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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ENVIRONMENT, FORESTRY AND FISHERIES

NO. 625

03 JUNE 2020

**NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004
(ACT NO. 10 OF 2004)****NOTICE PROHIBITING THE CARRYING OUT OF CERTAIN RESTRICTED ACTIVITIES INVOLVING
RHINOCEROS HORN**

I, Barbara Dallas Creecy, Minister of Environment, Forestry and Fisheries, hereby, under section 57(2) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), prohibit the carrying out of certain restricted activities involving rhinoceros horn, or a part, product or derivative of such rhinoceros horn, belonging to the species black rhinoceros (*Diceros bicornis bicornis*, *Diceros bicornis minor*, *Diceros bicornis michaeli*) and white rhinoceros (*Ceratotherium simum simum*), in the Schedule hereto.



**BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

SCHEDULE

1. Definitions

In this notice, a word or expression or any derivative or other grammatical form of such word or expression to which a meaning has been assigned in the Biodiversity Act or the TOPS Regulations, has the corresponding meaning, and unless the context indicates otherwise —

“**Biodiversity Act**” means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“**genetic profiling**” means the use of biotechnology to identify the unique characteristics of a rhinoceros horn for forensic or diagnostic purposes;

“**management purposes**” has the same meaning as having been defined in the TOPS Regulations;

“**person**” means a natural person or a juristic person;

“**registered**” means registered in terms of the TOPS Regulations;

“**rhinoceros horn**” has the same meaning as having been defined in the TOPS Regulations;

“**Rhinoceros Norms and Standards**” means the norms and standards pertaining to the marking of rhinoceros and rhinoceros horn, and the hunting of rhinoceros for trophy hunting purposes, promulgated in terms of section 9 of the Biodiversity Act;

“**scientific institution**” has the same meaning as having been defined in the TOPS Regulations;

“**scientific purposes**” means for the primary purpose of practicing science or conducting research;

“**State**” means a national or provincial department or organ of state responsible for the—

- (a) implementation;
- (b) enforcement; or
- (c) both implementation and enforcement,

of the provisions of the Biodiversity Act and this Notice;

“**TOPS Regulations**” means the regulations pertaining to listed threatened or protected species and promulgated in terms of section 97 of this Act; and

“**veterinary purposes**” in relation to rhinoceros horn means for the purpose of—

- (a) applying a medical procedure, including a surgical operation; or
- (b) determining the cause of death of an animal (post mortem).

Prohibitions

2. (1) A person may not—

- (a) powder a rhinoceros horn or cause the powdering of a rhinoceros horn;
- (b) form or create slivers, chips, drill bits or any similar derivative from rhinoceros horn, or cause such slivers, chips, drill bits or similar derivatives to be formed; or
- (c) remove parts or layers from a rhinoceros horn.

(2) The prohibition contemplated in subparagraph (1) does not apply—

- (a) when powder, slivers, chips, drill bits or any similar derivative is formed during the process of inserting a microchip into a rhinoceros horn;
- (b) when powder, slivers, chips, drill bits or any similar derivative is formed during the process of dehorning a rhinoceros, or when a person removes part of a rhinoceros horn, for management, veterinary or security purposes;
- (c) when a person collects a sample of rhinoceros horn for the purpose of genetic profiling in accordance with the Rhinoceros Norms and Standards;
- (d) when powder, slivers, chips, drill bits or any similar derivative is formed during the process of inserting a tracking or similar device submitting a signal to facilitate monitoring, into a rhinoceros horn; or
- (e) the forming of powder, slivers, chips, drill bits or any similar derivative, or the removal of parts or layers from rhinoceros horn, when the activity is carried out by—
 - (i) a registered scientific institution for scientific purposes;

- (ii) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, for the purpose of performing or conducting the genetic profiling in accordance with the Rhinoceros Norms and Standards; or
 - (iii) the State.
- (3) A person may not sell, give, donate, buy, receive, accept as a gift or donation, or in any similar way dispose of or acquire, rhinoceros horn—
 - (a) contemplated in subparagraph (1), or
 - (b) that is less than 5 cm in length, irrespective of the weight of the rhinoceros horn.
- (4) Notwithstanding the prohibition contemplated in subparagraph (3)—
 - (a) if the lawful owner of rhinoceros horn contemplated in subparagraph (1) or (3)(b) does not intend to keep such rhinoceros horn, he or she may give or donate the rhinoceros horn to the Department or to a registered scientific institution;
 - (b) a registered scientific institution may—
 - (i) receive or accept as a gift or donation rhinoceros horn contemplated in subparagraph (1) or (3)(b) for scientific purposes; or
 - (ii) give or donate rhinoceros horn contemplated in subparagraph (1) or (3)(b) to the Department;
 - (c) a registered scientific institution approved by the Director-General of the Department for the purpose of genetic profiling, or the Forensic Science Laboratory of the South African Police Service, may—
 - (i) receive rhinoceros horn contemplated in subparagraph (1) or (3)(b) for the purpose of performing or conducting such genetic profiling, in accordance with the Rhinoceros Norms and Standards; or
 - (ii) give or donate rhinoceros horn contemplated in subparagraph (1) or (3)(b) to the Department; or

