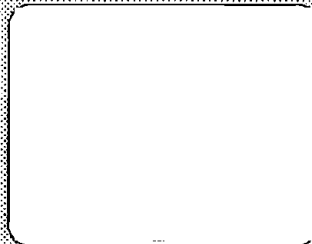


NORTHERN CAPE PROVINCE

PROFENSI YA KAPA-BOKONE

NOORD-KAAP PROVINSIE



IPHONDO LOMNTLA KOLONI

EXTRAORDINARY • BUITENGEWONE

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GENERAL NOTICE

NOTICE 98 OF 2008

Gen 98 /2008

DEPARTMENT OF TOURISM, ENVIRONMENT AND CONSERVATION

NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT, 2003 (ACT NO. 57 OF 2003)

NOTICE TO INVITE PUBLIC COMMENT: REGULATIONS FOR THE ADMINISTRATION OF PROVINCIAL AND LOCAL NATURE RESERVES

I, Pieter Willem Saaiman, the Member of the Provincial Executive Council for Economic Affairs, Tourism, Environment and Conservation hereby, in terms of section 86 of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), give notice of my intention to make the Regulations contained in the Schedule.

Written representations regarding the draft Regulations may be made to the MEC and must be directed to:

Mr Les Abrahams
4th Floor Metlife Building
Private Bag X6010
KIMBERLEY
8300
Fax: 053 – 832 1026
Tel: 053 – 832 1022
E-mail: labrahams@ncpg.gov.za

no later than **16 January 2009**.

PW SAAIMAN, MPL
MEC: Economic Affairs, Tourism, Environment and Conservation

Date: 24 November 2008

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CHAPTER 1 DEFINITIONS

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned and, unless the context otherwise indicates -

“**accommodation**” means a facility of any nature for the accommodation of day or overnight visitors;

“**alien species**” means an “**alien species**” as defined in the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“**angle or angling**” means to catch fish by using a line and fish-hook, whether or not a rod is used and includes the use of a landing-net to land, or a keep-net to keep a fish so caught;

“**authorised person**” means an employee of a management authority, or any other person, acting as such on the written authorisation of a management authority and includes an environmental management inspector;

“**Department**” means the Department responsible for nature conservation in the Province;

“**development**” means any physical intervention, excavation or action, other than that caused by natural forces, which may result in a change in the appearance or physical nature of a site in a nature reserve or influence its stability and future well-being and includes -

- (a) the construction, alteration, demolition, removal or change of use of a site or a structure on the site;
- (b) the carrying out of any work on the site;
- (c) the construction or putting up for display of a sign or notice board;
- (d) any change to the natural or existing condition or topography of the land; and
- (e) any removal, physical disturbance, clearance or destruction of any tree or vegetation or the removal of topsoil;

“**Director**” means the head of the unit responsible for nature conservation within the Department;

“**employee**” means a person in the employ of a management authority;

“**environmental management inspector**” means a person designated as such in terms of section 31B of the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“**firearm**” means a firearm as defined in section 1 of the Firearms Control Act, 2000 (Act No. 60 of 2000);

“**internal rule**” means a rule made under section 52 of the Act;

“**invasive species**” means an “**invasive species**” as defined in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act no 10 of 2004);

“**management**”, in relation to a protected area, includes control, protection, conservation, maintenance and rehabilitation of a protected area, with due regard to the use and extraction of biological resources, community-based practices and benefit-sharing activities in the area in a manner consistent with the Biodiversity Act;

“**management authority**”, in relation to a protected area, means the organ of state or other institution or person in which the authority to manage the protected area is vested;

“**MEC**” means the Member of the Northern Cape Provincial Executive Council responsible for nature conservation within the Province;

“**Minister**” means the Cabinet Member responsible for national environmental management;

“**nature reserve**” means a “**provincial protected area**”, as well as a “**local protected area**” as defined in section 1 of the Act;

“**organ of state**” means an “**organ of state**” as defined in section 239 of the Constitution of the Republic of South Africa, 1996

“**overnight**” means the period between sunset and sunrise;

“**point of entry**” means a place of entry to a nature reserve, including, but not limited to access gates;

