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## GENERAL NOTICE

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### NOTICE 27 OF 2009

#### DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

#### NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT, 2003 (ACT 57 of 2003):

#### DRAFT REGULATIONS FOR THE PROPER ADMINISTRATION OF THE KNYSNA PROTECTED ENVIRONMENT

I, Marthinus Christoffel Johannes Van Schalkwyk, Minister of Environmental Affairs and Tourism, by virtue of the powers vested in me under section 86(3) of the Act, publish for public comment the draft Regulations as reflected in the attached Schedule.

I hereby invite members of the public to submit written representations on or objections to the proposed notice within 30 days from the date of this notice, to the following postal, fax or e-mail address:


The Director-General

Department of Environmental Affairs and Tourism

Private Bag X447

PRETORIA

0001

  
Attention: Ms S Mancotywa

Fax No: (012) 322 7114

E-mail: [gcowan@deat.gov.za](mailto:gcowan@deat.gov.za)

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## 1 DEFINITIONS AND INTERPRETATION

- (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—

**"alien species"** means alien species as defined in section 1 of the Biodiversity Act;

**"aircraft"** means an aircraft as defined in section 1 of the Act;

**"associated structure"** means any building or infrastructure that is necessary for the functioning of a facility or activity or that is used for an ancillary service or use or purpose associated with such facility or activity;

**"authorised official"** means an employee of the management authority for the protected environment, or any other person acting as such on the written authorisation of such management authority, and includes an environmental management inspector;

**"Biodiversity Act"** means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), as amended;

**"biodiversity control area"** means the area comprising the water area, a water resource and State land;

**"biological resource"** means an indigenous biological resource as defined in section 1 of the Act as may occur in the biodiversity control area

**"bioprospecting"** means bioprospecting as defined in section 1 of the Biodiversity Act;

**"bow"** means the front of a vessel;

**"canoe"** means a vessel designed to be propelled by means of paddles without any mechanical assistance;

**"category of vessel"** means a category A to category E as well as a category R vessel as defined in the National Small Vessel Safety Regulations;

**"commercial small vessel"** means a vessel that is not a pleasure vessel;

**"controlled event"** means a controlled event as defined in the National Small Vessel Safety Regulations;

**"development"** means:

- (a) the construction, erection, alteration, expansion, improvement, modification, upgrading or demolition or removal of a structure or associated structure situated within the development control area;
- (b) the change of use of land situated within the development control area;
- (c) the subdivision or consolidation of land situated within the development control area;
- (d) the carrying out of any excavation works on, over or under land situated within the development control area;
- (e) the construction, or erection for display of signs or boardings on land situated within the development control area;
- (f) any change to the natural or existing condition or topography of land situated within the development control area; or
- (g) any removal, clearing, destruction of trees or vegetation or the disturbance of topsoil on land situated within the development control area; or
- (h) the undertaking of any activity on land situated within the development control area which is identified as a listed activity requiring an authorisation in terms of the National Environmental Management Act;

**"development control area"** means the area:

- (a) comprising the water area;
- (b) situated within one hundred metres inland from the water area;
- (c) comprising a water resource;
- (d) situated within one hundred meters inland from the highest line to which any water occurring in a water resource may rise at any time as a result of the action of the tides or otherwise, during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods; or
- (e) comprising State land.

**"dive-boat"** means a vessel that is used in diving support activities;

**"ecosystem"** means an ecosystem as defined in section 1 of the Act;

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

**"enforcement officer"** means a police official and any person designated as an enforcement officer in terms of the National Small Vessel Safety Regulations, a Fishery Control Officer appointed as such in terms of the Marine Living Resources Act, an Environmental Management Inspector appointed as such in terms of the National Environmental Management Act or any other person duly appointed to enforce any legislation as may apply to the protected environment;

**"environment"** means the environment as defined in section 1 of the National Environmental Management Act;

**"environmental goods and services"** means environmental goods and services as defined in section 1 of the Act;

**"environmental impact assessment"** means any process of collecting, organizing, analysing, interpreting, and communicating information that is relevant to assess the impacts of activities on the environment of the protected environment;



**"environmental management inspector"** means a person designated as such in terms of section 31B of the National Environmental Management Act;

**"estuary"** means a partially or fully enclosed body of water—

- (a) which is open to the sea permanently or periodically;
- (b) within which the sea water can be diluted to an extent that is measurable with fresh water drained from land;
- (c) in which a rise and fall of water level as a result of the tides is measurable at spring tides when the water course is open to the sea;

**"heritage resources"** means heritage resources as defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

**"high water mark"** means the highest line reached by the water of the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;

**"houseboat"** includes any vessel, irrespective of whether it is propelled under its own power, upon which facilities for day or night accommodation or for any kind of food preparation have been fitted, or a vessel upon which any kind of toilet or washing facilities have been fitted;

**"indigenous species"** means indigenous species as defined in section 1 of the Biodiversity Act;

**"invasive species"** means invasive species as defined in section 1 of the Biodiversity Act;

**"kite-board"** means a vessel propelled almost exclusively by the effect of the wind on the sails of a kite, designed to be steered or handled by a person in a standing position;

**"protected environment"** means the Knysna National Lake Area, initially proclaimed as a lake area in terms of the Lake Areas

Development Act, 1975 (Act No. 39 of 1975) and subsequently declared a protected environment under the Act, and includes all proclaimed land and water areas as well as all further land and water areas which may be formally proclaimed by the Minister to form part of the Knysna Protected Environment;

**"life-saver"** means a person who is employed in that capacity or appointed by the management authority;

**"listed threatened or protected species"** means any species listed in terms of section 56(1) of the Biodiversity Act;

**"low water mark"** means the lowest line to which the sea recedes during periods of ordinary spring tides;

**"management authority"** means South African National Parks;

**"Marine Living Resources Act, 1998"** means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

**"Merchant Shipping Act, 1951"** means the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

**"National Environmental Management Act"** means the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended;

**"National Small Vessel Safety Regulations"** means the Merchant-Shipping (National Small Vessel Safety) Regulations 2007, published in terms of section 356 of the Merchant Shipping Act as amended;

**"National Water Act"** means the National Water Act, 1998 (Act No. 36 of 1998);

**"overnight"** means to be present in the water area between sunset and sunrise;

**"passenger vessel"** means a vessel that carries more than 12 passengers;

**"person"** includes a juristic person;

**"pleasure vessel"** means a vessel that is used solely for sport or recreation;

**"point of entry"** means a place of entry to the water area;

**"pollution"** has the meaning as defined in the National Environmental Management Act;

**"port"** means the left side of a vessel seen from the stern;

**"powerboat"** means a vessel propelled by means of an engine or other mechanical apparatus, installed either inboard or outboard, irrespective whether such engine or apparatus is the main source of power;

**"protected area notice"** means a written notification issued by a management authority;

**"protected species"** means any indigenous species or specimen of such species occurring in the biodiversity control area;

