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GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. R. 270 **7 March 2008**

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004 (Act NO. 10 OF 2004): THREATENED OR PROTECTED SPECIES SECOND AMENDMENT REGULATIONS

I, Marthinus Christoffel Johannes Van Schalkwyk, Minister of Environmental Affairs and Tourism, hereby, in terms of section 100 of the Act, publish for public comment, the draft Threatened or Protected Species Second Amendment Regulations in the Schedule.

Any person who wishes to submit representations or comments in connection with the draft regulations are invited to do so within 30 days of the date of this notice. All representations and comments must be submitted in writing to the Director-General of the Department of Environmental Affairs and Tourism:

By post to: The Director-General: Environmental Affairs and Tourism
Attention: Mrs. Sonja Meintjes
Private Bag X447
Pretoria, 0001

By fax to: (012) 320 7026, and by e-mail to smeintjes@deat.gov.za

MARTHINUS VAN SCHALKWYK
MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM
DATE:

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GENERAL EXPLANATORY NOTE:

[ ] Words in bold typed in square brackets indicate omissions from existing enactments.

__ Words underlined with a solid line indicate insertions in existing enactments.

SCHEDULE

Definitions

1. In these regulations—

"the Act" means the National Environment Management: Biodiversity Act, 2004 (Act. No. 10 of 2004); and

"the Regulations" means the Threatened or Protected Species Regulations, 2007 published in Government Gazette No. 29657, Government Notice No. R 152 of 23 February 2007, as amended by Government Notice No. R. 69 of 28 January 2008, published in Government Gazette No. 30703.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by the substitution of the definition "management plan" for the following definition:

"'**management plan**' as applicable, means—

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(a) a management plan referred to in section 41 of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

(b) a biodiversity management plan developed in terms of section 43 of the Biodiversity Act; or

(c) a management plan done in terms of paragraph 6 of the National Norms and Standards for the Management of Elephants in South Africa, 2008 issued in terms of section 9 of the Biodiversity Act.".

Amendment of regulation 6 of the Regulations

3. Regulation 6 of the Regulations is hereby amended by—

(a) the deletion of "and" after "disabled person" in paragraph (3)(d); and

(b) the insertion of the following paragraph (dA) after paragraph (d) in subregulation (3):

"(dA) An approved management plan; and".

Amendment of regulation 25 of the Regulations

4. Regulation 25 of the Regulations is hereby amended by the substitution of subregulation (b) for the following subregulation—

"(b) Trade in artificially propagated specimens of critically endangered or endangered *Encephalartos* species, and the export of such specimens with a stem diameter of more than 15cm, except where provided for in a Biodiversity Management Plan approved by the Minister in terms of section 43 of the Act;".

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Amendment of regulation 73 of the Regulations

5. Regulation 73 of the Regulations is hereby amended by—

(a) the insertion of a new paragraph (aA) in subregulation (1):

"(aA) undertakes an activity prohibited in terms of regulations 23, 24, 25, 26, or operates in contravention of subregulation 27(1);"; and

(b) the addition of paragraph (e) after paragraph (d) in subregulation (1):

"(e) permits or allows any other person to undertake any restricted activity, which is an offence, in terms of paragraph (a).".

(c) the insertion of paragraph (aA) in subregulation (2) for the following paragraph:

"(aA) operates a captive breeding operation, commercial exhibition facility, nursery, scientific institution, sanctuary, rehabilitation facility or acts as a wildlife trader involving specimens of any listed threatened or protected species without being registered with the issuing authority in terms of Chapter 3 of these regulations;"; and

(d) the addition of the following subregulation after subregulation (5):

"(6)(a) The owner or person in control of an elephant, the owner or person in control of land on which an elephant roams or is kept, or a management authority of a protected area, must comply with the norms and standards issued in terms of section 9 of the Act.

(b) Failure to comply with paragraph (a) constitutes an offence.".

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Short title and commencement

6. These regulations are called the Threatened or Protected Species Second Amendment Regulation, 2008, and take effect on a date determined by the Minister by notice in the Government Gazette.