“**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**recreation area**” means any area set aside in terms of the management plan of a nature reserve for general recreational use by the public;

“**specimen**” means a specimen as defined in section 1 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“**the Act**” means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

“**vehicle**” means any conveyance designed or adapted principally to travel on wheels or tracks;

“**vessel**” means any conveyance floating on, in or over water and designed for navigation on, in or over water, howsoever propelled and includes any canoe, lighter, floating platform, decked boat, carrier vessel, or any vessel equipped with an inboard or outboard motor or any other craft, whether surface craft or submarine;

“**water area**” means the water and the bed of any tidal lagoon, natural lake, tidal river, river or stream, dam, impoundment or wetland or any part thereof, situated within a nature reserve, and includes the water and the land between the lowest line and the highest line to which the water-level of such tidal lagoon, natural lake, tidal river, river or stream, dam, impoundment or wetland or any part thereof may recede or rise at any time;

“**water ski**” means to ski on or in the water with or without the assistance of any kind of skiing apparatus while the water skier is towed by a vessel by means of a towing-rope, and includes kite-surfing and para-sailing.

CHAPTER 2 APPLICATION OF REGULATIONS

Application of regulations

2. (1) These Regulations are, unless specified otherwise, applicable to all nature reserves.
- (2) A person is not in contravention of any provision of these Regulations if that person needs to undertake the prohibited or restricted activity -
 - (a) to perform his or her obligations as an authorised person of a management authority or to achieve the purposes of these Regulations;
 - (b) to carry out public duties as an authorised person or an organ of State within a nature reserve; or
 - (c) to fulfil his or her duties as an authorised person.

CHAPTER 3 POWERS AND FUNCTIONS OF MANAGEMENT AUTHORITIES

Functions

3. (1) A management authority must –
 - (a) manage the nature reserve assigned to it in accordance with the Act;
 - (b) on the MEC’s request, advise the MEC on any matter concerning –
 - (i) the conservation and management of biodiversity in the nature reserve;
 - (ii) proposed additions to or exclusions from the existing nature reserve; and

- (c) perform such other functions as may, from time to time, be determined by the MEC.
- (2) The management authority may, in managing the nature reserve, –
- (a) manage breeding and cultivation programmes, and reserve areas in the nature reserve as breeding places and nurseries;
 - (b) sell, exchange or donate any animal, plant or other organism occurring in the nature reserve, or purchase, exchange or otherwise acquire any indigenous species which it may consider desirable to re-introduce into the nature reserve;
 - (c) undertake and promote research;
 - (d) control, remove or eradicate any species or specimens of species which it considers undesirable to protect and conserve in the nature reserve or that may negatively impact on the biodiversity of the nature reserve, but may do so only in accordance with the prescripts of the Biodiversity Act;
 - (e) carry out any development and construct or erect any infrastructure necessary for the management of the nature reserve, subject to the provisions of the National Environmental Management Act;
 - (f) allow visitors to a nature reserve;
 - (g) take reasonable steps to ensure the security and well-being of visitors and staff;
 - (h) provide accommodation and facilities for visitors and staff, including the provision of food and household supplies;
 - (i) collect fees determined by the MEC with the concurrence of the Member of the Executive Council responsible for Finance in the Province, for -
 - (i) entry to or stay in a nature reserve; or
 - (ii) any service provided by it;
 - (j) by agreement with –
 - (i) a municipality, provide any service in a nature reserve which that municipality may or must provide in terms of legislation; or
 - (ii) any other organ of state, perform a function in a nature reserve which that organ of state may or must perform in terms of legislation.

- (3) If a provincial organ of state is the management authority of a nature reserve, that management authority must, for the purposes of subsection (2)(b), adhere to the financial and procurement prescripts binding the Province.