- (d) the Department may give, donate, receive or accept as a gift or donation rhinoceros horn contemplated in subparagraph (1) or (3)(b).
- (5) A person may not export or re-export from the Republic, rhinoceros horn—
 - (a) contemplated in subparagraph (1), or
 - (b) that is less than 5 cm in length, irrespective of the weight of such rhinoceros horn.
- (6) The prohibition contemplated in subparagraph (5) does not apply to—
 - (a) a registered scientific institution for scientific purposes;
 - (b) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, for the purpose of genetic profiling, in accordance with the Rhinoceros Norms and Standards; or
 - (c) the State.
- (7) The prohibitions contemplated in subparagraphs (1), (3) and (5) are effective for a period of three years from the date of coming into operation of this Notice, after which the Minister will assess and re-consider the prohibitions.

Short title and commencement date

3. This Notice is called the Notice prohibiting the carrying out of certain restricted activities involving rhinoceros horn, 2019, and comes into operation on a date determined by the Minister by Notice in the *Gazette*.

DEPARTMENT OF ENVIRONMENT, FORESTRY AND FISHERIES

NO. 626

03 JUNE 2020

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004
(ACT NO. 10 OF 2004)

REGULATIONS RELATING TO TRADE IN RHINOCEROS HORN

I, Barbara Dallas Creecy, Minister of Environment, Forestry and Fisheries, hereby, under section 97(1)(b), (f), (g) and (h) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), make regulations relating to trade in rhinoceros horn, namely the selling or otherwise trading in, giving, donating, buying, receiving, accepting as a gift or donation, or in any way disposing or acquiring, and the export and re-export from the Republic of South Africa, of rhinoceros horn, or a part, product or derivative of such rhinoceros horn, belonging to the species black rhinoceros (*Diceros bicornis bicornis*, *Diceros bicornis minor* and *Diceros bicornis michaeli*) and white rhinoceros (*Ceratotherium simum simum*), in the Schedule hereto.



BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

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Chapter 1

Interpretation and purpose of these regulations

Definitions

1. (1) In these Regulations, a word or expression, or any derivative or other grammatical form of the word or expression, to which a meaning has been assigned in the Biodiversity Act or the TOPS Regulations, has the corresponding meaning, and unless the context indicates otherwise—

“**Biodiversity Act**” means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“**CITES**” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

“CITES Regulations” means the regulations pertaining to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, promulgated in terms of section 97 of the Biodiversity Act;

“genetic profiling certificate” means a certificate or comparable document issued by the relevant scientific institution in respect of a particular rhinoceros horn, subsequent to the genetic profiling of such rhinoceros horn;

“genetic profiling” means the use of biotechnology to identify the unique characteristics of a live rhinoceros or rhinoceros horn for forensic or diagnostic purposes;

“microchip” means a device that assigns a unique identification code to the rhinoceros or rhinoceros horn;

“Management Authority” has the same meaning as having been defined in the CITES Regulations;

“national database” has the same meaning as having been defined in the Rhinoceros Norms and Standards;

“pre-convention” has the same meaning as having been defined in the CITES Regulations;

“registered” means registered in terms of the TOPS Regulations;

“Republic” means the Republic of South Africa;

“rhinoceros horn” has the same meaning as having been defined in the TOPS Regulations;

“Rhinoceros Norms and Standards” means the norms and standards pertaining to the marking of rhinoceros and rhinoceros horn, and the hunting of rhinoceros for trophy hunting purposes, promulgated in terms of section 9 of the Biodiversity Act;

“scientific institution” has the same meaning as having been defined in the TOPS Regulations;

“scientific purposes” means for the primary purpose of practicing science or conducting research;

“selling or sell” has the same meaning as having been defined in the TOPS Regulations, and buying shall be construed accordingly;

“TOPS Regulations” means the regulations pertaining to listed threatened or protected terrestrial and fresh water fish species, promulgated in terms of section 97 of the Biodiversity Act; and

“trade” has the same meaning as having been defined in the TOPS Regulations.

Purpose and application

2. (1) The purpose of these Regulations is to regulate certain restricted activities involving rhinoceros horn, in particular the—

- (a) selling, giving, donating, buying, receiving, accepting as a gift or donation or in any similar way disposing of or acquiring, rhinoceros horn within the borders of the Republic; and
- (b) export or re-export of rhinoceros horn from the Republic in specific circumstances.

