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NOORDWES**

***EXTRAORDINARY • BUITENGEWOON***

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**PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS**

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**PROVINCIAL NOTICE 171 OF 2017****NORTH WEST DEPARTMENT OF RURAL, ENVIRONMENT AND AGRICULTURAL  
DEVELOPMENT****PUBLICATION OF THE NORTH WEST BIODIVERSITY MANAGEMENT  
AMENDMENT BILL, 2017**

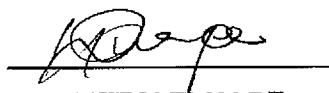
I, Manketsi Tlhape, in my capacity as the Member of the Executive Council for the Department of Rural, Environment and Agricultural Development HEREBY PUBLISH in terms of rule 188 of the North West Provincial Legislature Standing Rules, the intention to introduce the North West Biodiversity Management Amendment Bill, 2017 together with its memorandum in the House.

Rule 188 states that –

“A Bill other than a money Bill, together with a memorandum, must be published in the Provincial Gazette at least fourteen (14) days before it is introduced in the House.

All interested parties are therefore invited to submit written comments and representations on the proposed Bill by no later than 15 days after the publication hereof, by –

- (a) post to the Director- Biodiversity Management, Private Bag X2039, Mmabatho, 2735;
- (b) hand to AgriCentre Building, Attention: Mr. M.J. Denga, Cnr. Dr. James Moroka and Stadium Rd, Mmabatho, 2735;
- (c) e-mail to: [JDenga@nwpg.gov.za](mailto:JDenga@nwpg.gov.za)



**MANKETSI TLHAPE**

**MEC FOR RURAL, ENVIRONMENT AND AGRICULTURAL DEVELOPMENT**

DATE: 04/08/17

**NORTH WEST  
BIODIVERSITY MANAGEMENT  
AMENDMENT BILL, 2017**

—————  
*(As introduced in the Provincial Legislature)  
(The English text is the official text of the Bill)*

—————  
**(MEMBER OF THE EXECUTIVE COUNCIL FOR RURAL ENVIRONMENTAL  
AND AGRICULTURAL DEVELOPMENT)**

**GENERAL EXPLANATORY NOTE:**

- [ ] Words in bold type in square brackets indicate omissions from existing enactments  
\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments

**BILL**

**To amend the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016), so as to effect textual amendments; to insert new definitions and new provisions; and to provide for matters connected therewith.**

BE IT ENACTED by the Provincial Legislature of the North West Province, as follows:-

**Amendment of section 1 of Act 4 of 2016**

1. Section 1 of the principal Act is hereby amended –

(a) by the substitution for the definition of “**canned hunt**” of the following definition:

““**canned hunt**” means a hunt in which a live specimen [of a **captive bred animal,**] bred in an intensive wildlife management system, is released in a confined semi extensive or extensive wildlife management system of the size less than 1500 hectares for the purpose of hunting the animal within a period which is less than one month;”;

(b) by the deletion of the definition of “game” after the definition of “**extra-limital species**”;

(c) by the substitution for the definition of “**Game farm**” of the following definition:

““**[Game]game farm**” means a semi-extensive or extensive wildlife management system on which a specimen occurs, which is fenced in accordance with the provisions of the Act;”;

(d) by the deletion of the definition of “**Threatened or Protected Species Regulations**” after the definition of “**national environmental management principles**”;

(e) by the substitution for the definition of “**semi-intensive wildlife management system**” of the following definition:

““**[semi-intensive] semi-extensive wildlife management system**” means a system where the animals are partially reliant on management to provide food,

and they are not fully self-sustaining wildlife populations, but are in a natural environment, and requires human intervention in the form of –

- (a) the provision of water;
- (b) the partial supplementation of food, with access to natural grazing and browse
- (c) the control of parasites; or
- (d) the provision of health care;
- (e) the animals can naturally obtain limited quantities of their own food and require some provisioning of food;” and

(f) by the substitution for the definition of “**TOPS**” of the following definition:

““**TOPS**” means [as] Threatened or Protected Species Regulations as published under the Biodiversity Act.”.

