

**PROVINCE OF THE EASTERN CAPE**

**EASTERN CAPE ENVIRONMENTAL  
CONSERVATION ACT, 2003  
(EASTERN CAPE)**

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*Act No 13 of 2003 (EC)*

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

## **ACT**

**To provide for the consolidation and the repeal of certain laws relating to environmental conservation applicable in the Province, including the Seashore Act, 1935, Mountain Catchment Areas Act, 1970, and the Environmental Conservation Act, 1989; to provide for the declaration of Provincial protected areas; to provide for the management of biodiversity in the Province; to provide for Provincial coastal management; to regulate air quality and waste management in the Province; and to provide for matters connected therewith.**

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**CHAPTER 1**

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
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**INTRODUCTORY PROVISIONS**

**Definitions**

1. (1) In this Act, unless the context indicates otherwise –

"accredited instructor" in relation to problem animal control, means a qualified problem control hunter or problem animal control officer, who has been accredited by the Department and who can present problem animal control training to others;

"adequately enclosed", in relation to land, means –

enclosed by any fence, wall or obstruction of any kind whatsoever forming an enclosure from which a wild animal, of any species mentioned in the certificate of adequate enclosure issued under section 80 in respect of that land, is unable to escape without breaking it;

enclosed by any natural boundary through or over which a wild animal of a species so mentioned will in normal circumstances not pass; or

enclosed by fences, walls, obstructions or natural boundaries so combined that a wild animal of the species in question is unable to escape from that land;

"angling" means the catching of fish by means of a line and hook or hooks, whether or not any rod, bait or lure is used therewith, but does not include the jigging or snatching of fish;

"angling season", in regard to inland waters, means the period of the year other than the closed season when fish of any defined species may lawfully be caught;

"aquatic fauna" means any wild animal living in inland waters;

"aquatic growth" means any plant which grows or is able to grow in inland waters, and includes the flower, seed, spore, fruit, bulb, tuber, stem or root or any other part of such plant;

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"artificial lure or spoon" means a device that by its simulation of life or by its appearance or colour is designed or likely to delude, entice or attract a fish into seizing such device;

"authority" in relation to problem animal control, means a permit issued by the Department, which authorises the holder thereof to conduct a specific act with a wild animal, and "authorization" has a corresponding meaning;

"biological diversity" or "biodiversity" means the diversity of animals, plants or other organisms, including the diversity of animals, plants or other organisms found within and between –

- (a) ecosystems;
- (b) habitats;
- (c) the ecological complexes of which these systems and habitats are part; and
- (d) species:

"baboon" means the species *Papio ursinus*;

"biological resource" means any resource of a biological nature, including –

- (a) a living or dead animal, plant or other organism;
- (b) a derivative of an animal, plant or other organism; or
- (c) any genetic or propagation material;

"Board" means the Eastern Cape Provincial Parks Board which governs protected areas declared in terms of this Act;

"banded tilapia" means the species *Tilapia sparrmanii*;

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"bait" means any organic substance, live or dead, used or to be used for attracting or catching a wild animal whether or not it is or is to be used in conjunction with any other implement or substance;

"biltong" means the meat of any wild animal which has been or is being dried, smoked, salted, cured or treated in any other manner for the purpose of preservation, but does not include such meat that has been or is being only chilled or frozen;

"biltong sausage" means sausage, whether dried or not, made wholly or partly of the meat of a wild animal;

"black bass" means any fish of the genus *Micropterus*;

"bluegill sunfish" means any fish of the species *Lepomis macrochirus*;

"buy" includes to barter or to exchange;

"cage" means any place (including a pool of water), structure or other thing that has in any manner been closed or fenced in for the purpose of keeping an animal in captivity, whether it is -

- (a) closed or fenced in over the top or not; or
- (b) movable or immovable;

"captivity", in relation to any wild animal other than a fish, means the holding of such animal captive in an enclosure or elsewhere in such a way that it is unable to maintain itself by natural means;

"capture", in relation to any wild animal, means to capture, catch or take such animal by any means whatsoever or to attempt to do so;

"carcass", in relation to any wild animal, means the whole or any part of the carcass including any meat or flesh (whether dried, smoked, salted or treated in

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any way) or the head, tooth, horn, shell, scale, tusk, bone, feather, tail, claw, paw, hoof, skin, hide, hair or viscera and includes the egg;

“carp” means the species *Aristycthis mobilis*, *Ctenophayngodon idellus*, *Cyprinus carpio*, *Hyopopthlamicthys molitrix* or *Mylopharyngodon piceus*;

"cast-net" means a net (also known as an umbrella-net or throw-net), with or without weights on the perimeter thereof, that is cast on water so that it opens and sinks in the water;

"catch", in relation to a fish, means to take out of water or bring to land in any manner whatsoever or to possess in a net, whether or not the net is in the water, or to be in possession in or on any boat or on land, and includes any injuring, immobilizing or killing of such fish or attempting to take, injure, immobilize or kill or to pursue or disturb willfully any such fish;

“category” in relation to protected areas, means a category mentioned in section 17;

“cattle egret” means the species *Bubulcus ibis*;

"certificate" means a certificate issued under this Act;

"client" means, in relation to the hunting of a wild animal, a person who is not a South African citizen and who pays or otherwise rewards another person for or in connection with such hunting;

"closed season", in relation to a wild animal, means any period of the year during which hunting may not take place except in accordance with the provisions of a notice published under section 71 by the MEC in the *Gazette*, and, in relation to a fish, means any period of the year during which the catching of such fish may not take place except in accordance with the provisions of a notice published under section 103 by the MEC in the *Gazette*;

“competency certificate” in relation to problem animal control, means a certificate that is issued by the Department, to a person who has passed an approved course in problem animal control;

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"conservancy" means a voluntary association of the owners or occupiers of land that has been registered in terms of section 64;

"Constitution" means the Constitution of the Republic of South Africa, 1996(Act No. 108 of 1996);

"confiscate" means to appropriate to the state as a penalty;

"Council" means the Provincial Environmental Advisory Council established by section 13;

"coyote getter" means an approved appliance which projects poison when the trigger mechanism is activated by a problem animal;

"cultivate", in relation to indigenous flora, means the artificial reproduction of such flora in any manner whatsoever;

"daily bag limit" means the number of any species of protected wild animal or of fish determined in a notice issued in terms of section 106, as the case may be;

"defined area" in relation to litter, means –

- (a) the road reserve of a public road, and the land situated within 150 meters from the boundaries of such reserve in so far as such reserve or land is not situated within the area of jurisdiction of a metropolitan or urban local authority;
- (b) land which is in the possession or under the control of the Provincial Government; or
- (c) an area that has been declared a defined area by the MEC by notice in the *Gazette*;

"Delegation" in relation to a duty, includes an instruction to perform the duty;

"Department" means the Department responsible for environment in the Province;

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“director of a professional hunting school” means a person who presents and conducts a prescribed course to instruct and assess a person wishing to be authorized as a professional hunter or hunting outfitter under section 93;

“electronic transponder” means an electronic device transmitting a radio signal;

"endangered flora" means any flora of a species mentioned in Schedule 4 and 4 (A) or defined as an endangered flora, specially protected indigenous flora, specially protected plant in terms of a corresponding law in operation in another province of the Republic, provided that it shall not include any flora of a species mentioned in Schedule 5 of this Act and defined as an endangered flora, specially protected indigenous flora or specially protected plant in terms of a corresponding law in operation in another province of the Republic;

"endangered wild animal" means any animal of a species mentioned in Schedule 1 or defined as an endangered wild animal, specially protected wild animal, specially protected game or specially protected bird in terms of a corresponding law in operation in another province of the Republic, provided that it shall not include any animal of a species mentioned in Schedule 2 of this Act and defined as an endangered wild animal, specially protected game, specially protected wild animal or specially protected bird in terms of a corresponding law in operation in another province of the Republic;

"Environmental Officer" means an Environmental Officer designated in terms of section 9(1), or who is otherwise an Environmental Officer as contemplated in subsection (2) or (6);

“Environmental Ranger” means an Environmental Conservation Ranger appointed or designated in terms of section 12;

“ecological integrity” means the sum of the biological, physical and chemical components of an ecosystem, and their interactions which maintain the ecosystem and its products, functions and attributes;

“ecosystem” means a dynamic complex of animal, plant and micro-organism communities and their non-living environment interacting as a functional unit;

“Executive Council” means the appointed in terms of section 132 of the Constitution;

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"exotic", in relation to any fauna or flora, means a species which occurs in a free state in nature anywhere save in the Republic, including any such species that has been introduced and become naturalized in the Republic or has been altered in any way by the direct or indirect manipulation of its genetic material;

"export" means to export from the Province;

"fauna" means any wild animal;

"firearm" includes any airgun or dart gun;

"fish" means any aquatic fauna (other than an amphibian, reptile, bird or mammal) whether vertebrate or invertebrate, and includes the egg, spawn or larvae of any such animal;

"fish hatchery" means any inland waters in which fish whether indigenous or exotic are cultivated and propagated or acclimatized;

"flora" means any plant including the whole or any part of the plant whether dead or dried or not, but does not include a plant declared to be a weed or invader plant under section 2(3) of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983), or a domesticated species or cultivar;

"full-time employee" means any employee who is employed full-time on a monthly basis and is in receipt of a salary or wage which is in accordance with local tariffs for the kind of work done by him or her;

"Fund" means the Provincial Environmental Management Fund referred to in section 126, and includes any corresponding fund established in terms of a law repealed by this Act;

"fyke-net" means a device made of rings or hoops over which a net, wire netting or any other material has been spread, or which is made of wire only, and has one or more funnel-shaped openings, and includes anything that, whether attached to such device or not, is used to guide fish to any funnel-shaped opening in such device;

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“game bird” means any bird that is a protected wild animal and may be hunted during the hunting season determined for such bird;

"*Gazette*" means the Provincial Gazette of the Province;

“gill-net” means a net which is set upright in water with the result that a fish can become caught or entangled therein, whether or not such net drifts or is attached to anything and which may or may not be anchored to the bed of the water;

"Head of Department" means the Head of the Department;

"high water mark" means the highest mark reached by the water of the sea on the land during the stormiest period of the year, excluding exceptional or abnormal floods;

"hiker" means any person who as a hiker makes authorized use of any part of the hiking trail system;

"hiking trail system" means the hiking trail system referred to in section 66;

"Honorary Environmental Officer" means any person appointed as such under section 11;

"hunt", in relation to a wild animal, means by any means whatsoever to hunt or search for, to kill, capture or attempt to kill or capture, or to pursue, follow or drive with intent to kill or capture, or to shoot at, poison, lie in wait for or willfully disturb;

"hunting outfitter" means a person who for reward promotes or organizes the hunting of a wild animal for a client;

“hunting season” means the period in each year determined by the MEC in terms of section 71 during which a species of protected wild animal may be hunted under the authority of a permit or licence;

"identity number" means an identity number as defined in section 1 of the Population Registration Act, 1976 (Act No. 24 of 1976), or in a corresponding law in operation in another State;

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"implement", in relation to a fish, means any instrument, apparatus or device used for, or in, the catching of fish;

"indigenous," in relation to fauna or flora, means an animal or plant of a species that occurs in a free state in nature in the Republic, whether or not it is or has been kept in captivity or cultivated, as the case may be, excluding any such fauna or flora that has been altered in any way by the direct or indirect manipulation of its genetic material, but does not include a species that has been introduced and become naturalized in the Republic;

"indigenous species" means an animal, plant or other organism that occurs, or has historically occurred, naturally in a free state in nature within the borders of the Republic, but excludes an animal, plant or other organism that has been introduced through human intervention;

"inland waters" means all waters which do not permanently or at any time during the year form part of the sea;

"IUCN category" in relation to a protected area, means protected area management category, based on primary management objective and published by the IUCN;

"jet ski" means any vessel propelled by means of a water jet;

"jigging" means the catching of fish by the jerking in water of an implement consisting of, or fitted with, a hook with the intention of impaling fish thereon, but does not include a spoon or other artificial lure used for angling, and "snatching" bears a corresponding meaning;

"landing net" means a net attached to a frame in such a manner as to leave an opening not exceeding six hundred and ten millimeters measured in a straight line between any two points on the perimeter of the frame and which is used only for lifting out of the water a fish caught by angling;

"Legislature" means the Provincial Legislature of the Province;

"licence" means a licence issued under this Act;

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"litter" means any refuse, rubbish, garbage, rubble or any abandoned or discarded article, fluid, matter, substance or thing;

"local authority" means a municipality as contemplated by section 151 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), or a district council;

"local community" means any community of people living or having rights or interests in a distinct geographical area, and includes a traditional community;

"local protected area" means a protected area declared as such by a municipality;

"magistrate" includes an additional magistrate and an assistant magistrate;

"MEC" means the Member of the Executive Council responsible for environment in the Province;

"management" in relation to a protected area, includes control, protection, conservation, maintenance and rehabilitation of the area;

"management authority, in relation to a protected area, means an authority to whom the management of a protected area has been assigned;

"municipality" means a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

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

"national environmental management principles" means the principles contained in –

- (a) section 2 of the National Environmental Management Act;

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- (b) national legislation governing coastal management; and
- (c) section 2 of the National Environmental Management: Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“National Problem Animal Policy Committee” means a committee, made up of representatives from all the provinces in South Africa, which is responsible for problem animal control;

“nature reserve” means a nature reserve declared in terms of section 23;

"net" means a fyke-net, cast-net, crab-net, landing-net, staked net or beach-seine net;

"noxious aquatic growth" means any species of aquatic growth mentioned in schedule 6;

"officer" means an officer as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

"owner" means –

- (a) in relation to land –
  - (i) the person in whom is vested the legal title thereto;
  - (ii) where the legal title thereto is vested in an association of persons, whether corporate or unincorporate, the person designated by such association in writing as the owner thereof;
  - (iii) in the case of land under the control or management of a local authority, the local authority concerned;