(2) The provisions of these Regulations apply in respect of rhinoceros horn originating from—

- (a) *Ceratotherium simum simum*;
- (b) *Diceros bicornis bicornis*;
- (c) *Diceros bicornis minor*; and
- (d) *Diceros bicornis michaeli*.

(3) The provisions of these Regulations do not absolve a person from complying with the requirements of any other applicable legislation, and must be read and applied alongside the provisions of any applicable legislation, including but not limited to—

- (a) the Consumer Protection Act, 2008 (Act No. 68 of 2008);
- (b) the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- (c) the Biodiversity Act;
- (d) the species listing notice published in terms of section 56 of the Biodiversity Act;
- (e) the prohibition notice published in terms of section 57(2) of the Biodiversity Act;
- (f) the TOPS Regulations;
- (g) the CITES Regulations;
- (h) the Rhinoceros Norms and Standards and any other applicable norms and standards issued in terms of section 9 of the Biodiversity Act; and
- (i) applicable provincial conservation legislation.

(4) In the event of any conflict between these Regulations, and the TOPS Regulations or the CITES Regulations, the provisions of these Regulations will prevail.

(5) If a matter pertaining to rhinoceros horn is not specifically dealt with in terms of these Regulations, the matter must be dealt with in accordance with the provisions of the TOPS Regulations or the CITES Regulations.

Chapter 2

Domestic trade in rhinoceros horn

Restrictions

3. (1) A person may sell, give, donate, buy, receive, accept as a gift or donation or in any similar way dispose of or acquire rhinoceros horn of South African origin, only if—

- (a) the rhinoceros horn is 5cm or more in length, irrespective of the weight of the rhinoceros horn;
- (b) the rhinoceros horn is marked in accordance with the provisions of the TOPS Regulations and the Rhinoceros Norms and Standards; and
- (c) a permit that authorises the selling, giving, donating, buying, receiving, accepting as a gift or donation or in any similar way disposing of or acquiring the rhinoceros, has been issued in terms of the Biodiversity Act.

(2) A person may sell, give, donate, buy, receive, accept as a gift or donation or in any similar way dispose of or acquire rhinoceros horn originating from another country, only if—

- (a) the requirements contemplated in subregulation (1) are met; and
- (b) proof is provided that the rhinoceros horn is pre-convention.

(3) A person may not sell, give, donate or in any similar way dispose of a rhinoceros horn to a person who is not the holder of a permit issued in terms of the Biodiversity Act that authorises him or her to buy, receive, accept as a gift or donation or in any similar way acquire such rhinoceros horn.

(4) A person may not buy, receive, accept as a gift or donation or in any similar way acquire a rhinoceros horn from a person who is not the holder of a permit issued in terms of the Biodiversity Act that authorises him or her to sell, give, donate or in any similar way dispose of such rhinoceros horn.

Provisions relating to rhinoceros horn that do not meet the minimum size requirement for selling, giving, donating, buying, receiving, accepting as a gift or donation or in any similar way disposing of or acquiring

4. (1) The selling, giving, donating, buying, receiving, accepting as a gift or donation or in any similar way disposing of or acquiring rhinoceros horn that is less than 5 cm in length, irrespective of the weight

of the rhinoceros horn, is prohibited in accordance with a notice published in the *Government Gazette* in terms of section 57(2) of the Biodiversity Act.

- (2) The prohibition contemplated in subregulation (1) does not apply to—
- (a) the lawful owner of such rhinoceros horn who gives or donates such rhinoceros horn to the Department or to a registered scientific institution, if he or she does not intend to keep the rhinoceros horn;
 - (b) a registered scientific institution that receives or accepts as a gift or donation, such rhinoceros horn for scientific purposes, or that gives or donates such rhinoceros horn to the Department;
 - (c) a registered scientific institution approved by the Director-General of the Department or the Forensic Science Laboratory of the South African Police Service—
 - (i) that receives such rhinoceros horn for the purpose of performing or conducting the genetic profiling in accordance with the Rhinoceros Norms and Standards; or
 - (ii) gives or donates such rhinoceros horn to the Department; or
 - (d) the Department, who gives, donates, receives, or accepts as a gift, the rhinoceros horn.
- (3) In the event that a person does not give or donate the rhinoceros horn in the circumstances contemplated in subregulation (2)(a), (b) or (d), such person may—
- (a) destroy the rhinoceros horn in accordance with the provisions of the Rhinoceros Norms and Standards; or
 - (b) keep the rhinoceros horn, provided that it is kept in a place of safe-keeping in accordance with the provisions of the Rhinoceros Norms and Standards.
- (4) The giving, donating, receiving or accepting as a gift or donation of rhinoceros horn in the circumstances contemplated in subregulation (2), or the destruction of rhinoceros horn in the circumstances contemplated in subregulation (3)(a), is subject to the issuance of a permit in terms of the Biodiversity Act.
- (5) The possession of rhinoceros horn contemplated in subregulation (3)(b), or the possession of rhinoceros horn subsequent to the receiving or accepting as a gift or donation thereof in the circumstances contemplated in subregulation (2), is subject to the issuance of a permit in terms of the Biodiversity Act.