**"rowing-boat"** means a vessel designed to be propelled by means of oars without any mechanical assistance;

**"sail"** means the position of a vessel when it is not anchored or moored or on dry land;

**"sailing vessel"** means a vessel provided with sufficient sail area for navigation under sail alone whether or not fitted with mechanical means of propulsion;

**"sea"** means the water and the bed of the sea below the low-water mark and within the territorial waters of the Republic of South Africa, including the water and the bed of any tidal river and of any tidal lagoon;

**"sea shore"** means the water and the land between the low-water mark and the high water mark;

**"skipper"** means a person who steers or controls a vessel;

**"species"** means a species as defined in section 1 of the Biodiversity Act;

**"specimen"** means a specimen as defined in section 1 of the Biodiversity Act;

**"starboard"** means the right side of a vessel seen from the stern;

**"strategic environmental assessment"** means a process to assess the environmental implications of a proposed strategic decision, policy, plan, programme, piece of legislation or major plan;

**"State land"** means land situated within the protected environment which vests in the national, provincial or local government and which has been placed under the management or control of the management authority for any purpose contemplated by or associated with the Act or these regulations;

**"stern"** means the back of a vessel;

**"the Act"** means the National Environmental Management: Protected Areas Act 2003 (Act No. 57 of 2003), as amended;

**"tidal lagoon"** means any lagoon in which a rise and fall of the water level takes place as a result of the action of the tides;

**"tidal river"** means that part of any river in which a rise and fall of the water level takes place as a result of the action of the tides;

**"under way"** means that the vessel is in motion;

**"vehicle"** means any vehicle in, on or with which goods or people can be transported on land and designed or adapted principally to travel on wheels or tracks;

**"vessel"** means any conveyance capable of floating on or in water or designed for navigation on or in water and includes a boat, motor boat, sailing boat, rowing boat, lighter, floating platform, decked boat, carrier vessel; canoe, paddle ski, raft, power boat, jet boat, jet ski, fishing boat, flat-bottomed boat, ferry, houseboat, water cycle, windsurfer board or kite board, and includes a commercial small vessel, dive boat, passenger vessel, pleasure vessel and any category of vessel as defined in the National Small Vessel Safety

Regulations, including any conveyance propelled by means of a propeller above the surface of water;

**“visible”** means visible by somebody with a reasonable eyesight during a dark night when the atmosphere is clear;

**“waste”** includes any solid or other material or any material that is suspended, dissolved or transported in water (including sediment), and which is spilled or deposited onto land or into any water resource in the protected environment, in such volume, composition or manner as to cause, or to be reasonably likely to cause the environment of the biodiversity control area to be polluted;

**“water area”** means—

- (a) the water and the bed of the Knysna tidal lagoon;
- (b) the Knysna tidal river;
- (c) the Knysna River;
- (d) any wetland situated immediately adjacent to the Knysna tidal lagoon, the Knysna tidal river and the Knysna River;
- (e) the water and land comprising the sea;
- (f) the sea shore,

or any parts thereof, situated within the protected environment, and includes the water and the land between the low water mark and high water mark of the sea, as well as the water and land between the lowest level and the highest level to which the water in the Knysna tidal lagoon, the Knysna tidal river or the Knysna River, or any wetland situated immediately adjacent to the Knysna tidal lagoon, the Knysna tidal river or the Knysna River, or any part thereof, may recede or rise to at any time, as a result of the action of the tides or otherwise, during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;

**“watercourse”** within the protected environment means:

- (a) a river or spring;

(b) a natural channel in which water flows regularly or intermittently; and

(c) a wetland, lake or dam into which, or from which, water flows;

and a reference to a watercourse includes, where relevant, its bed and banks;

**“water resource”** within the protected environment includes a water course, surface water, estuary, aquifer, tidal lagoon, tidal river and the sea;

**“water-skiing”** means to ski, surf, skate, paraglide or glide on, over, above or in the water with or without the assistance of any kind of skiing, surfing, skating, paragliding, gliding, plastic or rubber tubing apparatus, and where the water-skier is towed by a vessel or an aircraft by means of a towing-rope, and the noun has a corresponding meaning;

**“wetland”** means a wetland as defined in the National Water Act, 1998 (Act No. 36 of 1998);

**“windsurfer”** means a vessel propelled almost exclusively by the effect of the wind on a sail or sails, designed to be steered or handled by a person in a standing position.

## **2 PURPOSE OF REGULATIONS**

- (1) To provide for the management of the protected environment as a protected environment in accordance with the Act;
- (2) To provide for the management and protection of the ecological integrity of the protected environment;
- (3) To ensure that the use of natural and biological resources in the protected environment is undertaken in a sustainable manner;
- (4) To control change in the use of land situated within the protected environment;

- (5) To control the use of public amenities within the protected environment;
- (6) To ensure that the supply of environmental goods and services within the protected environment is undertaken in an equitable and sustainable manner and is consistent with the Act and the purpose for which the protected environment has been declared a protected environment;
- (7) To ensure that all development as well as any other activities carried out and to be carried out in the protected environment are appropriate for the area and consistent with the Act given the purpose for which the protected environment has been declared as such.

### **3 APPLICATION OF REGULATIONS**

- (1) These Regulations are, unless specified otherwise, applicable to the Knysna Protected Environment.
- (2) Authorised officials and enforcement officers are not subject to these Regulations in relation to the performance of their functions or the exercise of their powers in the course of the performance of their duties or their employment.

### **4 MANDATE OF MANAGEMENT AUTHORITY**

- (1) SANParks is assigned as the management authority of the protected environment.
- (2) SANParks must, in managing the protected environment, exercise the functions referred to in section 55(1) of the Act and may undertake all of the management activities referred to in sections 55(2) read with section 55(3) of the Act.
- (3) SANParks may, for the purpose of performing its functions in the protected environment, exercise the general powers set out in section 56 of the Act.

**5. INDEMNITY OF MANAGEMENT AUTHORITY**

- (1) Any person who enters, uses, sails, boats, swims, dives, fishes or water-ski on a water area or any part thereof shall do so at his or her own risk.
- (2) The management authority shall not be liable for any damage or loss to any person in the protected environment caused by—
  - (a) the exercise of any power or the performance of any duty under these regulations; or
  - (b) the failure to exercise any power, or perform any duty under these regulations; or

unless the exercise of or failure to exercise the power, or performance of or failure to perform the duty was unlawful or negligent.

**6. MANAGEMENT OF DEVELOPMENT IN THE DEVELOPMENT CONTROL AREA**

- (1) Notwithstanding any other legislation, no person may undertake development in the development control area without the prior written authorisation of the management authority.
- (2) The management authority must, on such conditions as it may deem expedient, and subject to the payment of such fees as the management authority in its sole discretion may decide, authorise the undertaking of development in the development control area.
- (3) The management authority may, upon receipt of an application for authorisation to undertake a development, indicate in writing that a strategic or environmental impact assessment must be undertaken, and indicate the nature and extent of a strategic or environmental impact assessment required for the development in order to enable the management authority to assess the environmental impacts associated with the development.