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- (iv) in the case of State land not under the control or management of a local authority or held in trust by the Minister of Land Affairs, the Minister of the Department of State or Premier having control or management thereof or any officer designated by such minister or Premier for the purpose;
- (v) controlled by a community, the executive body of the community in terms of its constitution or any law or custom;
- (vi) belonging to the state land controlled by a lessee or other person as an order of a High Court-
  - (aa) the Premier or the member of the executive council of the Provincial Administration exercising control over that state land, or;
  - (bb) a person authorized by him or her.

in the case of land not occupied by the owner as contemplated by subparagraph (i), the person who is in actual occupation of the land, who exercises general control over such land and who has been authorized in writing by the owner as contemplated by the said subparagraph to exercise the rights conferred on an owner of land by this Act;
- (viii) where the owner as contemplated by subparagraph (i), (ii) or (vii) is dead or insolvent or has assigned his or her estate for the benefit of his or her creditors or has been placed under curatorship by an order of court or is a company being wound up or under judicial management, the person in whom the administration of such land is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be;
- (b) in relation to inland waters, the owner as contemplated by paragraph (a) of the land on which the waters concerned are situated or which abuts on such waters; and

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- (c) in relation to any vessel includes the lessee, master or skipper of such vessel;

"peace officer" means a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"performing wild animal" means any animal lawfully kept in captivity in order to perform for the entertainment of the public;

"permit" means a permit issued under this Act;

"pick", in relation to any flora, includes to cut, chop off, take, gather, pluck, break or damage such flora or to extract or tap the sap thereof, but does not include the uprooting or destruction of such flora;

"poison" means any poison, preparation or chemical substance used to catch, immobilize, sterilize, kill or physically harm an animal, whether registered in terms of any law or not;

"police official" means a member of the South African Police Service as contemplated in section 12 of Proclamation No 5 of 1995;

"Premier" means the Premier of the Province;

"prescribed" means prescribed by regulation made under this Act;

"prescribed tin" means a tin or other similar appliance of whatever material it is made which has a circular opening of not less than one hundred and fifteen millimeters in diameter and by means of which bait is squeezed out by the application of pressure on the river-bed or river bank;

"private inland waters" means any dam, reservoir, vlei or other inland waters completely surrounded by private land owned by one owner or completely surrounded by State land occupied under a traditional and communal form of tenure;

"private land" means land other than land owned or controlled by the State;

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"private nature reserve" means a private nature reserve established in terms of section 62;

"problem animal control hunter" means a person declared competent after he or she has been tested in terms of this Act, to use certain control methods and appliances in order to control problem animals which causes damage;

"problem wild animal" means any species of wild animal mentioned in Schedule 3;

"professional hunter" means any person who for reward escorts or agrees to escort a client to enable him or her to hunt a wild animal ;

"protected area" means a protected area referred to in section 17;

"protected flora" means any flora of a species mentioned in Schedule 5 or defined as protected flora, a protected plant or a protected indigenous plant in terms of a corresponding law in operation in another province of the Republic, provided that it shall not include any species of flora mentioned in Schedule 4 of this Act and defined as protected flora, a protected plant or a protected indigenous plant in terms of a corresponding law in operation in another province of the Republic;

"protected wild animal" means any animal of a species mentioned in Schedule 2 or defined as a protected wild animal, protected game or game in terms of a corresponding law in operation in another province of the Republic, provided that it shall not include any animal of a species mentioned in Schedule 1 of this Act and defined as a protected wild animal, protected game or game in terms of a corresponding law in operation in another province of the Republic;

"Province" means the Province of Eastern Cape established by section 103 of the Constitution of the Republic of South Africa, 1996( Act No 108 of 1996);

"public road" means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"registered protected flora grower" means a person who has been registered as a flora grower and holds a licence issued to him or her in terms of section 117;

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"registered protected flora seller" means a person who has been registered as a flora seller and holds a licence issued to him or her in terms of section 118;

"regulation" means a regulation made under this Act;

"relative", in relation to the owner of any land, means the spouse, parent, step-parent, adoptive parent, son-in-law, daughter-in-law, child, step-child, adopted child, brother, sister and grandchild of such owner provided that in relation to an owner of land which is an unincorporate association of persons, "relative" means the relative as hereinbefore defined of every member of such association;

"rock dassie" means the species *Procavia capensis*;

"sea" means the water and the bed of the sea below the high water mark and situated within South African waters;

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

"seedling", in relation to a species of the genus *Encephalartos* or *Stangeria*, means a plant of such species that has been cultivated from seed and the stem of which does not exceed 15 cm in diameter, except a seedling of the species *E. cupidus*, *E. humilis*, *E. caffer* or *E. ngoyanus* that has been cultivated from seed and the stem of which does not exceed 70 mm in diameter;

"sell" includes to hawk, peddle, barter, exchange or dispose of for a consideration or to offer, advertise, expose or possess for the purpose of selling, hawking, peddling, bartering, exchanging or otherwise disposing of for a consideration;

"setline" means a line and hook with or without any bait or lure that, used for catching fish, is not manipulated directly by any person, but does not include a line and hook attached to a reel or rod lying loose on or fixed into the ground, or on a vessel;

"shell" means the shell or any portion of the shell of an animal found in inland waters, the sea or on the sea-shore;

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"solid", in relation to firearm ammunition, means any bullet that does not expand to a size bigger than the calibre concerned;

"special nature reserve" means a special nature reserve declared in terms of section 20;

"species" means –

- (a) a kind of animal, plant or other organism, including any sub-species, cultivar, variety, geographic race, strain, hybrid or geographically separate population; or
- (b) a single animal, plant or other organism, including a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;

"staked net" means a net (also known as a set net, gill-net, or drift-net), with or without weights or floats, set upright in water and in which a fish may become caught or entangled, whether or not such net drifts or is attached to anything;

"State forest" means a State forest as defined in section 1 of the National Forests Act, 1998 (Act No. 84 of 1998);

"subordinate legislation" in relation to this Act, means –

- (a) any regulation made in terms of this Act;
- (b) any norms and standards issued in terms of section 4; or
- (c) any notice published in the *Gazette* in terms of this Act;

"this Act" includes any subordinate legislation made hereunder;

"traditional community" means a community which –

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- (a) lives in a distinct geographical area according to customary law and tradition;
- (b) has established rights or interests in the biological resources of the area; and
- (c) uses their knowledge, innovations, practices and technologies to exploit those resources;

"trap" means any trap, spring trap, snare, cage, net or pitfall and includes birdlime, a mist net and any other device, method or substance whatsoever which can be used or adapted for the capture of any wild animal;

"Treasury" means the Provincial Treasury of the Province mentioned in Schedule 2 to the Public Service Act, 1994(Proclamation No.103 of 1994);

"trout" means any species of the family *Salmonidae*;

"unprotected indigenous flora" means any species of indigenous flora that is not endangered flora or protected flora;

"use" includes cause or permit to be used;

"vagrant dog" means any dog that trespasses on land and, while thus trespassing, is not under the supervision of its owner or a person authorized by such owner;

"vehicle" means any form of conveyance used on land, whether powered by a motor engine or not;

"vervet monkey" means the species *Cercopithecus aethiopicus*;

"vessel" means any waterborne craft of any kind, whether self-propelled or not, but does not include any moored floating structure that is not used as a means of transporting anything by water.

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"waters" includes any body of water or watercourse of any kind, whether occurring naturally or artificially created, and the bed of such waters;

"weapon" means –

- (a) any firearm and includes any ammunition for such firearm; or
- (b) any other instrument that is capable of propelling a projectile, or that can itself be propelled or used, in such a way that a wild animal may be killed, injured or immobilized thereby,

and includes any spear, club, spear gun, assegai, bow and arrow, crossbow, axe, bush-knife, knife or similar instrument, any narcotic whatsoever or any other object which can be used to kill, injure or immobilize a wild animal;

"wild animal" means any vertebrate or invertebrate animal (including the egg or spawn of such animal) belonging to a non-domestic species, and includes any such animal which is kept or has been born in captivity or has been in any way altered by the direct or indirect manipulation of its genetic material, but does not include an ostrich used for farming purposes or the egg thereof, and game has a corresponding meaning.

"wilderness area" means an area not less than 5 000 hectares in extent where man-made structures and other forms of human interference with ecological processes, fauna, flora or other natural features of the landscape erected or effected since the year 1900, are not evident or are of a temporary or transitory nature; and

"year" means a period of twelve months.

### **Objectives and principles**

**2.** The MEC must, in exercising any power under this Act, have regard to the following objectives and principles:

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- (a) The need to achieve optimum and ecologically sustainable development of the environment;
- (b) the need to conserve the environment and its living natural resources for both present and future generations;
- (c) the need to apply precautionary approaches in respect of the management and development of the environment and its living natural resources;
- (d) the need to utilize the environment and its living natural resources to achieve sustainable economic growth, human resource development, employment creation and a sound ecological balance consistent with the development objectives of the Provincial government;
- (e) the need to protect the ecosystem as a whole, including species which are not exploited;
- (f) the need to preserve biodiversity;
- (g) the need to minimize pollution of the air, soil and water;
- (h) the need to achieve to the extent practicable a broad and accountable participation in the decision-making processes provided for in this Act; and
- (i) the need to fulfill any relevant obligation of the Provincial government under an international agreement or applicable rule of international law.
- (j) to provide, within the framework of the National Environmental Management Act, for the declaration and management of protected areas;
- (k) to give effect to international agreements on protected areas which are binding on the Republic; and

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- (l) to provide for co-operative governance in the declaration and management of protected areas.

**Application of this Act**

- 3. (1) This Act applies in the Province.
- (2) This Act, except sections 35 and 36, does not apply to an area declared in terms of section 8 of the National Forests Act, 1998 (Act No. 84 of 1998), as a specially protected forest area, forest nature reserve or forest wilderness area.

**Norms and standards**

- 4. (1) The MEC may, by notice in the *Gazette*, issue norms and standards for –
  - (a) the achievement of any of the objectives of this Act;  
and
  - (b) the management and development of protected areas.
- (2) The norms and standards issued by the MEC in terms of subsection (1) must not be in conflict with the norms and standards issued by the national Minister of Environment and Tourism in terms of national legislation.
- (3) Before issuing norms and standards and setting indicators to measure compliance with those norms and standards, the MEC must consult with municipalities and any other interested party as contemplated in subsection (4).
- (4) Norms and standards may apply –

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- (a) in the Province;
  - (b) in a specific area only;
  - (c) to a specific management authority or category of management authorities only; or
  - (d) to a specific category of persons only.
- (5) Different norms and standards may be issued for –
- (a) different areas;
  - (b) different management authorities or categories of management authorities; or
  - (c) different categories of persons.

**MEC's powers to determine general policy**

5. (1) The MEC may, by notice in the *Gazette*, determine the general policy for achieving the objectives and complying with the principles mentioned in section 2.
- (2) The MEC may at any time by notice in the *Gazette* substitute, withdraw or amend the policy determined in terms of subsection (1).

**CHAPTER 2**

**ADMINISTRATION**

**Administration**

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6. (1) Any authorization required by this Act, whether as a permit, licence or other authorization, may be issued by the Head of Department or other competent authority in a prescribed form and subject to such conditions as may be prescribed.
- (2) Such authorization must –
- (a) not be transferred, or be capable of being transferred, by the holder thereof to any other person;
  - (b) confer on its holder only such authority, right or privilege and be applicable only in respect of such area and for such period as may be specified therein: Provided that, if no period is so specified, the authorization shall be valid for twelve months from the date of issue thereof unless it is sooner withdrawn or canceled; and
  - (c) be available for inspection at all reasonable times at the place where the act authorized thereby is executed.
- (3) No copy, other than a duplicate issued by the Head of Department or his or her delegatee, of such permit, licence or other authorization however made must be offered or accepted as proof of its issuance.
- (4) The Head of Department may at any time amend the conditions of an authorization.
- (5) (a) The Head Of Department may at any time in writing withdraw or cancel any authorization issued if -
- (i) the holder has failed to comply with any condition thereof or has been convicted of any offence under this Act or a corresponding law in operation in another province of the Republic;
  - (ii) he or she is of the opinion that the withdrawal of such authorization is in the interest of environmental conservation generally or of the protection of the environment or any natural resource.

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- (b) Upon withdrawal of an authorization the holder thereof must –
  - (i) forthwith, on receipt of written notification of such withdrawal, surrender the authorization to the Department; and
  - (ii) not be entitled to a refund of any fee or charge or portion of any fee paid in respect of such authorization.
- (c) The conditions that may be determined or specified in terms of subsection (1) may include the payment of a fee or charge determined by the MEC in consultation with the member of the Executive Council responsible for finance in the Province.

**Powers of Head of Department**

7. (1) If the Head of Department at any time –
- (a) considers it necessary or desirable that special measures should be taken to ensure the survival of any species of fauna or flora, he or she may, after consultation with the owner of any land on which such fauna or flora is found –
    - (i) cause such number of either or both sexes of such animal to be captured or such number or quantity of the plants, seeds or other parts of such flora to be picked or gathered as he or she may deem necessary for the purpose of preserving or propagating such animal or such flora and thereafter cause the same to be removed to a provincial nature reserve or other place;
    - (ii) take such steps as may be required for the preservation or propagation on the land in question of such species of fauna or flora, as the case may be;
    - (iii) give reasonable notice to such owner of the time when, the place where and the manner in which it is proposed

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to capture, pick, gather, preserve, cultivate or propagate the fauna or flora referred to in subparagraph (i): Provided that the provisions of this subsection shall not apply in respect of the owner of any land to which any such animal may flee while being pursued for the purpose of being captured in terms of this section;

- (iv) in writing authorize such person as he or she may deem necessary to enter upon the land referred to in subparagraph (i) and to capture, pick or gather the fauna or flora or to take the required measures for the preservation, cultivation and propagation thereof as may, subject to the provisions of subparagraph (iii), thereupon enter upon such land and capture, pick or gather such animals or flora or take such measures thereon;
  - (v) on the application of the owner of any land referred to in subparagraph (i), pay to such owner such compensation in respect of the fauna or flora removed from his or her land in terms of the said subsection or any other damage suffered by him or her in consequence of the exercise of the powers contemplated by this section as the MEC may deem reasonable in the circumstances;
- (b) is of the opinion that any fish or aquatic growth found in any waters on any private land is injurious in any respect he or she may –
- (i) in writing order the owner of such land to take such measures as he or she may specify to catch or kill such fish or to destroy such growth;
  - (ii) if requested thereto by such owner, render such assistance to such owner as the Head of Department may deem necessary for the purpose of enabling the owner to comply with such order.