(6) A possession permit contemplated in subregulation (5) must specify the reference number of the genetic profiling certificate.

Requirements to obtain a permit in respect of the selling, giving, donating or in any similar way disposing of rhinoceros horn

5. (1) The lawful owner of rhinoceros horn who intends to sell, give, donate or in any similar way dispose of rhinoceros horn contemplated in regulation 3(1) or (2), must complete and sign an application form as specified in the TOPS Regulations and submit it to the relevant issuing authority.

(2) The application contemplated in subregulation (1) must be accompanied by—

- (a) a certified copy of the identity document, permanent residence permit, work permit or passport of the applicant;
- (b) proof of payment of the permit processing fee, as set out in the TOPS Regulations;
- (c) a certified copy of a possession permit as proof of lawful possession of the rhinoceros horn to which the application relates, issued in terms of—
 - (i) the Biodiversity Act; and
 - (ii) provincial conservation legislation, if applicable;
- (d) a certified copy of the genetic profiling certificate for each rhinoceros horn to which the application relates, as proof that the rhinoceros horn has been subject to genetic profiling in accordance with the Rhinoceros Norms and Standards;
- (e) a photograph of suitable quality, to allow for easy identification, of each individual rhinoceros horn to which the application relates;
- (f) details of the markings contemplated in regulation 3(1)(b), of each individual rhinoceros horn to which the application relates;
- (g) the following measurements of each individual rhinoceros horn to which the application relates:
 - (i) circumference at the base;
 - (ii) length from base to tip, measured along the inner curve;
 - (iii) length from base to tip, measured along the outer curve; and
 - (iv) weight;

- (h) proof that the rhinoceros horn is pre-convention, if applicable; and
- (i) any relevant additional information that the issuing authority may request.

(3) If the lawful owner of rhinoceros horn intends to sell the rhinoceros horn by auction, the application must be accompanied by the following documents, in addition to the supporting information and documents contemplated in subregulation (2):

- (a) the conditions of sale; and
- (b) a copy of the advertisement of the auction.

Requirements to obtain a permit in respect of the buying, receiving, accepting as a gift or donation or in any similar way acquiring rhinoceros horn

6. (1) A person who intends to buy, receive, accept as a gift or donation or in any similar way acquire rhinoceros horn contemplated in regulation 3(1) or (2), must complete and sign an application form as specified in the TOPS Regulations and submit it to the relevant issuing authority.

- (2) The application contemplated in subregulation (1) must be accompanied by—
- (a) a certified copy of the identity document, permanent residency permit, work permit or passport of the applicant;
 - (b) proof of payment of the permit processing fee, as set out in the TOPS Regulations;
 - (c) a certified copy of a permit that authorises the lawful selling, giving, donating or in any similar way disposing of the rhinoceros horn to which the application relates, issued in terms of—
 - (i) the Biodiversity Act; and
 - (ii) provincial conservation legislation (if applicable);
 - (d) a certified copy of the genetic profiling certificate for each rhinoceros horn to which the application relates, as proof that the rhinoceros horn has been subject to genetic profiling in accordance with the Rhinoceros Norms and Standards;
 - (e) a photograph of suitable quality, to allow for easy identification, of each individual rhinoceros horn to which the application relates;
 - (f) details of the markings contemplated in regulation 3(1)(b), of each individual rhinoceros horn to which the application relates; and

- (g) the following measurements of each individual rhinoceros horn to which the application relates:
 - (i) circumference at the base;
 - (ii) length from base to tip, measured along the inner curve;
 - (iii) length from base to tip, measured along the outer curve; and
 - (iv) weight;
 - (h) proof that the rhinoceros horn is pre-convention, if applicable; and
 - (i) any relevant additional information that the issuing authority may request.
- (3) A person who applies for a permit to buy, receive, accept as a gift or donation or in any similar way acquire rhinoceros horn contemplated in regulation 3(1) or (2), may, to the extent possible, at the same time apply to the relevant issuing authority for a permit to possess and transport such rhinoceros horn.