Nature reserve notices

4. (1) The management authority of a nature reserve may, from time to time, and by means of a notice displayed at the entrance to or at other relevant place in the nature reserve –
- (a) set aside any land or water;
 - (b) designate any land or water as a recreation area;
 - (c) designate any land or water for any other purpose;
 - (d) prohibit or restrict the use and access of any person, vehicle, vessel, pet or species or specimen to any land or water or any other place or part thereof; or
 - (e) designate the times and conditions during which and subject to which any sports or other activity may be practiced or performed on such land or water area, in a nature reserve or part thereof.
- (2) The management authority of a nature reserve may, by a notice displayed at the entrance to the nature reserve, designate any area within the nature reserve as an area within which one or more activities otherwise prohibited in terms of these Regulations may be undertaken, and display a prominent notice to this effect in and around the designated area.
- (3) A notice contemplated in subregulation (1) or (2) may impose conditions in relation to the participation in or undertaking of any activity in the nature reserve and the management authority may vary or revoke such notice at any time by a subsequent notice.

Recreation areas

5. (1) The management authority of a nature reserve must, within a recreation area, display any notice required under these Regulations.
- (2) In relation to recreation areas, the management authority of a nature reserve must prominently display a notice at every entrance to a recreation area indicating –
- (a) the opening and closing times of that recreation area; and
 - (b) any internal rules made by the management authority in relation to that recreation area.

Planning

6. All existing planning measures in connection with any nature reserve remain in force until a management plan for a nature reserve becomes effective in accordance with the Act.

CHAPTER 4 ESTABLISHMENT OF ADVISORY COMMITTEES FOR NATURE RESERVES

Establishment of advisory committee

7. A management authority may establish one or more advisory committees in respect of a nature reserve.

Procedure

8. In establishing an advisory committee contemplated in regulation 16, the management authority must -
 - (a) invite community organisations, non-governmental organisations, residents of and neighbouring communities to the nature reserve to nominate persons who could be taken into consideration when members of the advisory committee are appointed;
 - (b) set the minimum requirements and other criteria which it must take into consideration when deciding which persons to appoint as members of the advisory committee; and
 - (c) determine a method which will enable the invitation contemplated in paragraph (a) above to reach the greatest number of residents of and, neighbouring communities to the nature reserve.

Closing date for nominations

9. An invitation contemplated in regulation 17(1)(a) must specify the method of submission and a date by which the nominations contemplated in subregulation 14 (a) must reach a management authority.

Composition

10. A management authority must, after considering any nominations submitted in terms of subregulation 17(1)(a), appoint members to the advisory committee: Provided that at least one employee of the management authority, nominated by the management authority, must be an *ex officio* member of the advisory committee.

Mandate

11. (1) The management authority must define the specific mandate of any advisory committee in writing in specific terms.

- (2) The specific terms must include the terms of reference, the method of communicating advice, the appointment and removal of committee members and the support to be provided together with any allowance, to be determined with the concurrence of the Provincial Treasury, payable and its terms.

Term of office

12. A member of an advisory committee shall be appointed by the management authority for a period not exceeding three years.

CHAPTER 5 BIODIVERSITY MANAGEMENT AND CONSERVATION IN NATURE RESERVES

Monitoring and reporting

13. The management authority of a nature reserve must monitor and report annually to MEC on –
- (a) large mammal counts; and
 - (b) translocations into and from the nature reserve.

Entrance and accommodation fees

14. No person may enter or remain in a nature reserve or a part thereof without the payment of the entrance fee, where applicable, as determined in accordance with regulation 3(2)(j).

Points of entry and exit

15. (1) No person may, subject to the provisions of section 46 of the Act and regulation 26, enter or leave a nature reserve at any place other than through an official point of entry or exit, without the written authorization of the management authority.
- (2) Where a public road or railway line passes through a nature reserve –
- (a) ~~no permission is required~~ by a person to pass through the nature reserve on such a road or railway line to a destination outside the nature reserve in question, but
 - (b) no person may –
 - (i) leave such a public road; or
 - (ii) enter into a nature reserve from such public road or railway line other than in compliance with subregulation (1).

Staying overnight

16. No person may stay overnight in a nature reserve -
- (a) without the permission of a management authority;
 - (b) without payment of the applicable fee.

Times of entry and travel

17. No person may, without the permission of the management authority, enter, leave or travel in a nature reserve at any time other than the times determined by the management authority.

Vehicles

18. No person may enter or travel in a nature reserve except in or with a vehicle that conforms to the dimensions and other requirements determined by the management authority from time to time.