#### **Amendment of section 2 of Act 4 of 2016**

2. Section 2 of the principal Act is hereby amended by the substitution of subsection (1) of the following subsection:

##### **“Purpose of Act**

2. The purpose of this Act is to provide for –

- (a) the management, promotion and protection of the biological diversity in the Province and the components of such biological diversity;
- (b) the use of biological resources in a sustainable manner;
- (c) the registration of captive breeding operations, commercial exhibition facilities, game farms, nurseries, scientific institutions, sanctuaries; rehabilitation facilities, wildlife traders, wildlife translocators, professional hunters, hunting outfitters and hunting schools in the Province;
- (d) the prohibition of specific restricted activities involving specific listed species;
- (e) the protection of wild and captive populations of listed species;
- (f) the consolidation of biodiversity legislation in the Province;
- (g) the prevention of unauthorised introduction and spread of alien and listed invasive species to ecosystems and habitats where they do not naturally occur;
- (h) the management and control of alien species and listed invasive species to prevent or minimise harm to the environment and to biodiversity in particular;
- (i) the eradication of alien and listed invasive species from ecosystems and

- habitats where they may harm such ecosystems or habitats;
- (j) the protection of habitat of all listed specially protected and ordinary species;
- (k) the regulation of the issuing of permits and licences authorising –
- (i) restricted activities involving specimens of –
    - (aa) listed species in terms of section 13(1);
    - (bb) CITES listed species;
    - (cc) extra-limital species in terms of section 28(1);
    - (dd) listed invasive species in terms of section 30(1);
  - (ii) restricted activities involving aquatic systems in terms of section 12;
  - (iii) restricted activities involving vegetation within 32 metres from the high watermark on either side of a watercourse in terms of section 10;
  - (vi) activities regulated in terms of a notice published in terms of section 25(1)(b); **[and]**
- (l) the regulation of the registration of persons and facilities in terms of section 38; and
- (m) the creation of an enabling environment for transformation of the biodiversity sector.”.

### **Deletion of sections 21 and 22 of Act 4 of 2016**

3. Sections 21 and 22 of the principal Act are hereby deleted.

### **Amendment of section 23 of Act 4 of 2016**

4. Section 23 of the principal Act is hereby amended by the substitution of subsection (1) of the following subsection:

#### **“Prohibited activities involving listed species**

23.(1) The following are prohibited activities involving listed species –

- (a) the hunting of listed species, that is a canned hunt;
- (b) the hunting of listed species in an intensive wildlife management system;
- (c) the hunting of listed species under the influence of any tranquilising, narcotic, immobilising or similar agent;
- (d) the hunting of listed species released in an area immediately adjacent to **[a holding facility]** an intensive wildlife management system where listed species are bred; **[and]**
- (e) the hunting of listed species by making use of a gin trap;

(f) the hunting of listed species, unless the owner of the land on which the animal is to be hunted provides an affidavit or other written proof indicating the period for which the species to be hunted has been on that property, if that species was not born on that property;

(g) the breeding in captivity of listed large predator, White rhinoceros (*C. simum*) and Black rhinoceros (*D. bicornis*), unless the prospective breeder provides a written undertaking that **[that]** such species will not be bred, sold, supplied or exported for hunting activities that are considered prohibited activities in terms of paragraphs (a) to (e) of this subsection;

(h) the carrying out of any restricted activity contemplated in sections 15 and 24 without a permit issued in terms of Chapter 8 of this Act.”.

#### **Amendment of section 26(3) of Act 4 of 2016**

5. Section 26(3) of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Notwithstanding the provisions of subsection (1), the Issuing Authority may issue a permit to hunt a damage causing animal of a species by a hunting client or a member in good standing of a local accredited hunting association.”.

#### **Amendment of section 38 of Act 4 of 2016**

6. Section 38 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

##### **“Compulsory registration requirements**

**38.(1)** The provisions of the TOPS Regulations apply with necessary changes in relation to the [Compulsory Registration] compulsory registration of captive breeding operation, commercial exhibition facility, **[game farm,]** nursery, scientific institution, sanctuary, rehabilitation facility, temporary holding facilities, taxidermy, or to act as a wildlife trader, wildlife translocator, freight agent, falconer, professional hunter, hunting outfitter or a professional hunting school involving specimens of any listed species.