Conditions to be met for the issuance of a permit

7. (1) The issuing authority may not issue a permit in respect of the selling, giving, donating or in any similar way disposing of a rhinoceros horn contemplated regulation 3(1) or (2), unless the following conditions have been met:
- (a) the issuing authority has received a complete application contemplated in regulation 5(1) and all supporting information contemplated in regulation 5(2);
 - (b) upon receipt of the application, an inspection has been conducted by an official of the Department or an official of any provincial conservation authority who has the mandate in terms of his or her appointment to conduct the inspection, to verify the information contemplated in regulation 5(2)(c), (d), (e), (f) and (g);
 - (c) the official contemplated in paragraph (b) has confirmed, in writing, the correctness of the verified information;
 - (d) the information contemplated in regulation 5(2)(f) and (g) has been included in the national database; and
 - (e) the genetic profiling as required in terms of the Rhinoceros Norms and Standards, in respect of each rhinoceros horn to which the application relates, has been concluded and the information included in the national database.

(2) The issuing authority may not issue a permit in respect of the buying, receiving, accepting as a gift or donation or in any similar way acquiring a rhinoceros horn contemplated in regulation 3(1) or (2), unless an inspection has been conducted by an official contemplated in subregulation (1)(b) to verify the place of safe-keeping of such rhinoceros horn.

Compulsory conditions for permits in respect of the selling, giving, donating or in any similar way disposing of rhinoceros horn

8. (1) If it is the decision of the issuing authority to issue a permit in respect of the selling, giving, donating or in any similar way disposing of rhinoceros horn contemplated in regulation 3(1) or (2), such permit must be issued subject to the condition that—

- (a) the permit holder may not sell, give, donate or in any similar way dispose of rhinoceros horn to a person who is not the holder of a permit to buy, receive, accept as a gift or donation or in any similar manner acquire the rhinoceros horn;
- (b) the permit holder may not sell, give, donate or in any similar way dispose of rhinoceros horn other than the rhinoceros horn to which the permit relates;
- (c) the permit does not authorise the export of the rhinoceros horn to which the permit relates, nor does it guarantee that an export permit will be granted; and
- (d) the permit holder must notify the Department of—
 - (i) his or her intention to sell the rhinoceros horn to which the permit relates, by auction; and
 - (ii) the date or dates, as the case may be, of the auction.

(2) In addition to the conditions contemplated in subregulation (1), a permit in respect of the selling, giving, donating or in any similar way disposing of a single rhinoceros horn must be issued subject to the conditions that the holder thereof must—

- (a) return the original permit to the relevant issuing authority, within 5 working days of selling, giving, donating, or disposing of the rhinoceros horn in respect of which the permit was issued; and
- (b) retain a certified copy thereof upon return of the original permit to the relevant issuing authority.

(3) In addition to the conditions contemplated in subregulation (1), a permit in respect of the selling, giving, donating or in any similar way disposing of multiple rhinoceros horn must be issued subject to the conditions that the holder thereof must—

- (a) report the following information to the relevant issuing authority, within 5 working days of each rhinoceros horn being sold, given, donated or in any similar way disposed of:
 - (i) the name and physical address of the buyer or receiver;
 - (ii) the permit number of the buyer or receiver;
 - (iii) the species and subspecies in respect of each rhinoceros horn sold, given, donated, or in any similar way disposed of;
 - (iv) the markings of each rhinoceros horn sold, given, donated, or in any similar way disposed of; and
 - (v) the reference number of the genetic profiling certificate in respect of each rhinoceros horn sold, given, donated, or in any similar way disposed of;
- (b) at the same time as reporting the information contemplated in paragraph (a), also apply to the relevant issuing authority for an amendment of his or her possession permit in the event that one or more rhinoceros horn remain on such possession permit;
- (c) return the original permit relating to the selling, giving, donating or in any similar way disposing of such rhinoceros horn, to the relevant issuing authority, within 5 working days of selling, giving, donating, or in any similar way disposing of the last remaining rhinoceros horn in respect of which the permit was issued; and
- (d) retain a certified copy thereof upon return of the original permit to the relevant issuing authority.

Compulsory conditions for permits in respect of the buying, receiving, accepting as a gift or donation or in any similar way acquiring rhinoceros horn

9. If it is the decision of the issuing authority to issue a permit in respect of the buying, receiving, accepting as a gift or donation or in any similar way acquiring rhinoceros horn contemplated in regulation 3(1) or (2), such permit must be issued subject to the condition that—

- (a) the permit holder may not buy, receive, accept as a gift or donation, or in any similar way acquire rhinoceros horn from a person who is not the holder of a permit to sell, give, donate or in any similar way dispose of the rhinoceros horn;
- (b) the permit holder may not buy, receive, accept as a gift or donation or in any similar way acquire any rhinoceros horn other than the rhinoceros horn to which the permit relates;
- (c) the permit does not authorise the holder thereof to possess or transport the rhinoceros horn bought, received, accepted as a gift or donation, or in any similar way acquired; and

- (d) the permit does not authorise the holder thereof to export the rhinoceros horn to which the permit relates, nor does it guarantee that an export permit will be issued.