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- (2) If the owner of private land referred to in subsection (1)(b) refuses, or within a period of six months from the date of the order fails, to comply with an order given in terms of subsection (1)(b)(i), the Head of Department may cause the fish or growth concerned to be caught, killed or destroyed, as the case may be, and thereafter recover the costs concerned in whole or in part from such owner.
- (3) If the Head of Department is of opinion that any species of wild animal found on any land –
  - (a) is likely to be dangerous to human life;
  - (b) is wounded, diseased or injured;
  - (c) is killing livestock or other animals or causing damage to crops or other property, whether movable or immovable;
  - (d) should be hunted in the interests of nature conservation; or
  - (e) is detrimental to the preservation of fauna or flora,  
he or she may cause such animal, or such number of such species as he or she may determine, to be hunted on such land or on any other land to which such wild animal may flee while being pursued for the purpose of being hunted in terms of this subsection.
- (4) The provisions of subsections (3) and (4) of section 3 must apply in respect of the exercise of the powers conferred on the Head of Department by subsection (1) of this section.
- (5) The ownership in the carcass of any wild animal killed during a hunt in terms of subsection (1) must vest in the Department.
- (6) Any person who resists, hinders or willfully obstructs any person in possession of the written authority of the Head of Department issued under subsection (1)(a)(iv) in the exercise of his or her powers or functions under that subsection shall be guilty of an offence.

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- (7) The Head of Department may delegate any of the powers that he or she has in terms of this Act.

**General powers of Head of Department**

8. (1) The Head of Department may, out of moneys appropriated for the purpose, received in payment of fees, services and other charges or transferred from the Fund and in the interests of environmental conservation –
- (a) carry out investigations and projects, make surveys and conduct experiments or cause such to be carried out, made or conducted on its behalf in connection with any fauna or flora or its habitat and may for such purpose acquire such property, whether movable or immovable, as may be necessary or desirable for the purpose;
  - (b) by educational means promote understanding and awareness of environmental conservation amongst the people of the Province;
  - (c) publish or in any other manner disseminate information relating to the matters dealt with in this Act which it acquires in the course of its activities and which may serve to further the achievement of the aims and objects of this Act;
  - (d) take such measures as it may deem necessary or desirable in connection with the protection, breeding or distribution of fauna that are not exotic wild animals, the hatching or acclimatization of indigenous fish, the stocking and restocking of any waters with indigenous fish, the protection, propagation or cultivation of indigenous flora, the control of problem wild animals and the control of fish and aquatic growth;
  - (e) erect and maintain on any land,( with prior consultation) or in any waters such beacons, notice boards, buoys, signs or other marks, as prescribed in the South African Manual for

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Outdoor Advertising Control (SAMOAC), as it may deem necessary for the purposes of this Act; or

- (f) generally, do all such other things as are necessary for the achievement of the aims and objects of this Act, the generality of the powers conferred by this paragraph not being limited in any way by the provisions of the preceding paragraphs.
- (2) Any person generally or specially authorized thereto in writing by the Head of Department may, for any purpose mentioned in subsection (1)(d) or (e) -
    - (a) enter upon the land or waters in question with such employees, assistance, animals, vehicles, appliances and instruments as may be required;
    - (b) make use of any natural material, including water, found on such land or in such waters; and
    - (c) cut any vegetation growing wild in the vicinity of any such beacon, buoy, notice, notice board, sign or other mark.
  - (3) Any person referred to in subsection (2) must, prior to the exercise by him or her of any power mentioned in the said subsection, give reasonable notice, in writing and by Registered mail, to the owner or occupier of the land or waters concerned of his or her intention to exercise such powers.
  - (4) The powers specified in subsection (2), except paragraph (c) thereof, may also be exercised in or in respect of any local authority or private nature reserve.

**Designation of Environmental Officers**

- 9. (1) The Head of Department may, subject to the Public Service Act, 1994 (Proclamation No. 103 of 1994), and the provisions of subsections (2) and (3), designate officers on its staff as Environmental Officers for the carrying out of the provisions of this Act.

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- (2) Every police officer and every other peace officer must be deemed an Environmental Officer *ex officio*.
- (3) The Head of Department must cause to be issued to every Environmental Officer, other than a police officer and any other peace officer, a certificate of designation, and whenever the holder of any such certificate exercises or performs any power, duty or function under this Act, he or she must, at the request of any person affected thereby, produce the certificate to such person for inspection.
- (4) A certificate of designation issued under subsection (3) must remain valid, in the case of an Environmental Officer, until he or she ceases to be employed by the Department or the local authority concerned, as the case may be, or until withdrawn by the Head of Department, whichever is the shorter period.
- (5) An Environmental Officer may in the exercise of the powers or the performance of the duties conferred or imposed on him or her by or under this Act, take with him or her one or more interpreters or assistants who must, whilst under his or her direction, be deemed to be Environmental Officer, as the case may be.
- (6) The MEC may, with the concurrence of the Minister of Defence, designate certain ranks in the South African National Defence Force as temporary Environmental Officers: Provided that any person so designated must -
  - (a) be furnished by the Department with a certificate of designation showing his or her rank, name and number and the duration of such designation; and
  - (b) whenever he or she exercises any power or performs any duty or function in terms of this Act, he or she must at the request of any person affected thereby, produce that certificate to such person for inspection.
- (7) Any person designated as a temporary Environmental Officer in terms of subsection (6) must during the period of such designation exercise the powers and functions of an Environmental Officer.

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**Powers and Duties of Environmental Officers**

- 10.** (1) An Environmental Officer, including an *ex officio* Environmental Officer, must, in relation to any offence or suspected offence under this Act, be deemed to be a peace officer as contemplated in the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- (2) An Environmental Officer, including an *ex officio* Environmental Officer, may –
- (a) arrest any person whom he or she reasonably suspects to have committed an offence under this Act, and in making such arrest, must-
    - (i) not use more force than is reasonably necessary if the arrest is resisted;
    - (ii) respect the constitutional rights of the person arrested;
  - (b) demand from any person performing, or whom he or she reasonably suspects of having performed, any act for the performance of which a licence, permit, exemption, order or the written permission of the owner of land or of any other person is necessary under any provision of this Act, the production of such licence, permit, exemption, order or permission;
  - (c) question any person who in his or her opinion may be able to furnish any information required by him or her in connection with the enforcement of any provision of this Act and for that purpose demand that any vehicle, vessel, boat, craft, float, aircraft or other means of conveyance be brought to a standstill;
  - (d) demand from any person who is required under this Act to keep any book, statement or invoice the production of such book, statement or invoice;

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- (e) conduct any investigation he or she considers necessary in order to ascertain whether any provision of this Act is being complied with by any person, and may for such purpose with a warrant or with the consent of the owner or person who is apparently eighteen years or older in control, enter upon any land, premises, vehicle, place, building, tent, vessel, boat, craft, float, aircraft or other means of conveyance and there-
    - (i) carry out such inspection and investigation as may be necessary including an inspection or investigation of any container or other thing found thereon or therein;
    - (ii) seize anything which may, in his or her opinion, afford evidence of the commission of an offence under this Act;
    - (iii) seize and confiscate any wild animal that is found in possession of or being kept in captivity by any person who on demand fails to produce a permit authorizing such possession or keeping, or if such animal is possessed or kept contrary to any condition specified in the permit produced;
  - (f) in the course of any inspection or investigation in the exercise of his or her powers and the performance of his or her functions under this act , demand that any vehicle, vessel, boat, craft, aircraft or other means of conveyance be brought to a standstill and be kept stationary until he or she has searched it; and
  - (g) enter any private nature reserve in order to monitor compliance with the provisions of this Act and report thereon to the MEC.
- (3) An Environmental Officer including an ex officio Environmental Officer, or a ranger, who seizes anything under any provision of paragraph (f) must, report such seizure to the police.

**Appointment and powers of Honorary Environmental Officers**

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11. (1) The Head of Department may appoint any person he or she considers suitable as an Honorary Environmental Officer for the carrying out of the provisions of this Act.
- (2) An Honorary Environmental Officer—
- (a) may demand from any person performing, or whom he or she reasonably suspects of having performed, any act for the performance of which a licence, permit, exemption, order or the written permission of the owner of land or of any other person is necessary under any provision of this Act, the production of such licence, permit, exemption, order or permission;
  - (b) may question any person who in his or her opinion may be able to furnish any information required by him or her in connection with the enforcement of any provision of this Act and for that purpose demand that any vehicle, vessel, boat, craft, float, aircraft or other means of conveyance be brought to a standstill;
  - (c) may demand from any person who is required under this Act to keep any book, statement or invoice the production of such book, statement or invoice; and
  - (d) must report to the Department information obtained in the exercise of his or her duties in terms of this section and in accordance with his or her conditions of appointment.
- (3) The provisions of section 9(3) shall apply in respect of the appointment of an Honorary Environmental Officer.
- (4) A certificate of designation issued under section 9(3) must remain valid for the period specified in the certificate or until it is withdrawn by the Head of Department, whichever is the shorter period.
- (5) When an Honorary Environmental Officer takes with him or her an interpreter or assistant as contemplated by section 9(5), such

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interpreter or assistant must be deemed to be an Honorary Environmental Officer.

**Appointment or Designation of Environmental Rangers by Department and local authorities**

12. The Head of Department may, for the carrying out of the provisions of this Act –
- (a) subject to the Public Service Act, 1994 (Proclamation No. 103 of 1994), designate officers on its staff as Environmental Rangers; and
  - (b) upon the request of a local authority appoint rangers on such terms and conditions as he or she deems necessary.

**CHAPTER 3**

**PROVINCIAL ENVIRONMENTAL ADVISORY COUNCIL**

**Establishment, functions and duties of Council**

13. (1) There is hereby established a council to be known as the Provincial Environmental Advisory Council (hereinafter called the Council).
- (2) The Council must advise the MEC on any matter –
- (a) on which he or she has to consult the Council in terms of this Act;
  - (b) which he or she refers to it; and
  - (c) which it deems necessary for the attainment of the objects of this Act.

**Composition of Council**

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- 14.** (1) The Council must consist of not less than five and not more than nine persons, not in the employ of the State, who must be representative of the interests detailed hereunder and who must be appointed by the MEC as follows –
- (a) one person with the relevant legal qualification and experience in environmental law;
  - (b) three persons representing natural sciences;
  - (c) not more than three persons representing non-governmental organizations concerned with the conservation of the environment in the Province;
  - (d) two other persons may be appointed with the view to making the Council representative of the people of the Province.
- (2) The MEC may, during the absence or incapacity of any member of the Council, appoint a person to act as substitute for such member, and while so acting such substitute shall for all purposes be a member of the Council.
- (3) Appointments of members must be subject to such conditions, including tenure of office, with a maximum of three years, and must be reimbursed for actual expenses incurred.
- (4) If any member, without leave of the Council, absents himself or herself from two consecutive meetings of which he or she has been notified, he or she ceases to be a member of the Council.
- (5) The quorum of the Council must be fifty percent plus one of the members appointed
- (6) The MEC must annually appoint a chairperson from amongst the members, and whenever the chairperson is absent or for any reason incapacitated, the members present at any meeting must elect from amongst their number a chairperson at such meeting.

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- (7) The chairperson at any meeting of the Council must have both a deliberative and casting vote.
- (8) A member may not be present at any meeting or take part in any proceedings of the Council while any matter in which he or she directly or indirectly has any interest is being dealt with unless he or she has disclosed such interest.
- (9) Subject to there being a quorum at any meeting of the Council, any vacancy in the membership of the Council must not invalidate the proceedings thereof.

**Powers and staffing of Council**

15. (1) The Council may, either for general or specific purposes, appoint from amongst its ordinary members committees of not less than two members each, and the Council may delegate to such committees either absolutely or conditionally such of its functions or duties as it approves.
- (2) The Council, or a committee of the Council, may co-opt one or more persons who are not members of the Council to assist it in respect of any function or duty of the Council.
- (3) Meetings of the Council may be held from time to time as the Council may decide: Provided that not more than one ordinary meeting must be held in a calendar year, and that the MEC may cause a special meeting to be called at any time.
- (4) The Head of Department may, subject to the laws governing the Public Service, provide the Council with secretarial support.

**CHAPTER 4**

**DECLARATION OR DESIGNATION OF PROTECTED AREAS**

**Part 1: Purpose, types and register of protected areas**

*Purpose of protected areas*

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- 16.** The purpose of the declaration of areas as protected areas is –
- (a) to select ecologically viable areas representative of South Africa's biological diversity;
  - (b) to preserve the ecological integrity of those areas;
  - (c) to conserve biodiversity in those areas;
  - (d) to manage the interrelationship between natural environmental biodiversity and human settlement and economic development; and
  - (e) generally to contribute to human, social, cultural, spiritual and economic development.

