10.1984.  
xxxi Par. (c) substituted by s. 3(a), Procl. 61/1987 w.e.f. 4.11.1987.  
xxxii Sub-par. (ii) as substituted by s. 3(d), Procl. 61/1987 w.e.f. 4.11.1987.  
xxxiii "sub-section (1)" as substituted by s. 3(c), Procl. 61/1987 w.e.f. 4.11.1987.  
xxxiv Sub-section (4) inserted by s. 5 Procl 61/1987 w.e.f. 4 .11.1987.  
xxxv Subs. (1) as substituted by s. 6(a), Proc 61 1987 w.e.f. 4.11.1987.  
xxxvi Words "species of" as substituted by s. 14 of Proc. 38 dd. 26.7.1989.  
xxxvii S. 98 substituted by s. 7, Proc. 61/1987 w.e.f. 4.11.1987.  
xxxviii Par. (z) as added by s. 2, O. 7/1985 w.e.f. 21.8.1985.  
xxxix "R750" and "9 months" as substituted by s. 2, O. 7/1995 w.e.f. 21.8.1985.  
xl Par. (n) inserted by s. 3, O. 7/1985 w.e.f. 21.8.1985.  
xli Subs. (4) as added by s. 4, O. 7/1985 w.e.f. 21.8.1985.  
xlii Subpar. (i) amended by s. 10, O. 11/1984 w.e.f. 24.10.1984.  
xliii There is no marginal note to s. 113.  
xliv Words in square brackets as inserted by A.N. 2143 dd. 21.12.1983.  
xlv "ferret" inserted by A.N. 212 dd.4.2.1997.  
xlvi "baboonspiders" inserted by A.N. 213 dd. 4.2.1997.  
xlvii "Scarce copper butterfly" as added by A.N. 2461 dd. 6.11.1985.  
xlviii Words italicized as inserted by A.N. 2144 dd. 21.12.1983.  
xlix Expression(s) inserted by A.N 607 dd . 16.8.1989.  
l Expression(s) inserted by A.N 607 dd . 16.8.1989.  
li Expression(s) inserted by A.N 607 dd . 16.8.1989.