Requirements relating to proxy to sell, give, donate, buy, receive, accept as a gift or donation or in any similar way dispose of or acquire rhinoceros horn

10. (1) The lawful owner of rhinoceros horn who intends to authorise another person, or provide such a person with proxy, to sell, give, donate or in any similar way dispose of his or her rhinoceros horn on his or her behalf, must nevertheless apply for a permit in accordance with regulation 5(1) and (2).

(2) A person who intends to authorise another person, or provide such a person with proxy, to buy, receive, accept as a gift or donation or in any similar way acquire rhinoceros horn on his or her behalf, must nevertheless apply for a permit in accordance with regulation 6(1) and (2).

(3) The applications contemplated in subregulations (1) and (2) must, in addition to the information contemplated in regulations 5(2) and 6(2), be accompanied by the following documents:

- (a) a certified copy of the identity document or permanent residency permit of the person who has been authorised or has received proxy; and
- (b) a certified copy of the written authorisation or proxy that contains the minimum information contemplated in subregulation (6).

(4) A person who sells, gives, donates or in any similar way disposes of rhinoceros horn contemplated in regulation 3(1) or (2) on behalf of the lawful owner thereof, must be authorised or have proxy to do so, in writing by the lawful owner and by means of a permit issued in terms of—

- (a) the Biodiversity Act; and
- (b) provincial conservation legislation, if applicable,

prior to the selling, giving, donating or in any similar way disposing of the rhinoceros horn.

(5) A person who buys, receives, accepts as a gift or donation or in any similar way acquires rhinoceros horn contemplated in regulation 3(1) or (2), on behalf of another person, must be authorised or have proxy to do so, in writing by such other person and by means of a permit issued in terms of—

- (a) the Biodiversity Act; and
- (b) provincial conservation legislation, if applicable;

prior to the buying, receiving, accepting as a gift or donation or in any similar way acquiring such rhinoceros horn.

(6) The written authorisation or proxy contemplated in subregulation (3)(b) must, as a minimum, contain the following information:

- (a) name and identity number of—
 - (i) the person receiving the proxy; and
 - (ii) the lawful owner intending to sell, give, donate or in any similar way dispose of his or her rhinoceros horn, or the person intending to buy, receive, accept as a gift or donation or in any similar way acquire rhinoceros horn, as the case may be; and
- (b) the contact details and physical address of the persons contemplated in item (a).

Chapter 3

Provisions relating to the selling of rhinoceros horn by auction

Special provisions relating to the selling of rhinoceros horn by auction

11. (1) A person may sell or buy rhinoceros horn contemplated in regulation 3(1) or (2) through an auction, only if the person—

- (a) who sells the rhinoceros horn is in possession of a permit authorising the selling thereof; and
- (b) who buys the rhinoceros horn is in possession of a permit authorising the buying thereof, at the time of bidding at the auction.

(2) The permits contemplated in subregulation (1) must be issued with a validity period that corresponds with the date or period, as the case may be, of the auction.

Obligations of the seller and buyer of rhinoceros horn in respect of auctions

12. (1) A person who intends to buy rhinoceros horn through an auction must apply for a buying permit in terms of the Biodiversity Act, at least 30 working days prior to the auction.

(2) A person who is the holder of a permit to buy rhinoceros horn must—

- (a) return the permit to the relevant issuing authority within 5 working days of the conclusion of the auction, if a successful bid has not been awarded to him or her; or
- (b) apply to the relevant issuing authority for a permit to possess and transport the rhinoceros horn, if a successful bid has been awarded to him or her.

- (3) A person who sells rhinoceros horn by auction must—
- (a) as part of the advertisement of the auction, inform potential bidders of the requirement contemplated in subregulation (1);
 - (b) at least 48 hours prior to the date of the auction, provide the Department with a list of registered bidders, containing the following information in respect of each bidder:
 - (i) full names;
 - (ii) identity number; and
 - (iii) residential address, e-mail address and telephone numbers; and
 - (c) within 5 working days after conclusion of the auction, provide the Department with a report of successful bidders, containing the following information in respect of each bidder:
 - (i) full names;
 - (ii) identity number;
 - (iii) residential address, e-mail address and telephone numbers; and
 - (iv) detail of the rhinoceros horn, lot of rhinoceros horn, or lots of rhinoceros horn bought, as the case may be.