- (4) An application for an authorisation and an environmental impact assessment to be submitted in terms of the National Environmental Management Act before a development may be undertaken in the development control area, shall be submitted to the Minister and identical copies of such application and all supporting documentation shall simultaneously be submitted to the management authority for consideration.
- (5) The management authority may request additional information from an applicant in order to consider an application for authorisation in terms of these regulations.
- (6) In instances where an environmental authorisation to undertake a development has been granted in terms of the National Environmental Management Act a person shall forthwith provide the management authority with a copy of such environmental authorisation.

## **7. MANAGEMENT OF THE SOIL AND SUBSTRATE OF THE DEVELOPMENT CONTROL AREA**

- (1) Notwithstanding any other applicable legislation, no person may, in the development control area, except with the prior written authorisation of the management authority—
  - (a) remove any sand, soil or rock;
  - (b) dredge or pump any sand, soil or rock;
  - (c) in any manner deposit, dump or throw sand, soil or rock or other material of any kind.
- (2) The management authority shall, subject to section 78(1)(d) of the Act, on such conditions as it may deem expedient, and subject to the payment of such fees as the management authority may decide, authorise the uses in subregulation 1.

## **8. MANAGEMENT OF COMMERCIAL ACTIVITIES IN THE WATER AREA AND ON STATE LAND**

- (1) No person may in the water area or on State land, except with the prior written authorisation of the management authority—
  - (a) conduct commercial operations;
  - (b) keep or use any vessel for the transport of passengers or goods for payment or reward;
  - (c) hold any organised water-sports meeting or event, any other recreational meeting or event, any sailing, rowing or power boat competition, any controlled event, or offer any display or entertainment, for payment or reward.
- (2) The management authority may authorise, on such conditions as it may deem expedient, and subject to the payment of such rentals or fees as the management authority may decide, any person or the general public to use the water area or State land or any portion thereof to which subregulation (1) applies, for any commercial activity provided for in such regulation (1): provided that such use does not detract from the purpose for which the protected environment has been declared
- (3) The management authority may, upon receipt of an application for authorisation to undertake a commercial activity of the nature referred to in sub-regulation (2), indicate in writing that a strategic or environmental impact assessment must be undertaken, and indicate the nature and extent of a strategic or environmental impact assessment required for such activity in order to enable the management authority to assess the environmental impacts associated with such activity.
- (4) An application for an authorisation and an environmental impact assessment to be submitted in terms of the National Environmental Management Act before such a commercial activity may be undertaken must be submitted to the Minister and identical copies of such application and all supporting documentation shall

simultaneously be submitted to the management authority for consideration.

- (5) The management authority may request additional information from an applicant in order to consider an application for authorisation in terms of these regulations.
- (6) In instances where an environmental authorisation to undertake such a commercial activity has been granted in terms of the National Environmental Management Act a person shall forthwith provide the management authority with a copy of such environmental authorisation.

## **9. USE OF BIOLOGICAL RESOURCES IN THE BIODIVERSITY CONTROL AREA**

- (1) Notwithstanding any other legislation, no person may in the biodiversity control area, except with the prior written authorisation of the management authority and subject to the provisions of any approved management plan prepared by the management authority for the protected environment, and payment of the applicable application fee, catch, collect or in any other way use biological resources occurring in this area.
- (2) In granting any authorisation, the management authority must inter alia—
  - (a) demarcate any area it deems fit within the biodiversity control area in which the use of the biological resources is granted;
  - (b) indicate the period for which the authorisation contemplated in subregulation (1) is granted;
  - (c) determine the limits to the use of the biological resources in order to ensure sustainable use of biological resources;

- (d) ensure that the biological resource use is not in conflict with the purpose for which the protected environment was established;
  - (e) ensure that the biological resource use does not negatively impact any ecosystem occurring in the biodiversity control area.
- (3) The management authority must demarcate the areas of the biodiversity control area contemplated in subregulation (2)(a) in a manner it deems fit.
- (4) The holder of an authorisation contemplated in subregulation (1), may not allow, permit or cause any environmental damage, not otherwise normally associated with the sustainable use of the biological resource, in respect of which the authorisation has been granted.
- (5) The management authority may, with immediate effect, cancel an authorisation granted in terms of subregulation (1) in respect of a demarcated area or part thereof, if—
- (a) biological resource use results in environmental damage, not otherwise normally associated with sustainable use of that biological resource;
  - (b) the holder of the authorisation fails to comply with the conditions of such authorisation;
  - (c) the management authority in its sole discretion deems it to be reasonable and necessary for the protection of the biological resource in respect of which the right has been granted.

## **10 MONITORING OF USE OF BIOLOGICAL RESOURCES IN THE BIODIVERSITY CONTROL AREA**

- (1) The management authority must before the end of June of each year submit a return or returns to the Minister in respect of the use of biological resources occurring in the biodiversity control area for the preceding financial year detailing—

- (a) the number of authorisations granted or entered into in respect of the use of biological resources;
- (b) a description of the biological resources used;
- (c) the quantities of biological resources harvested;
- (d) the income generated by the harvesting of biological resources; and
- (e) the conservation status of the biological resources being exploited.

#### **11. PROTECTION OF BIOLOGICAL RESOURCES IN THE BIODIVERSITY CONTROL AREA**

- (1) Notwithstanding any other legislation, no person shall without the prior written authorisation of the management authority, in the biodiversity control area—
- (a) introduce any species or specimen or part thereof;
  - (b) intentionally or negligently disturb any protected species;
  - (c) intentionally disturb or damage any biological resource or ecosystem or component part of any biological resource or ecosystem which occurs in the biodiversity control area;
  - (d) feed any protected species;
  - (e) remove any wood, sea shell, guano or other material;
  - (f) cut, damage, remove or destroy or be in possession of any plant or any part thereof, including dry wood or firewood;
  - (g) harm or cause death to any individual or population of any protected species;
  - (h) undertake, support or participate in a restricted activity.
- (2) For purposes of sub-regulation 11(1)(i) a restricted activity means—
- (a) in relation to a protected species or a specimen of a protected species —

- (i) hunting, catching, capturing or killing any living protected species or a specimen of a protected species 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 species or specimen;
- (ii) gathering, collecting or plucking any protected species or specimen of a protected species;
- (iii) picking parts of, or cutting, chopping off, uprooting, damaging or destroying, any protected species or specimen of a protected species;
- (iv) possessing or exercising physical control over any protected species or specimen of a protected species;
- (v) growing, breeding or in any other way propagating any protected species or specimen of a protected species, or causing it to multiply;
- (vi) conveying, moving or otherwise translocating any specimen of a protected species or a specimen of a protected species;
- (vii) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any protected species or a specimen of a protected species; or
- (viii) luring or baiting a protected species or a specimen of a protected species;
- (ix) take, damage or destroy any egg or nest of any bird or take any honey from a beehive or remove or damage a beehive;
- (x) conducting any other activity as may be prohibited by the management authority which involves a protected species or a specimen of a protected species;