CHAPTER 6 USE OF WATERS IN NATURE RESERVES

Bathing, diving and swimming

19. No person may bathe, dive or swim in any area in a nature reserve, except where bathing, diving and swimming is permitted in accordance with a notice posted by the management authority.

Water skiing

20. No person may water ski on water in a nature reserve, except with the prior written permission of the management authority of the nature reserve and in accordance with the conditions set out in the written permission.

Prohibitions in relation to waters in nature reserves

21. (1) No person may, without the prior written permission of the management authority and subject to the conditions set out in the written permission, operate a vessel on waters situated in or adjacent to a nature reserve.
- (2) No person may land from a boat operated on any water in or adjacent to a nature reserve, except at a place specifically designated for such landing by the management authority.

**CHAPTER 7
RESTRICTED ACTIVITIES****Research and monitoring**

22. (1) No person may, without the prior written permission of a management authority, and subject to the conditions determined in the written permission, carry out scientific research in a nature reserve.
- (2) Any person undertaking research or monitoring a project in a nature reserve must -
- (a) submit a research project proposal to the management authority contemplated in subregulation (1) in a format determined by the management authority;
 - (b) submit all data and information gathered to the management authority in a format determined by and at stages of the project specified by the management authority; and
 - (c) submit copies of all reports and publications as a result of the research project to the management authority within four weeks of their publication.

Restrictions on the use of biological resources in nature reserves

23. (1) No person may, without the prior written permission of a management authority, and subject to the provisions of any law, within a nature reserve undertake, support or participate in any restricted activity.
- (2) For purposes of subregulation (1), a restricted activity means, in relation to a specimen in a nature reserve, -
- (a) hunting, catching, capturing or killing any living specimen by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, luring, alluring, discharging a missile or injuring with intent to hunt, catch, capture or kill any such specimen;
 - (b) gathering, collecting or plucking any specimen;
 - (c) picking parts of, or cutting, chopping off, uprooting, damaging or destroying, any specimen;
 - (d) possessing or exercising physical control over any specimen;
 - (e) growing, breeding or in any other way propagating any specimen, or causing it to multiply;
 - (f) conveying, moving or otherwise translocation any specimen;

- (g) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen; or
 - (h) luring or baiting a specimen in or from a nature reserve;
 - (i) introduction of any specimen, or part thereof to a nature reserve;
 - (j) feeding any species or specimen;
 - (k) using any recording of the sound of a species or specimen or the imagery or scent of a species or specimen to attract animals;
 - (l) angle, attempt to angle, catch or attempt to catch fish in a nature reserve other than in an area designated by the management authority.
- (3) Subregulation (2) (h) does not apply to the use of bait or lures for the purpose of angling where such activity is permitted in a nature reserve.

Sporting activities

24. No person may, except with the prior written permission of the management authority, engage in any sport activity in a nature reserve.

Restrictions relating to pets in nature reserves

25. (1) No person may, except on conditions determined by a management authority from time to time, allow any dog, cat or other pet belonging to or under the care of that person to enter and remain in or enter or remain in a nature reserve.
- (2) Any dog, cat or other pet contemplated in subregulation (1) which is found outside the permitted area referred to in subregulation (1) and which is not in the care of any person, may either be caught and removed to a pound or destroyed at the discretion of the management authority.

General restrictions

26. No person may, without the written permission of the management authority, -
- (a) offer any show or entertainment, conduct any business or trade or collect any money from the public;
 - (b) use or cause to be used, any loud speaker or similar device or other noisy equipment;
 - (c) construct or erect any booth, marquee tent or other structure; or
 - (d) organise or cause to be organised or attend or participate in any public meeting, demonstration or gathering, in a nature reserve.

Specified activities

27. No person may, without the prior written permission of the management authority and subject to any condition set out in the written permission, undertake an activity of any kind for the purpose of fund raising, personal gain or making a profit.

**CHAPTER 8
PROHIBITED ACTIVITIES****Prohibitions relating to vehicles**

28. No person driving a vehicle in a nature reserve may -
- (a) drive, park, or stop in such a manner that constitutes a nuisance, disturbance, inconvenience or danger to any other person or specimen;
 - (b) drive or park anywhere except on a designated road or place.