Chapter 4

Restrictions relating to export of rhinoceros horn

Restrictions relating to the export or re-export of rhinoceros horn

13. (1) A person may export or re-export rhinoceros horn, only if—
- (a) such rhinoceros horn is 5cm or more in length, irrespective of the weight of such rhinoceros horn;
 - (b) such rhinoceros horn is marked in accordance with the provisions of the TOPS Regulations and the Rhinoceros Norms and Standards; and
 - (c) a permit authorising the export or re-export of such rhinoceros horn has been issued in terms of the Biodiversity Act.
- (2) A person may not export or re-export rhinoceros horn contemplated in subregulation (1) through any port of entry or exit other than OR Tambo International Airport.

(3) A rhinoceros horn may not be exported or re-exported, unless the holder of the export permit or re-export permit has such permit endorsed by an environmental management inspector, or by an official from any other border law enforcement agency mandated to perform this function, prior to the exportation or re-exportation of the rhinoceros horn to which the permit relates.

Provisions relating to rhinoceros horn that do not meet the minimum size requirement for exporting or re-exporting

14. (1) The export or re-export of any rhinoceros horn that is less than 5 cm in length, irrespective of the weight of such rhinoceros horn, is prohibited in accordance with a notice published in the *Government Gazette* in terms of section 57(2) of the Biodiversity Act.

(2) The prohibition contemplated in subregulation (1) does not apply to—

- (a) a registered scientific institution that exports or re-exports such rhinoceros horn for scientific purposes;
- (b) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, that exports or re-exports such rhinoceros horn for the purpose of genetic profiling in accordance with the Rhinoceros Norms and Standards; or
- (c) the Department.

Requirements to obtain a permit in respect of the export or re-export of rhinoceros horn

15. (1) A person who intends to export or re-export rhinoceros horn contemplated in regulation 13(1), must complete and sign an application form as specified in terms of the TOPS Regulations and submit it to the relevant issuing authority.

(2) The application contemplated in subregulation (1) must be accompanied by—

- (a) a certified copy of the identity document, permanent residence permit, work permit or passport of the applicant;
- (b) proof of payment of the permit processing fee, as set out in the CITES Regulations;
- (c) a certified copy of a permit that authorises the lawful possession of the rhinoceros horn to which the application relates, issued in terms of—
 - (i) the Biodiversity Act; and
 - (ii) provincial conservation legislation, if applicable;

- (d) a certified copy of an import permit issued by the Management Authority of the country of import; and
- (e) written confirmation from the Management Authority contemplated in paragraph (d) that domestic legislative provisions are in place to ensure that the imported rhinoceros horn will not be used in a manner that is in contravention with the provisions of CITES applicable to the importation of specimens of species included in Appendix I of the Convention.

Chapter 5

Miscellaneous

General provisions

16. (1) Where the Department is excluded from any prohibition contemplated in these regulations, the Department may give, donate, receive, accept as a gift or donation, export or re-export rhinoceros horn, only to the extent necessary for the official performance of its functions.

(2) A person contemplated in regulation 5(1), 6(1), 10(4) or 10(5) must be present within the Republic at the time of selling, giving, donating, buying, receiving, accepting as a gift or donation or in any similar way disposing of or acquiring rhinoceros horn, as the case may be.

(3) A person who has sold, given, donated, or in any similar way disposed of rhinoceros horn, is responsible for the safe-keeping of the rhinoceros horn in accordance with the provisions of the Rhinoceros Norms and Standards, until the possession permit is issued to the person who has bought, received, accepted as a gift or donation or in any similar way acquired the rhinoceros horn.

(4) The possession permit of a person who has sold, given, donated, or in any similar way disposed of rhinoceros horn, remains valid for the purpose of safe-keeping of the rhinoceros horn, until a possession permit is issued to the person who has bought, received, accepted as a gift or donation or in any similar way acquired the rhinoceros horn and the latter person has taken possession of the rhinoceros horn, or for a period of 90 days, whichever is the shortest.

(5) If the possession permit of the person who has sold, given, donated or in any similar way disposed of rhinoceros horn, expires prior to the person who has bought, received, accepted as a gift or donation or in any similar way acquired the rhinoceros horn, taking possession of such rhinoceros horn, the former person must apply for a renewal of his or her possession permit.

(6) A person who buys, receives, accepts as a gift or donation or in any similar way acquires rhinoceros horn, may not take possession of the rhinoceros horn, until a possession permit is issued to him or her in terms of the Biodiversity Act.

(7) The validity of a certified copy of any document contemplated in these regulations may not exceed six months from date of such certification.

Offences

17. Any person who contravenes or fails to comply with a provision of regulation 3(1)(b), (3) or (4), 4(3), 10(4) or (5), 11(1), 12(2) or (3), 13(1)(b), (2) or (3), or 16(2), (3), (5), (6) or (7) is guilty of an offence.