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- (b) in relation to an alien species or an invasive species or a specimen of such an alien species or invasive species —
- (i) importing into the biodiversity control area, including introducing from the sea, any alien or invasive species or a specimen of an alien or invasive species;
  - (ii) possessing or exercising physical control over any alien or invasive species or specimen of an alien or invasive species;
  - (iii) growing, breeding or in any other way propagating any alien or invasive species or a specimen of an alien or invasive species, or causing it to multiply;
  - (iv) conveying, moving or otherwise translocating any alien or invasive species or a specimen of an alien or invasive species; and
  - (v) selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any alien or invasive species or any specimen of an alien or invasive species; and
  - (vi) conducting any other activity as may be prohibited by the management authority which involves an alien or invasive species or a specimen of an alien or invasive species.
- (3) Notwithstanding the provisions of subregulation (1) and (2), where an application for a permit to conduct an activity in the biodiversity control area also qualifies as a restricted activity as defined under the Biodiversity Act, such application to the management authority must be accompanied by a copy of the application to be submitted in terms of Chapter 7 of the Biodiversity Act together with all the supporting documentation required in terms of the Biodiversity Act, for consideration by the management authority.

- (4) The management authority may request additional information from an applicant in order to consider an application for authorisation in terms of these regulations.
- (5) In instances where a permit has been granted in terms of the Biodiversity Act a person must forthwith provide the management authority with a copy of such permit.

## **12 BIOPROSPECTING IN THE PROTECTED ENVIRONMENT**

- (1) Notwithstanding any other legislation, no person may undertake any form of bioprospecting in the protected environment in respect of any indigenous biological resources occurring in or emanating from the biodiversity control area without the prior written authorisation of the management authority issued subject to such conditions and against payment of a fee as determined by the management authority.
- (2) Notwithstanding the provisions of sub-regulation 1, an application for a permit to be submitted in terms of Chapter 7 of the Biodiversity Act to undertake bioprospecting, must be submitted to the relevant issuing authority and an identical copy of the application and all supporting documentation required in terms of the Biodiversity Act must simultaneously be submitted to the management authority for consideration.
- (3) The management authority may request additional information from an applicant in order to consider an application for authorisation in terms of these regulations.
- (4) In instances where a permit has been granted in terms of the Biodiversity Act a person must forthwith provide the management authority with a copy of such permit.

## **13 PROTECTION OF HERITAGE RESOURCES IN THE BIODIVERSITY CONTROL AREA**



- (1) Notwithstanding any other legislation, no person may, without the prior written authorisation of a management authority, in respect of any heritage resources found in or shown to emanate from the biodiversity control area, either within the biodiversity control area or at any place outside of the biodiversity control area:
- (a) touch, remove, alter or interfere with any heritage resources;
  - (b) possess or exercise physical control over any heritage resources;
  - (c) convey, move or otherwise translocate any heritage resources;
  - (d) sell or otherwise trade in, buy, receive, give, donate or accept as a gift, or in any other way acquire or dispose of or be in possession of any heritage resources;
  - (e) conduct any research in respect of or attempt to or take steps to prospect for heritage resources without the written authority of the management authority; or
  - (f) engage in any other activity which involves any heritage resources and as may be prohibited by the management authority from time to time determine.

#### **14 USE AND PROTECTION OF WATER RESOURCES**

- (1) Notwithstanding any other legislation, no person may without the prior written authorisation of the management authority—
- (a) construct an impoundment or weir in or on any water resource or abstract any water from any water resource or impoundment or weir in or on any water resource within the protected environment;
  - (b) abstract any water by means of a pump, pipes or gravitation, or any other means, located within or outside of the protected environment, from any water resource situated within or forming a boundary with the protected environment.

- (2) The management authority may, upon receipt of an application for authorisation in terms of sub-regulation 1, indicate in writing that a strategic or environmental impact assessment must be undertaken and indicate the nature and extent of a strategic or environmental impact assessment required in order to enable the management authority to assess the impacts associated with the proposed use of the water resource on the protected environment.
- (3) Notwithstanding the provisions of subregulation (2), the management authority may decide not to require a strategic or environmental impact assessment in respect of the proposed use of the water resource if a water use license application is required in terms of the National Water Act.
- (4) An application for a water use license in terms of the National Water Act before the proposed water use may be undertaken in or in respect of water resources occurring wholly or partially in the protected environment, must be submitted to the relevant authorising authority and identical copies of such application and all supporting documentation shall simultaneously be submitted to the management authority for consideration.
- (5) The management authority may request additional information from an applicant in order to consider an application for authorisation in terms of these regulations.
- (6) In instances where a water use license to undertake the water use from a water resource has been granted in terms of the National Water Act a person must forthwith provide the management authority with a copy of such license.

**15. MANAGEMENT OF LITTER, WASTE AND POLLUTION IN THE BIODIVERSITY CONTROL AREA OR DEVELOPMENT CONTROL AREA**

- (1) No person shall pollute the environment of the biodiversity control area or cause the environment of such area to be polluted.

- (2) No person shall in the biodiversity control area—
- (a) deposit or leave any litter, bottle, broken glass, china, pottery, plastic article, rubbish, refuse, seeds, fruit or vegetable matter or other waste material;
  - (b) deposit, discharge or leave any noxious, smelly, offensive or polluting substance, matter or thing;
  - (c) deposit or leave any offal, dead species or specimen;
  - (d) deposit any domestic garbage;
- (3) Notwithstanding any other legislation, no person shall in the development control area without the prior written authorisation of the management authority—
- (a) deposit, discharge or leave any waste or mining waste or industrial waste or by-product thereof; or
  - (b) discard or discharge any toxic chemical or substance, pharmaceutical substance, including biocides, or any other pollutant or harmful substance.
- (4) The management authority may, upon receipt of an application for authorisation in terms of subregulation 3(a) and (b), indicate in writing that a strategic or environmental impact assessment must be undertaken and indicate the nature and extent of a strategic or environmental impact assessment required in order to enable the management authority to assess the impacts associated with the proposed disposal of waste in the development control area.
- (5) Notwithstanding the provisions of subregulation (4), the management authority may decide not to require a strategic or environmental impact assessment in respect of the proposed disposal of waste in subregulation 3(a) or (b) if a waste disposal site permit application in terms of the Environment Conservation Act, water use license application in terms of the National Water Act or an environmental authorisation and environmental impact assessment is required in terms of the National Environmental Management Act.

- (6) Applications in respect of the abovementioned authorisations must be submitted to the relevant authorising authority and identical copies of such applications and all supporting documentation shall simultaneously be submitted to the management authority for consideration.
- (7) The management authority may request additional information from an applicant in order to consider an application for authorisation in terms of these regulations.
- (8) In instances where the respective permits, licenses and environmental authorisations to dispose of wastes have been granted in terms of the respective statutes a person must forthwith provide the management authority with a copy of such authorisations.