***Protected areas in the Province***

- 17.** (1) The MEC may by notice in the Gazette declare or designate any of the following as protected areas in the Province:
- (a) Special nature reserves, conforming to IUCN category 1a;
  - (b) Nature reserves, which include IUCN categories 1b, 3, 4 and 6;
  - (c) Sites of ecological importance;
  - (d) Protected natural environments, which approximate IUCN category 5; and
  - (e) Limited development areas.
- (2) For the purposes of this Act, an area declared in terms of –

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- (a) section 8 of the National Forests Act, 1998 (Act No. 84 of 1998), as a specially protected forest area, forest nature reserve or forest wilderness area, must be regarded to be a nature reserve;
  - (b) the Lake Areas Development Act, 1975 (Act No.39 of 1975), as a lake development area, must be regarded to be a Provincial park;
- (3) The protected areas mentioned in subsection (1) are not affected by the designation of a protected area or part of a protected area in terms of this Act or any other legislation as –
- (a) a wilderness area;
  - (b) a specially protected coastal area;
  - (c) a marine reserve;
  - (d) a specially protected forest area, forest nature reserve or forest wilderness area;
  - (e) conservancy or resource use area;
  - (f) a biosphere reserve;
  - (g) a World Heritage site; or
  - (h) any other kind of special conservation area.

***Register of Protected Areas***

- 18.** (1) The MEC must cause to be maintained a register called the Register of Protected Areas.

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- (2) The Register must be a list of all protected areas in the Province, whether declared in terms of this Act or any other legislation.
- (3) The Register must reflect the following particulars in respect of each protected area:
  - (a) the name of the area;
  - (b) the statutory provision in terms of which the area was declared;
  - (c) the category in which the area falls, including its approximate IUCN category;
  - (d) the specific designation of the area or any part of the area, if the area or part of the area has been designated as contemplated in section 17 (1);
  - (e) whether it is a provincial or local protected area;
  - (f) the size of the area in hectares;
  - (g) its location; and
  - (h) the name of its management authority.

***Application of this Act to protected areas declared or designated in terms of legislation repealed by this Act***

- 19.** This Act applies to all areas declared or designated as protected areas in terms of legislation repealed by this Act as if they were declared or designated in terms of this Act.

***Part 2: Special nature reserves***

***Declaration of special nature reserves***

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- 20.** (1) The MEC may by notice in the *Gazette* –
- (a) declare an area specified in the notice as –
    - (i) a special nature reserve; or
    - (ii) a part of an existing special nature reserve; and
  - (b) assign a name to such special nature reserve.
- (2) A special nature reserve includes the air space above the reserve or area to a level of 1000 metres above ground level.

***Criteria for declaring special nature reserves***

- 21.** An area may be declared as a special nature reserve or part of an existing special nature reserve as contemplated in section 20, only if the area –
- (a) is a highly sensitive area of national or international biodiversity significance possessing outstanding ecosystems, geological or physiological features or species;
  - (b) is unable to accommodate any eco-tourism;
  - (c) is unable to tolerate any use of its biological resources;
  - (d) is either –
    - (i) owned by the state;
    - (ii) under the exclusive physical control of the state;  
or

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- (iii) owned by a person, other than an organ of state, who has consented to the declaration by way of a written agreement with the MEC; and
- (e) is to be dedicated exclusively to conservation and scientific research.

***Withdrawal of declarations or exclusion of parts of special nature reserves***

22. The declaration of an area as a special nature reserve, or part of an existing special nature reserve, may not be withdrawn and no part of a special nature reserve may be excluded from the reserve except by an Act of the Legislature.

**Part 3: Nature reserves**

***Declaration of nature reserves***

23. The MEC may by notice in the *Gazette* –
- (a) declare any area specified in the notice as –
    - (i) a nature reserve; or
    - (ii) a part of an existing nature reserve; and
  - (b) assign a name to the nature reserve.

***Criteria for declaring nature reserves***

24. An area may be declared as a nature reserve or part of an existing nature reserve as contemplated in section 23, only if the area –

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- (a) contains predominantly unmodified natural systems which requires the setting and implementation of strict conservation standards to ensure –
  - (i) long term protection and maintenance of the biological diversity in the area; and
  - (ii) a sustainable flow of natural products and services from the area to meet human needs;
- (b) is either –
  - (i) owned by the national government, a provincial government or a municipality;
  - (ii) under the exclusive physical control of the national government, a provincial government or a municipality; or
  - (iii) owned by a private person who has consented to the declaration by way of a written agreement with the MEC; and
- (c) has not or does not form part of an area that has been declared as a category (a), (c), (d) or (e) protected area.

***Designation of nature reserves***

- 25.** A nature reserve declared by the MEC in terms of section 23 must be designated in the notice as –
- (a) a wilderness area;
  - (b) a controlled resource use area;

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- (c) a landscape, ecosystem, habitat or species reserve; or
- (d) any other kind of nature reserve.

**Criteria for designating wilderness areas**

**26.** An area may be designated as a wilderness area if the area –

- (a) generally appears to have been affected primarily by the forces of nature, with the imprint of human influence substantially unnoticeable;
- (b) is of sufficient size to make practicable its preservation and use in an unimpaired condition;
- (c) is unable to accommodate substantial eco-tourism, but offers opportunities for solitude or a primitive and unconfined type of recreation for limited numbers of visitors;
- (d) is unable to sustain any commercial or community use of its biological resources; or
- (e) is to be dedicated exclusively to its conservation and preservation for future generations.

**Withdrawal of designation or exclusion of parts of wilderness areas**

**27.** The designation of a wilderness area may not be withdrawn and no part of a wilderness area may be excluded from the area, except by an Act of the Legislature.

***Criteria for designating controlled resource use areas***

**28.** An area may be designated as a controlled resource use area or a part of an existing controlled resource use area, only if the area –

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- (a) has intermediate biodiversity value; and
- (b) in order to protect the biodiversity in the area, is in need of restrictions on the use of biological resources in the area.

***Part 4: Sites of ecological importance***

***Declaration of sites of ecological importance***

- 29.** (1) The MEC may by notice in the *Gazette* –
- (a) declare an area as –
    - (i) a site of ecological importance;
    - (ii) part of an existing site of ecological importance;and
  - (b) assign a name to the site.
- (2) A site of ecological importance includes the air space above the area to a level of 1000 metres above ground level.

***Criteria for declaring sites of ecological importance***

- 30.** An area may be declared as a site of ecological importance, or part of an existing site of ecological importance, only if the area –
- (a) is of particular ecological significance by reason of its indigenous species, ecological communities, general biodiversity, natural ecosystems, habitats or landscapes;
  - (b) is under threat of harm;

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- (c) has high conservation value; and
- (d) has not or does not form part of an area that has been declared as a category (a), (b), (d) or (e) protected area.

**Consequences of declaration**

- 31.** (1) No person may take any action which will or is likely to have a negative impact on the ecological integrity and status of a provincial site of ecological importance.
- (2) The MEC may for the purpose of subsection (1), by notice in the *Gazette* prohibit or restrict any activity –
- (a) of a nature that may negatively impact on the ecological integrity of such site; and
  - (b) which is specified in the notice.
- (3) Any activity restricted in terms of subsection (2) must be regarded as an activity identified in terms of section 24 (2) of the National Environmental Management Act.

***Amendment or withdrawal of notices***

- 32.** The MEC may by notice in the *Gazette* amend or withdraw a notice issued in terms of section 29

**Part 6: Protected natural environments**

***Declaration of protected natural environments***

- 33.** The MEC may by notice in the *Gazette* –

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- (a) declare any area specified in the notice as –
  - (i) a protected natural environment; or
  - (ii) a part of an existing protected natural environment; and
- (b) assign a name to the protected natural environment.

***Criteria for declaring protected natural environments***

- 34.** An area may be declared as a protected natural environment or part of an existing protected natural environment, only if the area –
- (a) contains specific natural features, natural systems, natural beauty, ecological processes or species of indigenous wildlife of outstanding or unique heritage value because of their inherent rarity, cultural or aesthetic significance or representative quantities;
  - (b) is either –
    - (i) owned by the Provincial government or a municipality;
    - (ii) under the exclusive physical control of the Provincial government or a municipality; or
    - (iii) owned by a private person who has consented to the declaration by way of a written agreement with the MEC; and
  - (c) has not or does not form part of an area that has been declared as a category (a), (b), (c) or (e) protected area.

***Amendment or withdrawal of notices***

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- 35.** The MEC may by notice in the *Gazette* amend or withdraw a notice issued in terms of section 33.

**Part 6: Limited development areas**

***Declaration of limited development areas***

- 36.** The MEC may by notice in the *Gazette* –
- (a) declare any area specified in the notice as –
    - (i) a limited development area; or
    - (ii) a part of an existing limited development area;  
and
  - (b) assign a name to the limited development area.

***Criteria for declaring limited development areas***

- 37.** An area may be declared as a limited development area or a part of an existing limited development area, only if the area –
- (a) functions as a buffer zone to a protected area of higher biodiversity value;
  - (b) in order to protect the biodiversity in that protected area, is in need of restrictions on harmful land use or commercial activities in the area;  
and
  - (c) has not or does not form part of an area that has been declared as a protected area of another category.

***Amendment or withdrawal of notices***

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2003 (EASTERN CAPE)**

- 38.** The MEC may by notice in the *Gazette* amend or withdraw any notice issued in terms of section 36.

**Part 7: General**

***Initiation of declarations***

- 39.** (1) The declaration of private land as a protected area, or part of an existing protected area, may be initiated either by the MEC or the owners of private land in the affected area, acting individually or collectively.
- (2) Any request received by the MEC or a municipality from the owners of private land for their land to be declared as a protected area, or part of an existing protected area, must be considered by the MEC.

***Endorsements by Registrar of Deeds***

- 40.** (1) The MEC must in writing notify the Registrar of Deeds whenever an area is declared as a nature reserve, a limited development area, a protected natural environment or a site of ecological importance, or as part of an existing nature reserve, a limited development area, a protected natural environment or a site of ecological importance or in respect of which a declaration has been withdrawn or altered.
- (2) The notification must include a description of the land involved.
- (3) On receipt of the notification, the Registrar of Deeds must make an endorsement against the title deed of each affected piece of land reflecting the declaration or alteration.

**CHAPTER 5**

**PROCESS FOR DECLARING AND DESIGNATING PROVINCIAL PROTECTED  
AREAS**

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

***Consultation***

- 41.** (1) Before declaring an area in terms of Chapter 4, or designating an existing protected area or part of an existing protected area, the MEC must follow a consultative process as may be appropriate in the circumstances.
- (2) The MEC must, as may be appropriate in terms of subsection (1) –
- (a) consult all national organs of state affected by any proposed declaration or designation of an area;
  - (b) in accordance with the principles of co-operative governance as set out in Chapter 3 of the Constitution, consult the municipality or municipalities in which the area or part of the area is situated; and
  - (c) allow public participation in the process in accordance with section 42.

**Notice of declaration or designation**

- 42.** (1) The MEC must –
- (a) give notice in the *Gazette* and in at least one newspaper distributed in the area in which that area is situated of the intention to declare the area as a Provincial protected area of a particular category or as part of an existing protected area in terms of Chapter 4; and
  - (b) send a copy of the notice by registered post to the last known postal address of every owner whose land will directly be affected by the declaration.
- (2) The notice must –

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2003 (EASTERN CAPE)**

- (a) invite members of the public, including owners referred to in subsection (1) (b), to submit to the MEC written representations on or objections to the proposed declaration or designation within 30 days from the date of publication of the notice; and
  - (b) contain sufficient information to enable members of the public to submit representations or objections, and must include a clear indication of the area that will be affected by the declaration or designation.
- (3) The MEC may in appropriate circumstances allow any interested person or a traditional community to present oral representations or objections to the MEC or a person designated by the MEC.
- (4) This subsection must be applied where the declaration or designation of an area will affect the rights or interests of a traditional community.
- (5) The MEC must give due consideration to all representations or objections received or presented before declaring or designating the area.

***Concurrence of Premier in respect of Provincial land***

**43.** The MEC may declare an area which consists of or includes Provincial land, as a protected area or as part of an existing protected area only with the concurrence of the Premier in terms of the Land Disposal Act, 2000 (Act No.7 of 2000).

**CHAPTER 6**

**MANAGEMENT OF PROTECTED AREAS**

**Part 1: Management authorities and management plans**

***Management authorities***

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- 44.** The MEC must assign, in writing, the management of a protected area to a management authority.

***Preparation of management plans***

- 45.** (1) An assignment in terms of section 44 may only be made –
- (a) with the concurrence of the prospective management authority; and
  - (b) on approval by the MEC of a management plan for the protected area prepared by the prospective management authority.
- (2) A municipality must prepare a management plan for a protected area managed by it and submit a copy of the plan to the MEC.
- (3) When preparing a management plan, the prospective management authority or the municipality must consult with other organs of state which have a vested interest in the area comprising the protected area concerned.

***Management criteria***

- 46.** (1) The management authority of a protected area must manage the area –
- (a) exclusively for the purpose for which it was declared; and
  - (b) in accordance with –
    - (i) the management plan for the area;

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- (ii) this Act and other applicable National and Provincial legislation.
- (2) The management authority of a protected area –
  - (a) must report annually to the MEC on aspects of the area agreed on in the management plan; and
  - (b) may amend the management plan by agreement with the MEC.

***Contents of management plans generally***

47. The management plan for a protected area must reflect –
- (a) the manner in which and the conditions subject to which the area must be managed;
  - (b) the existing infrastructure and any proposed infrastructure development for the conservation of the area, including the conservation of biodiversity in the area;
  - (c) norms and standards that must be met in –
    - (i) the management of the area; and
    - (ii) the conservation of the area, including the conservation of biodiversity in the area;
  - (d) indicators for monitoring compliance with those norms and standards;
  - (e) costing and funding arrangements with regard to –
    - (i) the management of the area;

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- (ii) the conservation of the area, including the conservation of biodiversity in the area; and
  - (iii) any land acquisitions, if this is necessary;
- (f) any existing and proposed area within the protected area designated or proposed to be designated as –
  - (i) a wilderness area;
  - (ii) a specially protected coastal area;
  - (iii) a wetland area of international importance;
  - (iv) a transfrontier conservation area;
  - (v) a biosphere reserve;
  - (vi) any other kind of special conservation area; and
- (g) any management arrangements that apply in any such area.