Penalties

18. Any person convicted of an offence in terms of regulation 17 of these Regulations is liable to—

- (a) imprisonment for a period not exceeding five years;
- (b) a fine not exceeding five million rand, and in the case of a second or subsequent conviction, a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years, or in both instances to both a fine and such imprisonment; or
- (c) both a fine and such imprisonment.

Short title and commencement of these Regulations

19. These Regulations are called the Regulations relating to Trade in Rhinoceros Horn, 2019, and come into operation on a date to be determined by the Minister by notice in the *Gazette*.

DEPARTMENT OF ENVIRONMENT, FORESTRY AND FISHERIES

NO. 627

03 JUNE 2020

**NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004
(ACT NO. 10 OF 2004)****AMENDMENT OF THE ALIEN AND INVASIVE SPECIES LIST AND LIST OF CRITICALLY
ENDANGERED, ENDANGERED, VULNERABLE AND PROTECTED SPECIES**

I, Barbara Dallas Creecy, Minister of Environment, Forestry and Fisheries, hereby, under section 72, read together with sections 70(1)(a) and 58 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), amend the Alien and Invasive Species Lists, 2016, published under Government Notice No. 864 in Government Gazette No. 40166 of 29 July 2016, and the lists of Critically Endangered, Endangered, Vulnerable and Protected Species, published under Government Notice No. R151 in Government Gazette No. 29657 of 23 February 2007, as amended, as indicated in the Schedule hereto.

This notice comes into operation on a date determined by the Minister by notice in the *Gazette*.



**BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

SCHEDULE

Definitions

1. In this Schedule unless the context requires otherwise—

“**Biodiversity Act**” means the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004)

“**Rhinoceros Norms and Standards**” means the norms and standards pertaining to the marking of rhinoceros and rhinoceros horn, and the hunting of rhinoceros for trophy hunting purposes, promulgated in terms of section 9 of the Biodiversity Act.

Amendment of the Alien and Invasive Species List, published Government Notice No. 864 Government Gazette No. 40166 of 29 July 2016, in terms of sections 70(1) of the Biodiversity Act

2. The Alien and Invasive Species list is hereby amended by the deletion of species No. 12, *Diceros bicornis michaeli* Zukowsky, 1965 (Black Rhinoceros (Kenya)) in List 3: National List of invasive Mammal Species of Notice 3: National List of Invasive Species in terms of section 70(1) of the Biodiversity Act.

Amendment of the lists of critically endangered, endangered, vulnerable and protected species, published under Government Notice No. R. 151 in Government Gazette No. 29657 of 23 February 2007, as amended by Government Notice No. R1187 Government Gazette No. 30568 of 14 December 2007, in terms of section 56(1) of the Biodiversity Act

3. The following species is hereby inserted in the Category: Protected Species, Mammalia, of the lists of critically endangered, endangered, vulnerable and protected species, after *Crocuta crocuta* (Spotted Hyaena):

Scientific Name *Diceros bicornis michaeli*; Common Name Eastern black rhinoceros

Transitional Arrangements

4. (1) A person who, immediately prior to the coming into operation of this notice, carries out a restricted activity involving a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*) under a permit issued in terms of Chapter 5 of the Biodiversity Act, must, within three months after the coming into operation of this notice, apply for a permit in terms of Chapter 4 of the Biodiversity Act.

- (2) A person who submitted an application for a permit in terms of Chapter 5 to carry out a restricted activity involving a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*), must consider such an

application withdrawn and such a person must, within three months of the coming into operation of this notice, apply for a permit in terms of Chapter 4 of the Biodiversity Act.

(3) A person who, immediately prior to the coming into operation of this notice, carries out a restricted activity involving a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*) without a permit issued in terms of Chapter 5 of the Biodiversity Act, must apply for and obtain a permit contemplated in Chapter 4 of the Biodiversity Act, within 30 days after the coming into operation of this notice.

(4) A person who intends to carry out a restricted activity involving a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*), for which a permit is not required in terms of Chapter 5 of the Biodiversity Act, must apply for a permit in terms of Chapter 4 of the Biodiversity Act, if such restricted activity will be carried out more than three months after the coming into operation of this notice.

(5) A person who is in possession of or exercising physical control over a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*), or who intends to hunt a specimen of a Black Rhinoceros (*Diceros bicornis michaeli*) must, within three months of the coming into operation of this notice, in addition to complying with Chapter 4 of the Biodiversity Act, comply with the provisions of the Rhinoceros Norms and Standards.

Short title and Commencement date

5. This notice is called the Amendment Notice to the Alien and Invasive Species Lists and the Critically endangered, endangered, vulnerable and protected species list, and comes into operation on a date determined by the Minister by notice in the *Gazette*.