#### **16. MANAGEMENT OF AIRCRAFT IN WATER AREA**

- (1) No person may land on or take off in an aircraft from such water area, except—
  - (a) on or from a landing area designated by the management authority of the protected environment; and
  - (b) with the permission of, and on conditions determined by, the management authority.
- (2) Subregulation (1) does not apply:
  - (a) in an emergency; or
  - (b) to a person acting on the instructions of the management authority.

#### **17. LOCATION OF FRENCH DRAINS AND PIT LATRINES IN THE DEVELOPMENT CONTROL AREA**

- (1) Notwithstanding any other legislation, no person shall without the prior written authorisation of the management authority, within the development control area, erect or in any way alter, extend or enlarge

any french drain system or pit latrine, or replace it with another french drain system or pit latrine.

- (2) Any person who requires approval in terms of subregulation (1) shall apply for such approval in writing and the application shall be accompanied by the site plan of the property on which the situation of the proposed french drain or pit latrine and the direct distance of the french drain or pit latrine from the nearest point of the water area or a water resource or State land as the case may be, is indicated.
- (3) The management authority may, upon receipt of an application for authorisation in terms of sub-regulation (1), indicate in writing that a strategic or environmental impact assessment must be undertaken and indicate the nature and extent of a strategic or environmental impact assessment required in order to enable the management authority to assess the impacts associated with the proposed location of the french drains and pit latrines.
- (4) The management authority may request additional information from an applicant in order to consider an application for authorisation in terms of these regulations.
- (5) In instances where authorisation has been granted by the local authority a person must forthwith provide the management authority with a copy of such authorisation.

#### **18. LOCATION AND DEVELOPMENT OF HOLIDAY RESORTS, CARAVAN PARKS, CAMPING AND PICNIC SITES IN THE DEVELOPMENT CONTROL AREA**

- (1) Notwithstanding any other legislation, no person may within the development control area, erect, establish, extend or enlarge a holiday resort, caravan park or camping or picnic site, or transform, extend or enlarge any existing holiday resort, caravan park or camping or picnic site, at which members of the public can stay, camp or picnic for the payment of a fee, without the prior written authorisation of the management authority.

- (2) An application for approval in terms of subregulation (1) must be submitted in writing to the local authority and shall be accompanied by an identical copy of such application and all supporting documentation which shall simultaneously be submitted to the management authority for consideration and authorisation.
- (3) The management authority may upon receipt of an application for authorisation in terms of subregulation (1), indicate in writing that a strategic or environmental impact assessment must be undertaken and indicate the nature and extent of a strategic or environmental impact assessment required in order to enable the management authority to assess the impacts associated with the proposed erection, establishment, extension or enlargement of the holiday resort, caravan park, camping and picnic site or the location thereof.
- (4) The management authority may request additional information from an applicant in order to consider an application for authorisation in terms of these regulations.
- (5) In instances where authorisation has been granted by the local authority a person shall forthwith provide the management authority with a copy of such authorisation.

#### **19. PROTECTED AREA NOTICES AND PUBLIC OPEN SPACES**

- (1) The management authority may from time to time reserve or set aside any State land placed at its disposal in the protected environment or a portion of such State land or any part of the water area and, by means of a protected area notice, designate it as a public open space area which can be used for a specified public purpose on such terms and conditions as shall be determined by the management authority.
- (2) The management authority may, by means of a protected area notice prohibit or restrict access to any person to any State land placed at its disposal in the protected environment or a portion of such State land or any part of the water area as well as certain activities from being practiced in such area;

- (3) The management authority may, when setting aside public open space areas—
  - (a) determine the purpose for which such public open space may be used;
  - (b) determine the manner in which such public open space may be used;
  - (c) determine the activities that may be conducted in such public open space;
  - (d) designate the times during which the public open space may be used;
  - (e) designate the conditions subject to which any access to, use of or activities to be conducted in the public open space may be practiced or performed.
- (4) The management authority may from time to time, withdraw, change or amend any designation in terms of subregulation (1) or (2) as well as any condition or restriction in terms of subregulation (3).
- (5) No person may use State land or any portion of such state land or any part of the water area which has been designated as a public open space area for any other purpose or in any other manner than that indicated on the protected area notice.
- (6) No person may, without the consent of an authorised official of the management authority enter upon State land or any place or places on State land or any part of the water area to which access has been prohibited or restricted in terms of subregulation (2), or conduct any prohibited or restricted activities in such areas.

## **20. USE OF STATE LAND AND FACILITIES**

- (1) No person may in the protected environment, on State land—
  - (a) erect, or cause to be erected, any building, structure or improvement without the prior written approval of the management

authority and subject to the conditions which may be laid down by the management authority and if any such erection takes place in conflict with this regulation or with the conditions laid down by the management authority, the management authority may cause the building, structure or improvement concerned to be demolished and removed and may recover the costs from the person who has erected it or caused it to be erected;

- (b) occupy, move into, inhabit or use any existing building or structure without the prior written approval of the management authority and subject to the conditions which the management authority may lay down;
- (c) damage or destroy any building or structure or improvement;
- (d) damage, remove or destroy any fences or gates or climb over or through such fences or gates;
- (e) light or cause any open fire to be lighted, unless such fire is properly contained in a fireplace or container made available by the management authority for that purpose or unless the management authority otherwise authorises;
- (f) place, throw, dump or let out any refuse, rubbish, used containers, effluent, toilet waste or any objectionable matter;
- (g) carry on any agricultural or gardening activities or allow any animal to graze thereon or to enter upon it without the prior written approval of the management authority and subject to the conditions which the management authority may lay down and any animal which is found on the State land in conflict with this regulation or in conflict with the condition laid down by the management authority, may be caught and removed to a pound by any employee of the management authority or any person in the service of the management authority.



## **21. DAMAGING OR INTERFERENCE WITH PROPERTY OF THE MANAGEMENT AUTHORITY**

- (1) No person may, tamper or interfere with any vehicle, vessel, dredging apparatus or any other implement which is the property of the management authority, or may put it into operation or damage it or may climb on it without the written authorisation of an authorised officer or employee of the management authority.
- (2) No person may damage, tamper with, change, remove, dispose of or interfere with or misuse any building, convenience shelter, changing-room, pier, landing stage, raft, buoy, floating jetty or other facility provided or erected by the management authority in the protected environment or may damage or use it in conflict with or fail to comply with the directions of any notice affixed to any such building, structure or facility in the protected environment.
- (3) No person, except a life-saver or a person authorised thereto by the management authority, shall move, deface or otherwise interfere with or tamper with a notice or other sign-board affixed to or placed in the protected environment by the management authority or by a life-saver in terms of these regulations.