**Co-management of protected areas**

- 48.** (1) The management authority managing a protected area may enter into an agreement with another organ of state, a local community or a local community association for –
- (a) the co-management of the area by the parties; or
  - (b) the regulation of human activities that affect the environment in the area.

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- (2) A co-management agreement may provide for –
  - (a) the delegation of powers by the management authority to the other party to the agreement;
  - (b) the apportionment of any income generated from the management of the protected area between the parties;
  - (c) the collection, catching or use of biological resources in the area;
  - (d) access to sites of cultural or religious significance in the area; and
  - (e) any other relevant matter.
- (3) A co-management agreement must be consistent with this Act;
- (4) The MEC may cancel a co-management agreement after giving reasonable notice to the parties if the agreement is not effective or is inhibiting the attainment of any of the protected area management objectives.

**Part 2: Monitoring and supervision**

***Performance indicators***

- 49.** (1) The MEC may establish indicators for monitoring performance with regard to the management of protected areas and of the conservation of biodiversity in those areas.
- (2) If the MEC so requests, the Head of Department must –

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2003 (EASTERN CAPE)**

- (a) monitor the area against any indicators set in terms of subsection (1); and
- (b) report on his or her findings to the MEC.

**Termination of mandates to manage protected areas**

50. (1) If the management authority of a protected area is not fulfilling its duties in terms of the management plan for the area, or is under-performing with regard to the management of the area, including the biodiversity of the area, the MEC must –
- (a) notify the management authority in writing of the failure to fulfill its duties or of the under-performance; and
  - (b) direct the management authority to take within a specified time corrective steps set out in the notice.
- (2) If the management authority fails to take the required steps, the MEC may –
- (a) terminate that management authority's mandate to manage the protected area; or
  - (b) assign another organ of state as the management authority of the area.
- (3) The MEC must implement this section in relation to protected areas.

***Provincial supervision of municipal management***

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

51. If a municipality fails to ensure that a local protected area is managed in accordance with any norms and standards prescribed in terms of section 4, the MEC may take such steps as may be necessary in the circumstances.

**Part 3: Access to protected areas**

***Access to special nature reserves***

52. (1) No person may –
- (a) enter a special nature reserve;
  - (b) reside in a special nature reserve; or
  - (c) perform any activity in a special nature reserve.
- (2) Subsection (1) does not apply to –
- (a) an official of the Department or another organ of state designated by the Head of Department in writing to monitor –
    - (i) the state of conservation of the reserve or any biodiversity in the reserve; or
    - (ii) the implementation of the management plan and this Act;
  - (b) any police, customs or excise officer entering the area in the execution of official duties; or

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- (c) a person acting in terms of an exemption granted in terms of subsection (3).
- (3) The management authority of a special nature reserve may, in writing and on conditions determined by it after consulting the Head of Department, grant exemption from a provision of subsection (1) to –
- (a) a scientist to perform scientific work;
  - (b) a person to perform an activity related to the conservation of the reserve or any biodiversity in the reserve;
  - (c) an official of the management authority to perform official duties; or
  - (d) an official of an organ of state to perform official duties.

***Access to nature reserves***

- 53.** (1) No person may without the written permission of the management authority of a nature reserve –
- (a) enter the nature reserve; or
  - (b) reside in the nature reserve.
- (2) If any part of the nature reserve has been designated as a wilderness area, no person may without the written permission of the management authority –
- (a) enter that wilderness area; or
  - (b) reside in that wilderness area or specially protected coastal area.

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- (3) Subsections (1) and (2) do not apply to –
- (a) an official of the Department or another organ of state designated by the Head of Department to monitor –
    - (i) the state of conservation of the nature reserve or any biodiversity in the reserve; or
    - (ii) the implementation of the management plan and this Act;
  - (b) an official of the management authority to perform official duties in the nature reserve;
  - (c) any police, customs or excise officer entering the nature reserve in the execution of official duties; or
  - (d) a person travelling through the nature reserve.
- (4) If the management authority of a reserve refuses permission to a person to enter the reserve or that wilderness area or specially protected coastal area for the performance of official duties, the Head of Department may –
- (a) reconsider the matter; and
  - (b) either confirm the refusal or grant the permission.

**Part 4: Restrictions**

**Prohibited activities**

- 54.** (1) No person may within a protected area –

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2003 (EASTERN CAPE)**

- (a) be in possession of any weapon, explosive, trap or poison;
  - (b) hunt, catch, capture or kill any animal by any means, method or device whatsoever, or, with intent to hunt, catch, capture or kill, search for, pursue, lie in wait for, lure, allure, discharge a missile at or injure any animal;
  - (c) disturb or feed any animal;
  - (d) take, damage or destroy any egg or nest of any animal;
  - (e) take honey from a beehive;
  - (f) cause a veld fire;
  - (g) damage or destroy any site or object of geological, archaeological, historical, ethnological, oceanographic, educational or scientific value;
  - (h) cut, damage, remove, chop off, uproot or destroy any plant;
  - (i) remove a flower, seed or any other part from any plant;
  - (j) be in possession of or exercise physical control over –
    - (i) any animal, plant or other organism; or
    - (ii) any biological resource.
- (2) No person may –
- (a) take into a protected area any weapon, explosive, trap or poison;
  - (b) introduce into a protected area any animal, plant or other organism; or

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- (c) bring any domestic animal into a protected area; or
  - (d) cause or allow any domestic animal to stray into or enter a protected area.
- (3) The provisions of –
- (a) subsections (1) and (2) do not apply to a protected natural environment or a limited development area except to the extent that may be prescribed;
  - (b) subsections (1) and (2) do not apply to –
    - (i) the management authority of the protected area;
    - (ii) an official of the management authority of the protected area in performing official duties; or
    - (iii) a person acting on the instruction or with the permission of the management authority of the protected area;
  - (c) subsections (1) (a) and (2) (a) do not apply to any police, customs or excise officer entering the protected area and performing in the area official duties; and
  - (d) subsection (1) (j) do not apply to a person lawfully conveying animals, plants or other organisms or biological resources.

***Commercial and community activities in nature reserves and protected natural environments***

55. (1) The management authority of a nature reserve or protected natural environment may, with the written approval of the Head of Department –

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2003 (EASTERN CAPE)**

- (a) carry out or allow –
    - (i) a commercial activity in the nature reserve or protected natural environment; or
    - (ii) an activity in the nature reserve or protected natural environment aimed at raising revenue; or
  - (b) enter into a written agreement with a traditional community inside or adjacent to the nature reserve or protected natural environment to allow members of the community to collect biological resources in the nature reserve or protected natural environment for own consumption.
- (2) An activity allowed in terms of subsection (1) (a) or (b) may not negatively affect the survival of any species in or disrupt the integrity of the ecological systems of the nature reserve or protected natural environment.
- (3) The Head of Department may –
- (a) give an approval in terms of subsection (1) on conditions specified in the written approval; and
  - (b) amend or withdraw in writing any condition or any such approval at any time;
- (4) The management authority of the nature reserve or protected natural environment must establish systems to monitor –
- (a) the impact on the park, reserve or environment and the biodiversity in the nature reserve or protected natural environment, of activities allowed in terms of subsection (1) (a) or (b); and
  - (b) compliance with –

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- (i) any conditions set in terms of subsection (3) (a); and
  - (ii) any agreement entered into in terms of subsection (1)(b).
- (5) (a) An activity referred to in subsection (1) must be regarded as having been approved in terms of this section if that activity was lawfully being carried out on the date immediately before –
  - (i) this Act took effect; or
  - (ii) the declaration of the area as a nature reserve or protected natural environment, or as part of an existing nature reserve or protected natural environment.
- (b) The management authority may restrict an activity referred to in paragraph (a) to the extent that it was carried out around that date.
- (6) This section does not apply to activities mentioned in, and regulated by, the management plan for the nature reserve or protected natural environment.

**Certain rights and entitlements to be respected**

- 56.** Sections 52, 53, and 54 may not be applied in a manner that would obstruct –
- (a) an owner of riparian land to exercise any rights to water in a public stream to which that owner is entitled in terms of the National Water Act, 1998 (Act No.36 of 1998), if that public stream, or the bed or any part of the bed, falls within a protected area; or
  - (b) members of a traditional community to collect in accordance with an agreement in terms of section 55 biological resources for own consumption in a nature reserve or protected natural environment.

**Part 5: Internal rules where tourism is allowed**

***Rules***

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- 57.** (1) The management authority of a protected area where tourism is allowed must, with the approval of the MEC and in accordance with any prescribed norms and standards, make rules for the proper administration of the area.
- (2) Rules made in terms of subsection (1) must be consistent with this Act and the management plan for the protected area, and may include rules determining –
- (a) the powers and duties of officials of the management authority, including powers and duties with regard to –
    - (i) the exclusion of the public from certain areas in the area;
    - (ii) the killing, capturing or impounding of any animals in the area and the disposal of animals killed, captured or impounded;
    - (iii) the burning of grass, the cutting of trees, reeds and grass and the gathering of marine plants in the area; and
    - (iv) the disposal of any animal, vegetable, mineral or other product of the area;
  - (b) the periods during which or times within which the area or any portion of the area will be open to the public;
  - (c) the conditions of a permission to enter the area;
  - (d) the points of entry to and tourist routes in the area;
  - (e) the conditions relating to the admission of vehicles and vessels to and the use of vehicles and vessels in the area;

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- (f) the regulation of traffic in the area;
- (g) the requirements to which vehicles and vessels must conform;
- (h) acceptable behaviour for visitors to the area;
- (i) the conditions for the use and enjoyment of the area;
- (j) the conditions on which food and refreshments, and any merchandise allowed by the management authority, including liquor, may be sold;
- (k) the conditions subject to which any animals or goods may be conveyed through the area and the route or routes over which such animals or goods must be conveyed;
- (l) the conditions on which any person entering, sojourning in or passing through the area, may obtain the services of any official of the management authority, and the fees to be paid in respect of such services;
- (m) the conditions relating to the taking of photographs in the area;
- (n) measures –
  - (i) to protect the area, its natural features and infrastructure, and the biodiversity in the area; and
  - (ii) to protect visitors and staff;
- (o) the conditions on which a staff member or other person to whom permission has been granted may reside in the area;
- (p) the conditions of appointment of persons and organisations interested in assisting the management authority of the area

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on a voluntary basis in the performance of any of its functions; or

- (q) the powers, duties and privileges of such persons and organisations.

## **CHAPTER 7**

### **ACQUISITION OF RIGHTS IN OR TO LAND**

#### ***Acquisition of private land by the Province***

- 58.** (1) The MEC may, acquire private land, or any right in or to private land, which has been or is proposed to be declared as or included in a protected area, by –
- (a) purchasing the land or a right in land;
  - (b) hiring and leasing of land;
  - (b) exchanging the land for other land; or
  - (c) expropriating the land or right, if no agreement is reached with the owner or holder of the right.
- (2) The Expropriation Act, 1975 (Act No. 63 of 1975), applies with respect to any acquisition of land or right in or to land in terms of subsection (1)(c).

#### ***Cancellation of servitudes on, or privately held rights in or to Provincial land***

- 59.** (1) The MEC may, take any steps necessary to cancel a servitude on state land, or a privately held right in or to Provincial land, which has been or is proposed to be declared as or included in a Provincial protected area.

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(2) If the MEC fails to reach an agreement with the owner of the property in whose favour the servitude is registered or with the person holding the right, the MEC may expropriate the servitude or right in terms of the Expropriation Act, 1975 (Act No. 63 of 1975).

***Financing***

**60.** The MEC may finance the acquisition of private land or a right in or to private land in terms of section 58, or the cancellation of a servitude on, or a privately held right in or to, provincial land in terms of section 59, from money appropriated for this purpose by the Legislature.

**CHAPTER 8**

**Declaration of Local Authority and Private Protected areas**

**Part 1: Declaration of local protected areas**

**Declaration**

**61.** (1) A municipality may in terms of a municipal by-law, declare a local protected area other than a protected area it manages on behalf of another sphere of government: Provided that such a declaration is –

- (a) not in conflict with any declaration made in terms of this Act; and
- (b) is in accordance with the norms and standards prescribed by the MEC in terms of section 4.

(2) The municipal by-law referred to in subsection (1) must provide for a process where by the municipality -

- (a) consults with relevant organs of state before such a declaration;

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- (b) consults in accordance with the principles of cooperative governance as set out in Chapter 3 of the Constitution;
- (c) invite representation or objections from the public before such a declaration; and
- (d) consider representations and objections received.

**PART 2: PRIVATE NATURE RESERVES**

**Establishment of private nature reserves**

- 62.** (1) Any owner of private land may, with the approval of the MEC and subject to such conditions as the MEC may specify, establish a private nature reserve on such land and assign a name to such reserve.
- (2) As from the commencement of this Act every such nature reserve that, immediately prior to such commencement, was a private nature reserve for the purposes of any law repealed by section 147 shall, notwithstanding such repeal, be deemed to have been established as a private nature reserve under subsection (1) of this section.
- (3) Any person desiring to establish a private nature reserve in terms of subsection (1), shall apply to the MEC for his or her approval and furnish him or her with –
- (a) a definition, either by description thereof or by reference to the boundaries indicated on a map or plan filed in a specific office, of the boundaries of the land on which he or she desires to establish such reserve;
  - (b) proof of his or her ownership in such land;
  - (c) the name which he or she proposes to assign to such reserve;

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- (d) a management plan for such reserve in respect of the succeeding five years; and
  - (e) such further information as the MEC may require.
- (4) The MEC may, at his or her discretion, refuse any application under subsection (3) or grant such application subject to the condition that the land comprising the private nature reserve shall not be used for any other purpose than is mentioned in section 62 and such other conditions as he or she may deem necessary or desirable.
- (5) If any application under subsection (3) is granted, the MEC must give notice of his or her approval in the *Gazette* and the name assigned to the reserve concerned, the boundaries thereof, defined in accordance with subsection (3)(a), and the conditions, if any, subject to which approval has been granted shall be specified in the relevant notice.
- (6) (a) Any person who has established a private nature reserve may at any time with the approval of the MEC-
  - (i) alter the boundaries or the name or the boundaries and the name of such reserve; or
  - (ii) abolish such reserve.
- (b) Any such reserve may at any time be abolished by the MEC on good cause shown and after consultation with the person who established it.
- (c) Any alteration or abolition as contemplated by this subsection shall be notified in the *Gazette*.