(2) A holder of a compulsory registration certificate may conduct a captive breeding operation, commercial exhibition facility, **[game farm,]** nursery, scientific institution, sanctuary, rehabilitation facility, temporary holding facilities, taxidermy, **[game farm,]**



or act as a wildlife trader, wildlife translocator, freight agent, falconer, professional hunter, hunting outfitter or a professional hunting school involving specimens of any listed species.

(3) Notwithstanding the provision of subsection (2) a registration made in terms of Chapter 7 of the Biodiversity Act is deemed to have been made in terms of this Act.”.

**Insertion of section 38A of Act 4 of 2016**

7. The principal Act is hereby amended by the insertion of section 38A after sections 38:

**“Voluntary registration requirements**

**38A.(1) The provisions of the TOPS Regulations apply with necessary changes in relation to the Voluntary Registration of a game farm.**

**(2) A holder of a voluntary registration certificate may conduct a game farm involving specimens of any listed species.**

**(3) Notwithstanding the provision of subsection (2) a registration made in terms of Chapter 7 of the Biodiversity Act is deemed to have been made in terms of this Act.”.**

**Substitution of Schedule 4 of Act 4 of 2016**

8. Schedule 4 of the principal Act is hereby substituted with the following Schedule:

**“SCHEDULE 4**

**LIST OF ORDINARY SPECIES TO BE HUNTED WITH LANDOWNER’S WRITTEN CONSENT**

*(Section 24(2) of Act)*

<b>CLASS MAMMALIA</b>			
<b><u>Column 1</u></b>	<b><u>Column 2</u></b>	<b><u>Column 3</u></b>	<b><u>Column 4</u></b>
<b><u>English common name</u></b>	<b><u>Scientific Name</u></b>	<b><u>Setswana</u></b>	<b><u>Afrikaans</u></b>
Black-backed jackal	<i>Canis mesomelas</i>	Phokoje	
Bushpig	<i>Potamochoerus larvatus</i>		
Greater Canerat	<i>Thryonomus swinderianus</i>		
All Hares of the genus <i>Lepus</i>	<i>Lepus spp.</i>		
Porcupine	<i>Hystrix africaeaeaustralis</i>		
Red-knobbed Coot	<i>Fulica cristata</i>		
Rock Hyrax	<i>Procavia capensis</i>		
Scaly-throated finch	<i>Sporopipes squamifrons</i>		

All Squirrels of the Family <i>Sciuridae</i>	<i>Paraxerus cepapi</i> and <i>Xerus inauris</i>		
Springhare	<i>Pedetes capensis</i>		
Warthog	<i>Phacochoerus africana</i>		
<b>CLASS AVES</b>			
All Bulbuls of the Genus <i>Pycnonotus</i>	<i>Pycnonotus spp</i>		
All Mousebirds of the Family <i>Coliidae</i>	<i>Coliidae spp.</i>		
All Weavers of the Genus <i>Ploceus</i>	<i>Ploceus spp.</i>		
Red-winged Starling	<i>Onychognathus mori</i>		
Red Bishop	<i>Euplectes orix</i>		
Red-knobbed Coot	<i>Fulica cristata</i>		
Scaly-throated finch	<i>Sporopipes squamifrons</i>		
Laughing Dove	<i>Streptopelia Senegalensis</i>		
Cape Turtle-Dove	<i>Streptopelia Capicola</i>		
Red Eyed Dove	<i>Streptopelia Semitorquata</i>		
Speckled Pigeon	<i>Columba guinea</i>		

### Short title

9. This Act is called the North West Biodiversity Management Amendment Act, 2017.

## MEMORANDUM ON THE OBJECTS OF THE NORTH WEST BIODIVERSITY MANAGEMENT AMENDMENT BILL, 2017

### 1. BACKGROUND

1.1 Section 24 of the Constitution of the Republic of South Africa, 1996, 1996, accords everyone the right –

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

1.2 Just like the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016), this Act

seeks to give effect to the provisions of section 24(a) and (b)(i) and (ii) of the Constitution of the Republic of South Africa, 1996, and to further address the identified potential challenges of misinterpreting certain provisions, that might be experienced with the implementation of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016), and furthermore to align to the North West Biodiversity Management Regulations, 2017 for ease of implementation. These potential challenges were identified during the drafting of the said Regulations.