## **22. REPAIR, MAINTENANCE AND INSPECTION OF VESSELS IN THE WATER AREA**

- (1) No person may in the water area without the prior written authorisation of the management authority:
  - (a) paint any vessel or remove previous or existing coats of paint from any vessel;
  - (b) do any mechanical, electrical or other reparation work to any vessel, except as an emergency measure;
  - (c) do any maintenance or de-fouling work on any vessel; or

- (d) moor, park or leave a vessel for the purpose of any person performing a safety or other inspection on or in respect of such vessel.

### **23. GENERAL BEHAVIOUR IN THE WATER AREA**

- (1) No person may, while in the water area—
  - (a) use indecent, offensive or improper language;
  - (b) behave in an offensive, improper or disorderly manner;
  - (c) wilfully or negligently do anything which will put any other person using the water area to inconvenience or in danger or which may disturb the peace.

### **24. SAFETY OF BATHERS**

- (1) No person may bathe in any part of the water area in which bathing is prohibited by the management authority by means of a protected area notice or is prohibited by the management authority or an officiating life-saver by means of a notice of recognisable and intelligible signs.
- (2) No person may hang from or sit on safety ropes provided in the water area for the protection of bathers or cause them to sink or tamper or interfere in any manner with such safety ropes or other devices provided for the assistance of bathers in distress.
- (3) Except in an emergency, no person, with the exception of a duly authorised employee of the management authority or a life-saver, may handle, touch or use in any manner a life-saving rope buoy or other life-saving apparatus installed or maintained in or at the water area, or do anything which will impede the proper working of such life-saving apparatus.

## **25. FIRE ARMS AND PYROTECHNICS**

- (1) No person may discharge a fire-arm or pyrotechnic item in the water area, except—
  - (a) an employee or person in the service of the management authority;
  - (b) for the discharge of a blank by a life-saver during an organised competition or controlled event or by any other person authorised by the management authority;
  - (c) in connection with the collection of specimens of aquatic life or birds or animals for scientific purposes, subject to the written authorisation of the management authority; or
  - (d) to give a distress signal.

## **26. PERMITTING OF VESSELS**

- (1) No person may in or on the water area, without a vessel permit issued by the management authority or delegated agent, and without payment of the fees, keep or operate any vessel.
- (2) No person may in or on the water area, without being in possession of the necessary certificate of competence as well as a certificate of fitness referred to in the National Small Vessel Safety Regulations, keep or operate any vessel.
- (3) The management authority is entitled to refuse to issue a vessel permit referred to in subregulation (1) if the applicant for such vessel permit is unable to produce to the management authority the certificates referred to in subregulation (2).
- (4) On giving its permission in terms of subregulation (1), the management authority may lay down such conditions as it deems fit in the circumstances of any particular case including:
  - (a) conditions regarding the handling of the vessel, the area where the vessel may be used and repairs or alterations to it be made that the

management authority considers to be necessary in the interests of the safety or in compliance with these regulations; and

- (b) limiting the use of a specific category or type of vessel or activity if it has reason to believe that the handling of such vessel—
- (i) is likely to be a source of pollution in the water area;
  - (ii) will be a nuisance;
  - (iii) will pose a danger to persons using it or to the public or any section of the public;
  - (iv) will exceed the number of vessels permissible in the water area for safety reasons in the discretion of the management authority; or
  - (v) may cause a detrimental ecological or environmental impact on the water area.
- (5) A vessel in respect of which application for a permit has been made, must be made available, upon the request of an authorised official of the management authority, for inspection by an authorised official, at a date, time and place appointed by the authorised official, unless such applicant is informed that such an inspection is not required.
- (6) The permit must specify the name of the person to whom it has been issued, as well as the maximum number of persons that may be carried by the vessel, the type and overall length of the vessel, the maximum power of the engine and the identification number allotted to the vessel as well as the area where the vessel may be used and the conditions for the handling of the vessel.
- (7) The management authority may limit the number of permits issued to a person.
- (8) The holder of a permit in respect of a vessel must without delay affix or cause to be affixed, the permit number to such vessel, on such a place and in a manner acceptable to the management authority.

- (9) The management authority may withdraw any permit with immediate effect if—
- (a) it has reason to believe that the vessel in respect of which the permit was issued —
    - (i) is no longer safe or seaworthy;
    - (ii) is a source of pollution in the water area;
    - (iii) is handled in such a way as to be a nuisance or danger to the vessels or the public or any section of the public, or
    - (iv) has changed to a limited or prohibited category;
  - (b) the vessel is transferred, sold or disposed of;
  - (c) the permit holder is found guilty of an offence in regard to the handling or control of a vessel in terms of these regulations or the National Small Vessel Safety Regulations ;
  - (d) the permit holder is unable to produce the certificates referred to in subregulation (2) to the management authority upon demand; or
  - (e) the management authority is of the opinion that a vessel no longer qualifies for a permit in terms of these regulations, or in terms of any condition on which the permit was issued:
- (10) In the even that a permit is withdrawn in terms of paragraph (d) of subregulation (9), a notice of 30 days must be given to the permit holder at the address appearing on the permit, and the permit holder allowed the opportunity to submit representations in this regard.
- (11) If after considering the permit holder's representations, the management authority withdraws any permit in terms of these regulations, the authorised official must without delay notify the permit holder of such withdrawal at the address on the permit.

**27. REMOVAL OF VESSELS**

- (1) In the event of the management authority withdrawing a permit or if any permit expires in terms of these regulations, the owner of the vessel in respect of which the permit has expired or been withdrawn must remove the vessel from the water area without delay.
- (2) If the owner of a vessel in respect of which the permit has expired or been withdrawn fails to remove such vessel from the water area within 30 days after the expiry of the permit or after having been given due notice of the said withdrawal, he or she is guilty of an offence, and the management authority may remove the vessel forthwith at the cost of the owner.
- (3) Any person who handles a vessel without a permit in the water area may be ordered by an authorised official to remove such vessel from the water area without delay and failure to comply with such order is an offence and the management authority may remove the vessel forthwith at the cost of the owner.

**28. CANOEING IN THE WATER AREA**

- (1) No person may use a canoe in the water area between sunset and sunrise unless it has on board a flashlight which is in good working condition.
- (2) No person may use a canoe, other than a canoe designed to float when it is waterlogged, in the water area unless an efficient life-belt or other floating device is attached to his or her body or is on board the canoe.

**29. PROTECTED AREA NOTICE FOR BIODIVERSITY CONTROL AREA**

- (1) The management authority may within the biodiversity control area and by means of a protected area notice to be displayed at the relevant place within the biodiversity control area—

- (a) set aside any place or places for the launching, landing, hauling out, keeping, letting or hiring of vessels;
- (b) prohibit or restrict the launching, landing, hauling out, mooring, keeping, leasing or hiring of vessels on any places to certain vessels or kinds of vessels subject to such conditions as the management authority may deem fit;
- (c) set aside any place or places for the sole use, operation or sailing of different kinds of vessels or for the use, operation or sailing of vessels belonging to members of boating clubs only;
- (d) prohibit the use, operation or sailing of any vessel or type thereof or restrict this to certain times or certain parts of the area only and may differentiate between vessels;
- (e) make the use, operation or sailing of vessels or certain types thereof in any part of the water area subject to the written consent of the management authority given on such conditions as the management authority may deem expedient;
- (f) restrict the maximum speed at which any vessel or type thereof may travel;
- (g) prohibit swimming, diving, with or without diving apparatus, or restrict it to certain times or to certain parts of the area only;
- (h) prohibit bait collecting and fishing or restrict it to certain times or to certain parts of the area only;
- (i) prohibit water-skiing, jet-skiing, wind or kite-boarding or restrict it to certain times or to certain parts of the area only;
- (j) prohibit or restrict the use and access of any person, vehicle or vessel to and in the area which may result in public danger or a safety risk.