**Rights and duties of owner of private nature reserve**

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**63.** Subject to any conditions imposed by the MEC under section 62, the person who has established a private nature reserve, shall manage, control and develop such reserve with a view to the propagation, protection and preservation of fauna and flora found in a natural state thereon, and such person or any other person authorized by him or her in writing may, notwithstanding anything to the contrary in this Act, may get certain rights as determined in accordance with the approved management plan.

### **PART 3: CONSERVANCIES**

#### **Establishment of conservancies**

- 64.** (1) A voluntary association of adjoining land owners or in the case of communal land, the owner may on application to, approval by the MEC subject to such conditions as he or she may specify, establish a conservancy for the purpose of jointly conserving and managing the biodiversity found in a natural state.
- (2) An association of the owners or occupiers of land seeking to establish a conservancy in terms of subsection (1) must furnish the MEC with –
- (a) a certified copy of its articles of association, constitution or agreement;
  - (b) a definition, either by description thereof or by reference to the boundaries indicated on a map or plan filed in a specific office, of the boundaries of the land on which the association desires to establish such conservancy;
  - (c) proof of ownership or lawful occupation of such land in respect of each member of the association;
  - (d) the name which the association proposes to assign to such conservancy; and
  - (e) a management plan for such conservancy in respect of the succeeding five years; and

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- (f) such further information as the MEC may require.
- (3) The MEC may, at his or her discretion, refuse an application under subsection (2) or grant such application subject to such conditions as he or she may deem necessary or desirable.
- (4) If any application under subsection (2) is granted, the MEC's approval shall be notified in the *Gazette* and the name assigned to the conservancy concerned, the boundaries thereof, defined in accordance with subsection (2)(a), and the conditions, if any, subject to which approval has been granted shall be specified in the relevant notice.
- (5) (a) Any association of landowners which has established a conservancy may at any time with the approval of the MEC –
  - (i) alter the boundaries or the name or the boundaries and the name of such conservancy; or
  - (ii) abolish such conservancy.
- (b) Any such conservancy may at any time be abolished by the MEC on good cause shown and after consultation with the association of persons who established it.
- (c) Any alteration or abolition as contemplated by this subsection shall be notified in the *Gazette*.

**Benefits of owners or occupiers of land in a conservancy**

**65.** Subject to the conditions imposed by the MEC under section 64(3), an association which has established a conservancy under section 64(1) must manage, control and develop such conservancy with a view to the propagation, protection and preservation of the fauna and flora found in a natural state and the members of such association or any other person authorized by it in writing may, notwithstanding anything to the contrary in this Act, enjoy such benefits as determined in accordance with the approved management plan.

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**CHAPTER 9**

**PROVINCIAL TRAILS**

**Provincial trails**

66. (1) The MEC may by notice in the Gazette-
- (a) declare any tourist trail or route as a Provincial Trail or Route and
  - (b) assign a name to the trail or route
- (2) Where a trail or route is declared in terms of subsection (1) the MEC must by notice in the Gazette-
- (a) make regulations that will govern the management of the trail or route;
  - (b) designate either a Management Authority or a Concession Holder for the trail or route.
  - (c) Where a private sector individual or group either forms the Management Authority or Concession Holder, or is part of a joint venture to this end, designation shall include an open tender process
- (3) A trail or route may be declared as a Provincial Trail or Route, only if
- (a) an objective assessment indicates that the trail or route should be deemed to be of provincial significance

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- (b) a legally binding agreement is submitted, committing all participating land-owners, land managers or communities
  - (c) the proposed Management Authority for the trail or route submits a Management Plan for the trail or route, for approval by the MEC
  - (d) declaration is deemed to be essential for the effective operation of the trail or route
  - (e) an Environmental Impact Assessment demonstrates that the trail or route can function without unacceptable negative environmental impact
- (4) In the regulations contemplated in subsection (2) the MEC may-
- (a) prohibit all individuals or groups other than the Management Authority or Concession holder from utilising the trail route or any infrastructure that is directly associated with the trail or route
  - (b) specify the distribution of revenue generated by the trail or route, subject to treasury regulations where applicable
  - (c) designate activities that are prohibited on the trail or route
- (5) The MEC may appropriate funds designated by the Provincial Legislature to financially assist the planning, construction and management of a declared Provincial Trail or Route
- (6) The MEC may designate or instruct any organ of state associated with the Department of Economic Affairs, Environment and Tourism to participate in the development and management of a declared Provincial Trail or Route
- (7) The MEC may revoke the declaration of a Provincial Trail or Route by notice in the Gazette if he deems that-

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- (a) the trail or route is no longer functional, with little prospect of redeeming it;
- (b) the legal agreement contemplated in subsection (3)(b) is no longer valid;
- (c) the Managent Authority or Concession Holder has ceased to exist or is no longer in a position to carry out its management responsibilities;
- (d) environmental impact assessment has indicated that the trail or route is having unacceptable environmental impact.

**CHAPTER 10**

**PROTECTION OF WILD ANIMALS OTHER THAN FISH**

**PART I: HUNTING, CAPTURE, DONATION AND POSSESSION OF WILD ANIMALS**

**Application of this Chapter**

- 67.** For the purposes of this Chapter the term "wild animal" must not include any fish.

**Miscellaneous provisions relating to endangered wild animals**

- 68.** (1) Notwithstanding anything to the contrary contained in this Act, no person may, without a permit –

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- (a) import into, export from or transport in or through the Province, hunt, capture, be in possession of, control, buy, sell, donate or receive as a donation any live endangered wild animal;
  - (b) import into, export from or transport through the Province, be in possession of, control, buy, sell, donate or receive as a donation the carcass (whether untreated, processed, prepared, cured, tanned or treated in any other manner whatsoever) of any endangered wild animal;
  - (c) process, prepare, cure, tan or in any manner whatsoever treat the carcass of any endangered wild animal for the purpose of
    - (i) manufacturing any article therefrom,
    - (ii) exhibiting such carcass or any article manufactured therefrom, or
    - (iii) mounting such carcass;
  - (d) remove, willfully disturb or interfere with or destroy or sell or offer for sale or purchase the egg of any endangered wild animal, or willfully damage or interfere with the nest of any endangered wild animal.
- (2) Subsection (1) must not be construed as prohibiting the possession without a permit by any owner of private land of any endangered wild animal, but not including a rhinoceros, living in a natural state on such land.
- (3) A person to whom a permit has been issued in terms of subsection (1)(a) to transport or capture a live endangered wild animal must, while carrying out such transport or capture, comply with the requirements of the South African Bureau of Standards regarding such transportation or capture.

**Hunting of wild animals in captivity**

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- 69.** No person may hunt any wild animal that is in captivity except on the authority of a permit issued by the Head of Department.

**Hunting of wild animals and protected wild animals**

- 70.** (1) Subject to the provisions of subsections (2) and (3) no person may hunt any species of protected wild animal –
- (a) during any hunting season determined under section 71 in respect of such species, unless he or she is the holder of a permit or of a licence in the prescribed form issued to him or her by the Head of Department or any person authorized by the Head of Department to do so, on payment of the prescribed fee; or
  - (b) at any other time unless he or she is the holder of a permit to do so.
- (2) The provisions of subsection (1)(a) do not apply to any owner of land, or any relative of such owner acting on the authority of such owner, in respect of a species of wild animal for which a hunting season has been determined and that is hunted on the land of such owner.
- (3) Subject to the provisions of any regulation made under this Act, the provisions of subsection (1) do not apply to any person not in possession of a weapon, who -
- (a) in the presence of the owner of any land on which any wild animal is being hunted by any other person; or
  - (b) in the absence but with the written permission of such owner, assists such other person during such hunt by acting as a beater.

**Hunting season for wild animals**

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- 71.** The MEC may, by notice in the *Gazette* in respect of the Province or any area therein specified in such notice, each year determine the period in such year during which a species of wild animal mentioned in such notice may be hunted under the authority of a permit or licence referred to in section 70(1)(a).

**Prohibition on killing or capturing of wild animals in excess of daily bag limit**

- 72.** No person authorized by any provision of this Act to hunt a wild animal may, without a permit issued by the MEC, at any time kill or capture a greater number of any species of wild animal than the daily bag limit determined by the MEC by notice in the *Gazette*.

**Prohibited methods of hunting**

- 73.** (1) No person may, unless he or she is the holder of a permit authorizing him or her to do so, hunt any wild animal –
- (a) by means of fire or poison;
  - (b) with the aid of artificial light;
  - (c) on or from a public road;
  - (d) by means of any trap;
  - (e) during the period between one hour after sunset on any day and one hour before sunrise on the following day;
  - (f) subject to the provisions of section 74, by means of a firearm that discharges a rim-fire cartridge of a calibre less than five comma six millimetres;
  - (g) by means of a firearm that discharges more than two cartridges without being manually reloaded;

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- (h) by means of a bow-and-arrow, crossbow, spear, spear gun, assegai;
- (i) by means of any device that injects an intoxicating or a narcotic agent or poison into such animal;
- (j) with the use of a dog, except for the purpose of following or searching for a wild animal that has been wounded during a lawful hunt;
- (k) with the use of a vessel in or upon any inland waters or tidal river or tidal lagoon for the purpose of hunting or chasing any bird;
- (l) with the use of any bullet commonly known as a "solid" but not including the hunting of a bird or any of the pachiderms;
- (m) that is under the influence of a tranquilizing, narcotic, immobilizing or similar agent: Provided that in respect of the hunting of –
  - (i) any rats and mice, the provisions of paragraphs (a),(d),and (e) do not apply;
  - (ii) a proclaimed problem animal, the provisions of paragraphs (a),(d),(i),(j) and (l), do not apply, if used by a Problem Animal Control Hunter, and if used by the owner of land, provisions paragraphs(d),(j) and (l) do not apply;
  - (iii) any bird or other wild animal, but not including any endangered wild animal, protected wild animal or wild animal of the order *Artiodactyla*, the provisions of paragraph (f) do not apply;
  - (iv) any wild animal by a registered veterinary surgeon in the practice of his or her profession, the provisions of paragraph (j) do not apply;

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- (v) a game bird with the use of a pointer, setter or retriever breed of dog during the hunting season determined for such bird, the provisions of paragraph (k) do not apply; or
  - (vi) any wild animal by means of a bow and arrow by a hunter in possession of a permit authorizing him or her to do so, the provision of paragraph (h) do not apply; and
- (n) Applications for a permit referred to in paragraph (m)(vi) may only be considered if the application is accompanied by a Competency Certificate for bow hunting, issued by an accredited body;

**Regulations regarding use of certain fire-arms and ammunition for hunting of wild animals**

74. The MEC must make regulations regarding the use of certain fire-arms and ammunition for the hunting of wild animals.

**Keeping of wild animals in captivity**

75. (1) No person may without a permit authorizing him or her to do so, keep any wild animal in captivity: Provided that in the case of a bird the provisions of this section must only apply in respect of a bird which is an endangered or protected wild animal.
- (2) No person may at any time, whether authorized by a permit issued under subsection (1) or not, restrain any wild animal by means of a rope, cord, chain or any similar contrivance.

**Release of exotic wild animals**

76. No person may without a permit, release any exotic wild animal in the Province.

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**Alteration or removal of fences or interference therewith**

**77.** No person may without a permit –

- (a) alter, remove or partly remove or cause to be altered, removed or partly removed any fence, whether on a common boundary or on his or her own property, in such a manner that any wild animal that, as a result thereof, gains access or may gain access to his or her property or to a camp on his or her property and thereafter cannot return or is likely not to be able to return through the same point of entry; or
- (b) heap up or cause to be heaped up soil or any other material on one side of a fence, whether on a common boundary or on his or her own property, or remove or cause to be removed soil on one side of such fence in such manner that such heaping up or such removal has the effect of reducing or increasing the height, as the case may be, of such fence on one side, unless a wild animal, that gains or may gain access to such property or a camp on such property over such lower section of such fence, can return or is likely to be able to return over the same section of such fence.

**Prohibition on laying of poison**

- 78.** (1) Notwithstanding the provisions of any other law but subject to the provisions of subsection (2) and section 97 and 98 of this Act, no person may without a permit lay or cause or allow to be laid any poison at any place where it is likely to, or in such manner that it may, be assimilated or ingested by a wild animal
- (2) The provisions of subsection (1) do not apply in respect of the laying in a building of a poison registered under a law for the purpose of killing rats and mice in accordance with the provisions of such law.

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**Prohibition on use of vessel, motor vehicle or aircraft for hunting, of wild animals**

**79.** (1) No person may without a permit, use any vessel, motor vehicle or aircraft to hunt, disturb, drive or stampede any wild animal for any purpose whatsoever.

(2) The provisions of subsection (1) do not preclude the use of a motor wild animal by the owner of any land or person authorized in writing thereto by such owner on such land.

**Certificate of adequate enclosure**

**80.** (1) Any owner of land on which any species of wild animal is found may, in the prescribed manner and form and in relation to such species, apply to the Head of Department for a certificate of adequate enclosure as contemplated in subsection (4) in respect of the whole or any portion of such land.

(2) An application under subsection (1) must –

- (a) include a full description of the land in respect of which application is made, its boundaries and size and the vegetation thereon;
- (b) state the species of protected wild animal to which the application relates, the estimated number of such species in a free state of nature and the number of such species in captivity on the land referred to in paragraph (a);
- (c) set forth the grounds on which the land in question is considered to be adequately enclosed; and
- (d) contain such further information as may be prescribed.

(3) For the purpose of deciding upon any such application, the Head of Department may require the applicant to furnish such further information as the he or she may consider necessary or desirable.