Misuse of facilities

29. (1) No person may, in a nature reserve, interfere with, misuse, damage or use in conflict with any management authority direction, any building, signage or structure provided or erected by a management authority.
- (2) No person may fail to comply with the directions of any notice affixed by a management authority to a building, structure or facility contemplated in subregulation (1).
- (3) No person may block or restrict any access to any road or other point of entry to any nature reserve or within the nature reserve.
- (4) No person may, in a nature reserve, deface, paint, write on, cut names or letters in or otherwise make marks or affix bills on trees, rocks, gates, fences, buildings, signs or other property or in any other manner spoil features, buildings or facilities.

Interference with management authority equipment

30. No person may, in a nature reserve, interfere with, put into operation, damage, and climb on or board any vehicle, vessel, dredging apparatus or any other implement which is the property of or is used by a management authority or its agent, without the prior permission of the management authority, or its agent.

Littering and polluting

31. No person may, in a nature reserve -
- (a) deposit or leave any litter, except in an area or receptacle provided for that purpose;

- (b) deposit, discharge or leave any noxious, smelly, offensive or polluting substance, matter or thing;
- (c) deposit, discharge or leave any mineral, mineral waste or other industrial waste or by-product thereof; or
- (d) discard or discharge any toxic chemical or substance, pharmaceutical substance, including biocides, or any other pollutant or harmful substance.

Pollution of water

32. No person may, at any time or in any manner, including by the use of detergents, pollute any water, spring, pan, well, borehole, groundwater, dam, reservoir or lake in a nature reserve.

Sense of place

33. No person may, in a nature reserve –
- (a) significantly alter or change the sense of place or any environmental, cultural or spiritual values; or
 - (b) intentionally or negligently cause any damage to any object of geological, archaeological, historical, ethnological, oceanographic, educational or other scientific interest;

General prohibitions

34. (1) No person may, in a nature reserve –
- (a) unlawfully occupy, move into, inhabit or use any existing land, building or structure;
 - (b) at any time play any radio, compact disc player, music system, musical instrument or in any way whatsoever cause any noise in a manner that is likely to disturb any person, species or specimen; or
 - (c) behave in an offensive, improper, indecent or disorderly manner.
- (2) No person may, in a nature reserve, intentionally obstruct, disturb, interrupt or annoy any other person engaged in the proper use of the nature reserve.
- (3) No person may discharge a firearm within a nature reserve, except –
- (a) if that person is authorised by a management authority thereto;
 - (b) in connection with the collection of a specimen for scientific purposes, subject to the written authorization of the management authority; or

- (c) to give a distress signal.
- (4) No person may, in a nature reserve, throw, roll or discharge any stone, substance or missile to endanger any person or species or specimen in the nature reserve.

CHAPTER 9 FINES AND PENALTIES

Offences

35. Any person who -
- (a) contravenes or fails to comply with any provisions of these Regulations;
 - (b) fails to comply with a provision of a document or sign issued or displayed in terms of these Regulations;
 - (c) fails to comply with any lawful instruction given in terms of these Regulations; or
 - (d) obstructs or hinders any authorised official in the execution of his or her duties under these Regulations, is guilty of an offence.

Eviction

36. If any person, in a nature reserve -
- (a) commits or has committed an offence in terms of these Regulations; or
 - (b) acts in an improper manner which substantially offends any other person in the nature reserve,

an authorised person may withdraw any permission granted in terms of these Regulations and direct such person to leave the nature reserve forthwith.

Delegation

37. A management authority may, in writing and subject to the conditions determined by the management authority, delegate any of its powers or functions in terms of these Regulations, except the establishment of an advisory committee, to any person employed by the management authority.

Aircraft

38. (1) No person may land in or take off an aircraft from a nature reserve, except –
- (a) on or from a landing field designated by the management authority of that nature reserve; and

- (b) with the permission of, and on conditions determined by the management authority.
- (2) No person may fly over a nature reserve at a level of less than 2500 feet above its highest point, except as may be necessary for the purposes of subsection (1).

Penalties

- 39. Any person who contravenes or fails to comply with a provision of these regulations is guilty of an offence and liable on conviction to imprisonment for a period not exceeding five years or to a fine or to both such fine and such imprisonment.
-