**30. PASSENGER AND VESSEL SAFETY**

- (1) No person may operate a vessel on the water area without the safety equipment specified and maintained in accordance with the National Small Vessel Safety Regulations, being on board.
- (2) All safety equipment on board a vessel in the water area must be in good working condition and within easy reach for immediate and effective use.
- (3) A vessel which is hired out, or which is used in the water area for profit, must carry a clearly displayed notice on which any person boarding or leaving the vessel may read the number of persons it can carry or its loading capacity according to its construction.
- (4) No person under the age of 18 years may serve in the capacity as a skipper of a commercial vessel being operated on the water area.
- (5) No person under the age of 16 years may operate a power-driven pleasure vessel having a propulsion power exceeding 15 horsepower on the water area unless one or more of the exemptions specified in the National Small Vessel Safety Regulations is applicable.
- (6) No person may operate a vessel in the water area which does not comply with the vessel safety requirements referred to in Part 2 of the National Small Vessels Safety Regulations.
- (7) No person may operate or use a vessel in the water area, in contravention of the requirements in Part 3 of the National Small Vessel Safety Regulations pertaining to crewing including owner responsibility, skipper competence, physical and mental fitness, age limitations, unauthorised use and possession of liquor and elicitation of drugs on commercial vessels.
- (8) No person may operate a pleasure vessel in the water area, which does not comply with the special provisions for unregistered pleasure vessels in Part 4 of the National Small Vessel Safety Regulations.



- (9) Any person who is authorised in writing by the management authority may, in the water area—
- (a) call for any information relating to a vessel from the owner or skipper and may, if the owner or skipper is not in a position to furnish the information, order him to remove the vessel forthwith from the water area until such time as the requirements have been complied with;
  - (b) demand from the skipper to furnish his name and address or the name and address of the owner of the vessel and any other information required for identification purposes;
  - (c) demand from any person in the vessel other than the skipper, his name and address as well as any other information required for the identification of the skipper or the owner of the vessel;
  - (d) investigate and test any vessel or part thereof or any equipment thereon in order to determine whether the vessel is suitable for navigation on or in the water and whether these regulations are being complied with;
  - (e) upon a reasonable suspicion that these regulations or any of the National Small Safety Vessel Regulations are being contravened, order the skipper or owner of the vessel, as the case may be, to remove the vessel forthwith from the water area until such time as the requirements of these regulations have been complied with and the South African Maritime Safety Authority or authorised agency has been notified of the alleged contravention and such authority acted accordingly;
  - (f) temporarily forbid the skipper to continue steering the vessel or being in control of it and may make any arrangements which in the opinion of the authorised official are necessary or advisable for the safe disposal of the vessel should the skipper be deemed not capable of steering or being in control of the vessel for whatever reason;

- (g) forbid the helmsman of such a vessel to proceed until the load or the number of person has been reduced in the manner necessary or advisable if it appears that the load or number of persons transported in any vessel is more than that which the vessel was designed or built for or more than can be transported in reasonable safety under prevailing conditions, or in contravention of the National Small Vessel Safety Regulations,;
- (h) if it appears that any vessel or part thereof is unnavigable or unseaworthy, order the owner or skipper to remove the vessel forthwith from the water area until such time as the vessel or the part thereof has been made navigable in accordance with the requirements of these regulations and the National Small Vessel Safety Regulations.

### **31. RULES FOR OPERATING VESSELS IN THE WATER AREA**

- (1) No person shall leave a vessel unattended in the water area, unless it has been properly anchored, moored or removed to dry land.
- (2) No vessel shall be moored or launched at any place in the water area other than that indicated or approved by the management authority and an authorised official of the management authority may transfer any vessel or moor it at any other place without the consent of the owner if such authorised official deems this in the public interest.
- (3) No vessel shall be moored in the water area to any other vessel or to a marker, buoy or other navigational aid.
- (4) The skipper of any vessel in the water area must ensure that at all times full control is exercised over the vessel while it is under way.
- (5) The skipper of any vessel in the water which is towing a line, cable or rope for any purpose whatsoever must ensure that any other person is not endangered thereby or caused any inconvenience.
- (6) No person shall handle a vessel in the water area, or allow it to be handled in such a manner that it endangers or creates a nuisance to

- any other vessel or the occupants thereof or to other persons or property or installations in the water or at the water's edge.
- (7) No power boat which is under way in the water area and no person who practices water-skiing in the water area, shall approach closer than 100 metres to any spot where people are swimming or closer than 15 metres from the edge of the water or closer than 15 metres from any other vessel, unless—
- (a) circumstances are such that the said distance cannot be maintained;
  - (b) assistance is given in an emergency situation; or
  - (c) the power boat or any water-skier towed by it lands or leaves the shore, provided that when the distances are not maintained, the powerboat must immediately reduce its speed to less than 10 knots.
- (8) No person may be on the bow, forward deck or gunwale of any powerboat which is under way in the water area, unless sufficient safety rails or guard rails have been installed, and no person may jump or dive from any power boat which is under way, except when help is given in an emergency or when it is necessary to moor or to land the power boat.
- (9) Where it is possible in the water area, a vessel may be piloted in such a manner that the median line of the water area is always on the port side of the vessel.
- (10) Whenever two vessels approach each other from the front or approximately from the front in the water area, each must be piloted in such a manner that it passes the other on its own port side and, subject to the provisions of subregulation (7), at such a distance and at such a speed that the wake of either of the vessels does not endanger the other.
- (11) No vessel may pass another vessel which is proceeding in the same direction in the water area, unless it is safe to do so and such vessel

must, when it does so, pass the other vessel on its port side and, subject to the provisions of subregulation (7), at such a distance and at such a speed that its wake does not endanger the other vessel.