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- (4) If the Head of Department -
- (a) having regard to the size of the land in respect of which application has been made under subsection (1), the numbers of the species of protected wild animal to which such application relates which are normally found on such land and such other circumstances as he or she may consider relevant, is of the opinion that the animals in question are in effect being kept in captivity, he or she must refuse the application; or
  - (b) is satisfied that such land is adequately enclosed in relation to such species, he or she may in his or her discretion grant the application subject to such conditions as he or she may consider necessary or desirable and issue to the applicant a certificate of adequate enclosure in respect of such land and must in such certificate specify the conditions, if any, subject to which it is issued, define the boundaries of the land concerned and specify the species of protected wild animals to which it relates.
- (5)
- (a) A certificate of adequate enclosure issued in terms of subsection (4) must, subject to the provisions of paragraph (b) of this subsection, be valid for the period specified therein or until the land concerned ceases to be adequately enclosed, under normal circumstances, whichever is the shorter period, and lapses automatically and can only be reinstated after an inspection
  - (b) A certificate of adequate enclosure may at any time during the period of validity thereof, be withdrawn with prior notice to the holder thereof, provided that such withdrawal may be set aside by the Head of Department if, after consultation with such holder, he or she is of the opinion that such setting aside is necessary or desirable.

**Rights of holder of certificate of adequate enclosure**

- 81.** Any owner of land to whom a certificate of adequate enclosure has been issued in terms of section 80, any relative of such owner, any full-time

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employee of such owner acting under the authority of such owner and any other person in possession of a permit or of a licence referred to in section 71 and acting with the permission of such owner issued under section 84 may, notwithstanding anything to the contrary contained in this Act but subject to any conditions specified in such certificate, at any time by any means other than by the use of fire, poison or and on the land in respect of which such certificate was issued, hunt any number of the species of protected wild animal mentioned in such certificate.

**Certificate of adequate enclosure lapses on transfer or lease of land**

- 82.** Any certificate of adequate enclosure issued in terms of section 80, lapses upon the transfer or lease of the land or any portion thereof in respect of which it was issued.

**Transfer of hunting and other rights**

- 83.** (1) The Head of Department may in writing authorize any owner of land to transfer, whether temporarily or permanently, to a person approved him or her and subject to such conditions as he or she may impose –
- (a) in the case of an owner of land to whom a certificate of adequate enclosure has been issued in terms of section 80, the rights conferred on such owner by section 81; or
  - (b) in the case of any other owner of land, the rights of such owner under this Act.
- (2) In the application of the provisions of this Act, any person to whom any right has been transferred as contemplated by subsection (1), must as from the date of such transfer, and in the case of a temporary transfer for the duration of the period concerned, be deemed to be the owner of the land in question.

**Permission of owner of land to other persons to hunt wild animals on his or her land**

- 84.** (1) No owner of land may permit or otherwise authorize any other person to hunt any wild animal on, or remove any wild animal or its carcass

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from, the land of such owner unless the said hunting or removal is done in accordance with the provisions of this Act.

- (2) No permission or other authority granted in terms of subsection (1) is valid unless it is reduced to writing prior to the hunt, is signed and dated by the landowner and contains -
- (a) the full name, identity number and address of the owner concerned and the person to whom it is granted;
  - (b) the species, number and sex of wild animal that may be hunted; and
  - (c) the date or dates and a description of the land in respect of which it is granted.

**Hunting of wild animals on land belonging to another person**

- 85.** No person may on land of which he or she is not the owner hunt any wild animal or remove any such animal or its carcass from such land without the permission of the owner of such land granted in terms of section 84.

**Donation or sale of wild animal or carcass thereof**

- 86.** No person may donate or sell any wild animal or the carcass of such animal to any other person unless, when he or she delivers such animal or carcass to such other person, he or she furnishes the recipient with a written document signed by him or her containing –
- (a) the full name, identity number and address of the person by whom it was furnished;
  - (b) the full name, identity number and address of the person to whom it was furnished;

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- (c) the species, number and sex of wild animal or carcass thereof that has or have been so donated or sold and the date on which it was donated and sold; and
- (d) a statement by him or her that he or she has donated or sold such animal or carcass to the person mentioned in paragraph (b), and subject to section 87.

**Possession of wild animal or carcass thereof**

- 87.** Any person found in possession of any wild animal or the carcass of such animal is guilty of an offence unless, in the event of –
- (a) the animal having been hunted by him or her on the land owned by another person, he or she is in possession of the written permission contemplated in section 85;
  - (b) the animal or carcass having been acquired by him or her from another person, he or she is in possession of the written document contemplated in section 86;
  - (c) the animal or carcass having been acquired in any other manner, he or she is in possession of the written authority of the Head of Department.

**Documents relating to permission to hunt or to donate wild animals or the carcasses thereof to be retained for certain period**

- 88.** Every document referred to in section 84 or 86 must be retained by the person to whom it was furnished for a period of at least two months from the date on which it was so furnished or while such person is in possession of the wild animal or carcass to which it relates, whichever is the longer period.

**Miscellaneous offences in relation to wild animals other than endangered wild animals**

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- 89.** (1) Subject to provisions of this Act, no person may without a permit –
- (a) import into, export from or transport in or through the Province any live wild animal;
  - (b) export from the Province the carcass of any protected wild animal;
  - (c) sell, buy, donate or receive as a donation the carcass of any elephant or hippopotamus, or anything manufactured from the tusk thereof;
  - (d) sell, buy, donate, receive as a donation or be in possession of any live protected wild animal, or
  - (e) remove, willfully disturb, interfere with, destroy, sell, offer for sale or purchase the egg of any protected wild animal, or willfully damage or interfere with the nest of any protected wild animal.
- (2) The provisions of subsection (1)(a) do not apply to the export from or the transport in or through the Province, without a permit, of any bird that is not a protected wild animal, or if the carcass of any wild animal is accompanied by the necessary proof of legal requirement in such a province of origin.
- (3) A person to whom a permit has been issued in terms of subsection (1)(a) to transport a live protected or unprotected wild animal, or in terms of section 68 to capture a protected wild animal must, while carrying out such transport or capture, comply with the requirements of the South African Bureau of Standards.

**Sale and purchase of wild animal biltong and biltong sausage**

- 90.** No person may sell or buy any biltong or biltong sausage made from the meat of a wild animal unless such meat is of a wild animal hunted in accordance with the provisions of this Act or any corresponding law in operation in another province or State.

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**Buying and selling of carcasses of wild animals**

- 91.** (1) No carcass of any wild animal may be sold by any person other than -
- (a) the owner of the land on which the animal was hunted in accordance with the provisions of this Act;
  - (b) a market master at a public or municipal market; or
  - (c) a person authorized by a permit issued under this Act or any other applicable act. to sell such carcass; or
  - (d) A person authorized by the landowner, on who's land the animal was lawfully hunted, to sell such carcass.
- (2) No person may buy a carcass of any wild animal from any person other than a person mentioned in subsection (1)(a), (b) or (c).

**Hunting of certain wild animals in urban areas**

- 92** (1) If, on application in the prescribed manner by an owner of land situated within an urban area under the jurisdiction of a local authority, such authority is satisfied that damage is being done to crops or other property of the applicant by any baboon, vervet monkey, cattle egret or rock Dassie may, notwithstanding anything to the contrary in this Act contained, issue a permit in the prescribed form authorizing such owner, or a person nominated by him or her, to hunt such animal on the land of such owner at the place where such damage is being done.
- (2) A permit issued in terms of subsection (1) is valid for the period specified therein but not exceeding 30 days from the date of issue thereof.

**PART 2: PROFESSIONAL HUNTERS, HUNTING OUTFITTERS AND PROFESSIONAL HUNTING SCHOOLS**

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**Authorization of professional hunters, hunting outfitters and Directors of professional hunting schools**

- 93.** (1) No person may, without a permit issued by the Head of Department subject to such requirements determined by him or her, act as –
- (a) a professional hunter;
  - (b) a hunting outfitter; or
  - (c) a director of a professional hunting school.
- (2) The Head of Department may exempt any person from the provisions of subsection (1).

**Duties of professional hunters, hunting outfitters and their clients**

- 94.** (1) A client must not hunt any wild animal unless –
- (a) The hunt is organized, or conducted by a hunting outfitter who holds a permit issued under section 93; and
  - (b) he or she is escorted by a professional hunter who holds a permit issued under section 93.
- (2) A professional hunter must ensure that his or her client does not contravene any provision of this Act while hunting a wild animal, and may give any lawful instruction to the client to ensure his or her compliance with such provision.
- (3) A client must obey an instruction given in terms of subsection (2).

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- (4) A professional hunter may, notwithstanding any other provision of this Act, kill a wild animal while accompanying a client if this is necessary in defence of life or property or to prevent unnecessary suffering of such animal.
- (5) A client, may not hunt any wild animal on any land, with the aid of an artificial light, or during the period between one hour after sunset on any day and one hour before sunrise on the following day, without a permit allowing him so.

**Hunting outfitters to have landowner's permission to hunt**

- 95.** Subject to the provisions of this Act, a hunting outfitter shall not promote, organize, or conduct the hunting of any wild animal by a client, unless such outfitter is the holder of the written permission of the owner of the land on which the hunting takes place.

**Organising or conducting hunting by a client under false pretenses an offence**

- 96.** Any person who falsely pretends that the promoting, organizing or conducting of a hunt in terms of this Chapter will be, is being or has been carried out in accordance with the provisions of this Act, shall be guilty of an offence.

**PART 3: PROBLEM ANIMAL CONTROL**

**Prohibited Actions**

- 97.** No person may, without a permit issued by the Head of Department subject to such requirements determined by him or her –
- (a) possess, purchase, sell, obtain or use a coyote getter to hunt a problem wild animal;

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- (b) use any poison to hunt a problem wild animal;
- (c) hunt a problem wild animal with a toxic collar;
- (d) hang a problem wild animal on a fence, or use any other method to display such animal to the public; or
- (e) possess, sell, purchase, donate, receive as a donation a problem wild animal or import into the Province, export, transport or release a problem wild animal.

**General powers in relation to problem animal control**

**98.** The Head of Department may -

- (a) authorize a person in writing to conduct research required on a problem wild animal;
- (b) authorize a qualified person to provide training and extension on the control of problem animals;
- (c) on certain conditions as may be deemed necessary, may provide financial aid to a person or an association of persons who are actively involved with the control of problem wild animals;
- (d) may provide problem wild animal control devices to the public at a prescribed price, provided that the buyer is the holder of competency certificate; and
- (e) authorize an accredited instructor to provide problem wild animal control training.

**CHAPTER 11**

**PROTECTION OF FISH IN INLAND WATERS**

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
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**Pollution of inland waters**

**99.** No person may deposit or cause or allow to be deposited –

(a) in any inland waters; or

(b) in any place from where it is likely to percolate into or in any other manner enter any inland waters,

anything, whether solid, liquid or gaseous, that is or is likely to be injurious to any fish or fish food or which, if it were so deposited in large quantities or numbers, would be so injurious.

**Obstruction of fish in inland waters**

**100.** No person may place or cause or allow to be placed in any inland waters any article, object, structure or thing, other than a net of which the use in inland waters is authorized by a provision of this Act, that is likely to prevent the free passage of fish in such waters.

**Placing of fish or aquatic plants in inland waters**

**101.** No person may, unless authorized thereto by a permit, place in or in any manner introduce into or cause or allow to be placed or introduced into any inland waters any live fish or any aquatic growth: Provided that the provisions of this section do not apply in respect of a live fish replaced into inland waters immediately after it has been caught from such waters.

**Killing of fish**

**102.** Subject to the provisions of section 111, no person may by any means whatsoever kill or injure fish or willfully disturb or destroy the spawn of any fish in any inland waters: Provided that the provisions of this section shall not apply in

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respect of any fish killed or injured while being caught in and taken from such waters in accordance with the provisions of this Act.

**Prohibition on catching certain species of fish and catching fish during closed season**

**103.** No person may, without a permit issued by the Head of Department –

- (a) catch any fish that is an endangered wild animal or have in his or her possession any such fish or the carcass or the spawn thereof; or
- (b) subject to the provisions of section 111, at any time during the closed season that the MEC may determine for a species of fish by notice in the *Gazette*, catch such a fish in any inland waters.

**Angling licence**

**104.** Subject to the provisions of sections 103 and 111, no person may angle in any inland waters without a licence issued by the Department, or any person authorized to do so by the Head of Department in the prescribed form on payment of the prescribed fee.

**Netting permit**

**105.** No person may for any purpose whatsoever use any fyke-net, staked net or trek-net in any inland waters without a permit, in the prescribed form, issued to him or her by the Head of Department.

**Prohibition on catching fish in excess of daily bag limit and of undersized fish**

**106.** (1) No person may unless authorized thereto by a permit at any time in any inland waters –

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- (a) catch a greater number of any species of fish than the daily bag limit determined in respect of such species by the MEC by notice in the *Gazette*; or
  - (b) catch any fish that is of a size or mass less than the size or mass prescribed in respect of such species of fish by the MEC by notice in the *Gazette*.
- (2) Despite anything to the contrary contained in this Act, the Head of Department may for the purposes of this section authorize in writing any person, to whom a permit has been issued for the purposes of subsection (1), to use any net in any inland waters.

**Prohibited method of catching fish**

**107.** No person may in any inland waters catch fish –

- (a) by snatching or spearing;
- (b) by angling by means of –
  - (i) more than two lines;
  - (ii) more than two single hooks attached to a line; or
  - (iii) a set-line with more than two hooks attached thereto.

**Sale of certain species of fish**

**108.** No person may, unless authorized thereto by a permit –

- (a) sell or buy any fish that is an endangered wild animal or the carcass or spawn of such fish;
- (b) sell, buy or transport any live carp, bluegill sunfish, trout, black bass, banded tilapia, exotic freshwater fish or any fish in respect of which

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control measures have been prescribed under any other applicable legislation; or

- (c) sell or buy any fish of which the catching is prohibited by section 106.