1.3 This Act further seeks to enable the North West Provincial Government to, through legislation, create a legal basis for –

(a) the management, conservation and sustenance of South Africa's biodiversity, its components and genetic resources; and

(b) the achievement of the progressive realisation of those rights. 1.4 The application of this Act is guided by the national environmental management principles set out in section 2 of the National Environmental Management Act.

1.4 Part A of Schedule 4 of the Constitution of the Republic of South Africa, 1996, lists conservation matters as a functional area of concurrent national and provincial legislative competence.

1.5 Notwithstanding the fact that the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004 as amended), the national environmental management principles set out in section 2 of the National Environmental Management Act and the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016), are applicable to and enforceable in the North West Province, the reality is that, in order to regulate matters specific to the North West which are not adequately regulated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004 as amended) and the National Environmental Management Act, there needs to be legislated on matters specific to the North West Province, hence the promulgation of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016), and this Act.

1.6 In a nutshell, and read with the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016), the Act seeks –

(a) to address potential challenges identified in the provision of the management and

conservation of the North West Province's biophysical environment and protected areas within the framework of the National Environmental Management Act, 1998 (Act 107 of 1998), the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004) and the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016);

(b) to address the potential challenges identified in the protection of species and ecological-systems that warrant provincial protection; and

(c) to address the potential challenges identified in the provision of sustainable use of indigenous biological resources.

## **2. CHAPTER BY CHAPTER EXPLANATION**

In summary, the Act provides as follows –

### **Clause 1**

Clause 1 provides for the amendment of definition of terms used in the Act to take care of interpretation challenges associated with the implementation of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016)

### **Clause 2**

Clause 2 amends section 2 of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016) by redefining the the purpose of such Act to include the role of creating an enabling environment for transformation of the biodiversity sector, in the Province.

### **Clause 3**

Clause 3 provides for the repeal of sections 21 and 22 of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016 so as to avoid any potential conflict with the relevant provisions of the the National Environmental Management Act, 1998 (Act 107 of 1998) and the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004) when the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016) is implemented.

### **Clause 4**

Clause 4 amends section 23 of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016) to address the potential challenges identified in the implementation of the North West Biodiversity Management Act, 2016 (Act No. 4 of

2016).

#### **Clause 5**

Clause 5 amends section 26(3) of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016) to address the potential challenges identified in the implementation of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016).

#### **Clause 6**

Clause 6 amends section 38 of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016) to address the potential challenges identified in the implementation of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016).

#### **Clause 7**

Clause 7 provides for the insertion of section 38A in the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016) to address the potential challenges identified in the implementation of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016).

#### **Clause 8**

Clause 8 provides for the substitution of Schedule of the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016) so as to avoid any potential conflict with the relevant provisions of the the National Environmental Management Act, 1998 (Act 107 of 1998) and the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004) when the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016) is implemented.

#### **Clause 9**

Clause 9 provides for the Short title.

### **3. PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

Since this Bill Act seeks to amend the the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016), no personnel implications for the Provincial Government are foreseen.

### **4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT**

Since this Act Bill, seeks to amend the North West Biodiversity Management Act, 2016 (Act No. 4 of 2016), no financial implications for the Provincial Government are foreseen.

## **5. DEPARTMENTS/ BODIES/ PERSONS CONSULTED**

The Bill has been drafted in consultation with –

- 5.1 The Portfolio Committee;
- 5.2 The members of the NW Wildlife Forum;
- 5.3 The Industry; and
- 5.4 Office of the Chief State Law Advisor.