- (12) A vessel which is passed in the water area shall maintain its speed and direction until the passing vessel is safely past.
- (13) Whenever two vessels approach each other in the water area in a manner other than that referred to in subregulation (10) and (11) the vessel which finds the other on its port side must maintain its speed and direction and the vessel which finds the other on its starboard side must stay out of the way of the other vessel by changing its direction to starboard so that it passes behind the other vessel and must if necessary stop or reverse to avoid a collision.
- (14) To avoid a collision between vessels a power boat must give way to all other vessels and a rowing boat or a canoe shall give way to a sailing boat when circumstances in the water area required, notwithstanding the provisions of subregulations (9), (10), (11), (12) and (13) – provided that this regulation shall not give the right to the skipper of any vessel to unnecessarily obstruct or hinder the passage of any other vessel.
- (15) The skipper of any vessel in the water area shall maintain a safe and cautious speed in the area where vessels are moored, where fish is caught or where buoys are placed, and whenever visibility is obstructed due to fog or other causes he shall pilot the vessel under his control in such a manner that people, other vessels or other property are not endangered.
- (16) No vessel in the water area shall follow closer than 100 metres in the wake of a water-skier.
- (17) No vessel or vehicle which is propelled by means of a propeller above the surface of the water, shall be used in the water area.

## 32. WATER-SKIING

- (1) No person may undertake water skiing in the water area other than in an area specifically demarcated for this by the management authority by way of a protected area notice or otherwise.
- (2) No water skiing may be undertaken between sunset and sunrise in the water area and the management authority may also prohibit water skiing at other times.
- (3) No person may water ski while under the influence of intoxicating liquor or any substance having a narcotic effect.
- (4) A water-skier—
  - (a) must wear a suitable floatation aid;
  - (b) may not purposefully let go of the towing-line in a congested area;
  - (c) must conduct himself or herself in such a way as not to create a nuisance or danger to other water area users.
- (5) No water-skier may drop a water-ski in the water area except at a spot where the discarded water ski does not constitute a danger to any other water-skier or vessel.
- (6) As soon as a water-skier drops the towing-line the skipper of the vessel towing the water-skier in the water area shall pull in the towing line immediately and if the water-skier has dropped the towing line by accident the said skipper shall turn immediately and take the water-skier in tow again or take him or her aboard.
- (7) The owner or skipper of the towing vessel may not use a steel or other metallic rope or wire to tow a water-skier.
- (8) The skipper of the towing vessel must ensure that there is a competent person in the vessel to observe the water-skier.
- (9) The skipper of the towing vessel must carry a 500 millimetre square red flag in the vessel and cause it to be clearly exhibited when the vessel is engaged in picking up a water-skier or dragging a tow.

- (10) The skipper of a vessel may not follow closer than 100 metres in the wake of another vessel towing a person, water-skier or towable aquatic or airborne device.

### **33. GENERAL**

- (1) No person may use or cause others to use the water area, or any vessel or vehicle or facility or equipment or apparatus in or on the water area, in any manner or in any circumstances in which the management authority in its discretion deems that such use causes or is likely to cause pollution in the water area, is or will be of a nuisance to others, is or will pose a danger, harm or a safety risk to others or to the environment or to any biological resource in the water area.
- (2) No person may hinder, trouble or obstruct any authorised official or employee of the management authority or any person to whom the duty is entrusted to ensure that these regulations are complied with, in the execution of his or her duties, or shall violate or refuse or fail to obey or to comply with any prohibition, request or instruction imposed by the regulations or by any authorised person.
- (3) Any person who contravenes the provisions of subregulation (1) or (2) and any vessel or vehicle or facility or equipment or apparatus used in the course of such breach may forthwith be removed from the water area by any authorised official or employee of the management authority or enforcement officer.
- (4) The provisions of these regulations in regard to the equipment and the use of vessels and the rules for sailing, are not be applicable to any vessel used by order of the Minister, or the management authority for the purpose of enforcing these regulations, or to perform any work, duty or power in terms of the Act, provided that such vessel must display signage identifying the vessel to be the property of the management authority and may not be controlled or driven in a manner which endangers the safety of the public or other vessels.

#### **34. INSTRUCTION NOTICES**

- (1) If any activity that requires an authorisation by the management authority in terms of these regulations, is undertaken in the protected environment by a person without a written authorisation being issued by the management authority or in conflict with the conditions laid down by the management authority in such authorisation, the management authority may issue a Instruction Notice, after consultation with the affected person concerned, directing such person to immediately terminate such an activity and to rehabilitate the environmental impacts associated with the unlawful commencement or conduct of such an activity.
- (2) An authorised official may, upon a reasonable suspicion that a person is acting in contravention of the Act or these regulations or any other legislation concerned with the management, protection and conservation of biological resources occurring in the biodiversity control area or the safety and security of visitors to or users of the biodiversity control area, issue an Instruction Notice, instructing such a person to immediately terminate the alleged unlawful conduct and to remove any vehicle, vessel or other object used or operated in connection with such conduct from the area in which the alleged unlawful conduct is being effected, to an area to be identified or specified by the authorised official, pending notification to the relevant competent authority of the alleged unlawful conduct and corrective action being taken by such competent authority.
- (3) Failure by a person to comply with an Instruction Notice issued in terms of subregulation 1 and 2, may result in the management authority taking the necessary steps to demolish or remove a structure, vessel, vehicle or other object as the case may be and to rehabilitate the environmental impacts associated with the unlawful commencement of the activity and to recover the costs thereof from the relevant person.

#### **35. OFFENCES AND PENALTIES**

- (1) Any person who—

- (a) contravenes or fails to comply with any provisions of these regulations;
- (b) fails to comply with any protected area notice, or other document issued or displayed in terms of these regulations;
- (c) fails to comply with any Instruction Notice given in terms these regulations;
- (d) fails to comply with any condition stated in any authorisation issued in terms of these regulations; or
- (e) obstructs or hinders any authorised official in the execution of his or her duties under these regulations,

is guilty of an offence.

- (2) Any person who fails to comply with an Instruction Notice or a protected area notice or any other notice lawfully issued by the management authority and in so doing—

- (a) hinders, troubles, intimidates, or obstructs a management authority or an authorised official in the execution of its or his or her duties or the performance of its or his or her functions under these regulations; or
- (b) violates, refuses or fails to obey or comply with any prohibition, request or instruction imposed by these regulations or by the management authority or authorised official—

is guilty of an offence.

- (3) A person convicted of an offence in terms of subregulation (1) or (2) is liable on conviction to:

- (i) imprisonment for a period not exceeding five years;
- (ii) an appropriate fine; and
- (iii) both a fine and such imprisonment.,



- (4) If any person is found guilty of an offence under these regulations an authorised official may, in addition to any further action that may be taken, and/or penalty that may be imposed, withdraw any permission or permit or authorisation granted in terms of these regulations, and where relevant request such person to leave the biodiversity control area, whereupon that person must leave the biodiversity control area within a fixed time and by the shortest route open to the public..
- (5) Where any person is requested to leave, as contemplated in subregulation (4), the holder of any authorisation, must on demand, hand over the authorisation to the authorised official concerned, who must withdraw the authorisation and record the place and date of such withdrawal by endorsement on the said documents.
- (6) All monies already paid to a management authority by the person contemplated in subregulation (5) in relation to the authorisation, shall be forfeited to the management authority on withdrawal of the authorisation/permission contemplated in subregulation (5).
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