**Import into, export from, and transport of, certain species of fish**

**109.** No person may, unless authorized thereto by a permit –

- (a) import, transport or export any live indigenous fish or the spawn of any fish into, or through, or out of the Province; or
- (b) import into or export from or transport within the Province any fish that is an endangered wild animal or a protected wild animal or the carcass of any such fish.

**Noxious aquatic growths**

**110.** No person may cultivate, possess, transport, sell, donate, buy or otherwise acquire or import into the Province any noxious aquatic growth without a permit authorizing him or her to do so.

**Private inland waters**

**111.** The provisions of sections 102, 103(b), 104, 105 and 106, in respect of any private inland waters, do not apply to –

- (a) the owner of such waters;
- (b) any relative of such owner; or
- (c) any full-time employee of such owner or other person acting with the permission of such owner:

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Provided that such owner, relative or employee may not kill, catch or injure or attempt to kill, catch or injure fish with the use of any explosive, fire-arm, poison or other noxious substance

## **CHAPTER 12**

### **PROTECTION OF FLORA**

#### **Miscellaneous provisions relating to endangered flora**

- 112.** (1) Subject to the provisions of this Act, no person may –
- (a) in respect of flora listed in Schedule 4, without a possession permit –
    - (i) keep, control or be in possession of any endangered flora as per Schedule 4;
    - (ii) sell, buy, donate or receive any endangered flora;
    - (iii) pick, uproot, damage or destroy any endangered flora;
    - (iv) import into, export from, or transport in or through the Province any endangered flora; or
    - (v) pick, uproot or destroy any endangered flora on land of which he or she is not the owner, without the permission of the owner of such land or of any person authorized by such owner to give such permission;
  - (b) possess any endangered flora listed in Schedule 4(a) proof of lawfull acquisition.
- (2) Subsection (1) must not be construed as prohibiting –

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- (a) the possession without a permit by any owner of private land of endangered flora growing in the natural state on such land; or
- (b) the export of endangered flora by a person in possession of the written and dated document contemplated in section 113 in respect of such endangered flora.

**Selling of endangered flora**

**113.** (1) Any person desiring to sell endangered flora that he or she has cultivated in terms of this section on any fixed premises must apply to the Head of Department in the prescribed form for -

- (a) registration as a grower of endangered flora; and
- (b) a permit to sell endangered flora that has been cultivated by the applicant,

and must furnish the prescribed information and such further information as the Head of the Department may require.

- (2) Upon receipt of such an application, the Head of Department may cause such inspection of the premises concerned, as he or she may deem necessary to be made, and if he or she is satisfied that the granting of such application will further the objectives of this Chapter, he or she may, subject to the conditions which he or she deems fit, in the prescribed form, issue to the applicant a certificate of registration as a grower of endangered flora and a permit to sell endangered flora which has been cultivated.
- (3) The holder of a permit issued under subsection (2) must comply with the provisions of any other applicable legislation.

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- (4) A certificate and a permit issued under subsection (2) is valid –
- (a) in respect of the certificate, until it is canceled by the Head of the Department; and
  - (b) in respect of the permit, for a period of twelve months from the date of issue thereof.
- (5) The holder of a permit issued under subsection (2) must not sell or donate any endangered flora to any person unless, when he or she sells or donates such flora to such person, he or she furnishes such person with a written document signed and dated by the permit holder and containing –
- (a) his or her full name, identity number and address;
  - (b) the number and date of issue in terms of subsection (2) of his or her permit;
  - (c) the full name, identity number and address of the person to whom the document is furnished; and
  - (d) the name of each species and the number of plants of each species of such flora that has or have been sold or donated.
- (6) Despite the provisions of this section, no permit is required for the purchase, receipt as a donation, transport, export or possession of any endangered flora which has been sold or donated by the holder of a permit issued under subsection (2) and in which such flora is specified: Provided that any person who has bought, or received as a donation, or is in possession of such flora, is in possession of the document contemplated in subsection (5).

**Prohibition on picking of certain flora**

- 114.** (1) No person may –

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- (a) uproot the plant in the process of picking the flower of any indigenous flora;
  - (b) without a permit –
    - (i) pick, uproot or destroy any protected flora, or
    - (ii) pick, uproot or destroy any indigenous flora on a public road or on the land on either side of such road within a distance of ninety metres from the centre of such road;
  - (c) pick, uproot or destroy any protected flora or unprotected indigenous flora on land of which he or she is not the owner without the permission of the owner of such land or of any person authorized by such owner to give such permission.
- (2) No permission granted in terms of subsection (1)(c) is valid unless it is reduced to writing and contains –
- (a) the full names and address and identity number of the owner of the land concerned or of the person authorized by him or her to grant such permission;
  - (b) the full names and address and identity number of the person to whom permission is granted;
  - (c) the number and species of flora and the date or dates on which such flora may be picked;
  - (d) the situation of the land in respect of which permission is granted; and
  - (e) the signature of the owner or person authorized by him or her and the date of issue.

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- (3) The provisions of subsection (1)(b) do not apply to the owner of any land or any person acting on the instructions or with the consent of such owner, in respect of any protected or unprotected indigenous flora on such land.
  
- (4) The provisions of subsection (1)(b)(i) do not apply to –
  - (a) any person authorized in writing by an owner of land to pick only the flowers or seed of protected flora on such land without uprooting the plant; or
  
  - (b) protected flora picked, uprooted or destroyed in or removed from a State forest in terms of a licence granted under section 15(1) of the National Forests Act, 1998 (Act No. 84 of 1998).

**Buying and selling of protected flora**

**115.** No person may –

- (a) buy any protected flora from a person who is not a licenced seller or a licenced grower or authorized in terms of section 119; or
  
- (b) sell any protected flora without a licence issued under section 116 or 118.

**Licencing of protected flora sellers**

- 116.** (1) Any person desiring to be licenced as a protected flora seller must apply to the Head of Department in the prescribed manner and form and furnish the prescribed information and such further information as the Head of Department may require.
- (2) Upon receipt of any such application, the Head of Department may, in his or her discretion, and subject to such conditions as he or she deems fit, in the prescribed form, issue to such applicant, on payment of the prescribed fee, a licence to sell the protected flora specified in such licence.

**Registration and licencing of flora growers**

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- 117.** (1) A person desiring to be registered and permitted in respect of any fixed premises as a protected flora grower, must apply to the Head of Department in the prescribed manner and form, for registration in terms of this section and furnish the prescribed information and such further information as the Head of Department may require.
- (2) Upon receipt of any such application, the Head of Department, may cause such inspection of the premises concerned, as he or she may deem necessary to be made.
- (3) If the Head of Department is satisfied that the granting of such application will not be contrary to the objectives of this Chapter, and, in the case of premises situated in the area of jurisdiction of a metropolitan or urban local authority, after consultation with such authority, and regard being had to any other information at his or her disposal, he or she may, in his or her discretion and subject to the conditions which he or she deems fit, in the prescribed form issue to such applicant in respect of the premises concerned –
- (a) a certificate of registration as a protected flora grower; and
  - (b) a permit to grow the protected flora specified therein.
- (4) The holder of a permit issued under subsection (2) must comply with the provisions of any other applicable legislation, relating to the sale of flora.
- (5) A certificate of registration as a protected flora grower is valid until it is canceled by the Head of Department, and a permit to grow protected flora is valid until the thirtieth day following its date of expiry if the Head of Department has not received a prior application from such grower for the renewal of the licence.

**Sale of protected flora on the premises of registered flora growers and sellers**

- 118.** No person may sell any protected flora on the premises of –

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- (a) a registered protected flora grower unless such flora was propagated or cultivated on such premises;
- (b) a registered protected flora seller unless such flora has been obtained from registered protected flora grower or another registered protected flora seller; or
- (c) a registered protected flora seller if such flora was propagated or cultivated on the premises of a registered protected flora seller who is not registered as a protected flora grower in respect of such premises.

**Sale of protected flora for charitable and other approved purposes**

**119.** Despite the provisions of this Act, the Head of Department may subject to such conditions and restrictions as he or she may deem necessary, issue a permit to any person, authorizing such person to sell protected flora for a charitable, or such other purpose as the Head of Department may approve, at a time and place specified in such permit.

**Export and import of protected and unprotected indigenous flora**

**120.** No person may without a permit –

- (a) export any protected flora or unprotected indigenous flora from the Province except such flora that has been cultivated by or purchased from a registered protected flora grower or licenced protected flora seller; or
- (b) import any protected flora into the Province.

**Issuing of licences and permits and giving of permission subject to granting of licence under National Forests Act, 1998, in certain circumstances**

**121.** No licence or permit may be issued or permission given in terms of section 112, 113, 114, 116, 117, 119 or 120 in respect of any species of

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endangered or protected flora that is also declared to be a protected tree in terms of section 12(1)(d) of the National Forests Act, 1998 (Act No. 84 of 1998), unless a licence has first been granted under section 15(1) of that Act.

**Pollination of indigenous flora**

**122.** No person may pollinate or cause to be pollinated any indigenous flora growing in its natural state without a permit.

**Donation or possession of flora**

**123.** (1) The provisions of sections 86 and 87 apply in respect of the donation of flora by one person to another person.

(2) The provisions of sections 84 and 86 shall apply in respect of any person found in possession of flora.

**CHAPTER 13**

**CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF  
WILD FAUNA AND FLORA (CITES)**

**Application of this Chapter**

**124.** This Chapter applies to –

- (a) the species of *fauna* and *flora* listed in –
  - (i) Appendix I to CITES as an endangered species;
  - (ii) Appendix II to CITES as a rare species; and
  - (iii) Appendix III to CITES as an indeterminate species; and

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- (b) *fauna* and *flora* consisting of any readily recognizable part or derivative of any such listed species.

**Prohibited acts**

- 125.** (1) No person may without a CITES permit –
- (a) import or bring into the Province from a foreign country *fauna* and *flora* to which this Chapter applies;
  - (b) export or remove from the Province to a foreign country *fauna* and *flora* to which this Chapter applies;
  - (c) convey through the Province to another province or a foreign country *fauna* and *flora* to which this Chapter applies if that *fauna* and *flora* were imported from a foreign country; or
  - (d) convey through the Province to a foreign country *fauna* and *flora* to which this Chapter applies if that *fauna* and *flora* were imported or brought from another province.
- (2) Subsection (1) does not apply to the importation or exportation between provinces of *fauna* and *flora* to which this Chapter applies.

**CHAPTER 14**

**PROVINCIAL ENVIRONMENTAL *MANAGEMENT* FUND**

**Provincial Environmental Management Fund**

- 126.** (1) The Provincial Nature Reserve Land Acquisition Fund established by section 6A of the Nature and Environmental Conservation Ordinance, 1974 (Ordinance No. 19 of 1974), must continue to exist as the Provincial Environmental Conservation Fund (hereinafter referred to as the Fund), despite the repeal of the said Ordinance by section 149.

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- (2) Into the Fund must be paid, subject to the provisions of the Public Finance Management Act, 1999(Act No. of 1999) –
  - (a) money paid in respect of fines, penalties and interest for any offence committed in terms of this Act and including any proceeds from the sale of any vessel, vehicle, aircraft, article, fauna or flora forfeited or seized in terms of this Act;
  - (b) all fees and interest collected in terms of this Act;
  - (c) money received by the Department by way of contribution, donation or bequest for the carrying out of any provision of this Act;
  - (d) money received from any levy imposed and collected in terms of this Act; and
  - (e) money appropriated by the Legislature:
    - (i) For the purposes of the Fund; and
    - (ii) in respect of the amount of interest received on the investment of money of the Fund which is not immediately required for the purposes of the Fund.

**Imposition of levy**

- 127.** The MEC may, by notice in the *Gazette*, impose on any resource or operation covered by this Act and specified in the notice a levy at such rate as he may deem fit and may in any such notice –
- (a) differentiate between resources or operations or different persons or classes of persons in regard to the rate of the levy and prescribe the circumstances in which any person or class of person is liable for payment of such levy;

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- (b) prescribe the manner in which the levy shall be determined and calculated;
- (c) prescribe -
  - (i) the person who shall collect the levy;
  - (ii) the times for payment;
  - (iii) the manner in which it shall be paid; and
  - (iv) the manner of payment by the collectors into the Fund.

**Furnishing of particulars and returns**

**128.** The MEC may, by notice in the *Gazette* –

- (a) direct any person or category of persons who are liable for the payment of the levy to furnish the Head of Department within a period specified in such notice with their names, addresses and specified particulars concerning their operations; and
- (b) require any person or category of persons who are liable for the payment of the levy to render returns to the Head of Department and prescribe the form in which and times when the returns must be rendered, the particulars they must contain and the statements which must accompany them.

**Recovery of levy**

**129.** (1) A levy payable under section 127 is a debt due to the Fund and may be recovered by the Head of Department in any competent court and if any person fails to pay such levy or interest thereon for which he or she is liable under this Act, the Head of Department may file with the clerk or registrar of such court a statement, certified by him or her as correct, setting forth the amount of such levy or interest owing by such person and such

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statement must have all the effects of, and any proceeding may be taken thereon as if it were, a civil judgment lawfully given in that court in favour of the Head of Department for a liquid debt of the amount specified in the statement.

- (2) (a) If any levy remains unpaid one month after the due date, the person liable for such levy must pay interest thereon, calculated from the day following the expiration of the said period of one month, at the rate of ten percent for each month for which the levy remains unpaid: Provided that such interest must not exceed the capital amount.
- (b) For the purposes of calculating interest due in terms of paragraph (a), part of a month is deemed to be a month.

## **CHAPTER 15**

### **REGULATORY AND OTHER POWERS OF THE MEC**

#### ***Regulations by the MEC***

**130.** (1) The MEC may make regulations not inconsistent with this Act for Provincial protected areas –

- (a) assigning additional powers and duties to management authorities of those protected areas;
- (b) regulating –
- (i) biodiversity management and conservation in those protected areas;
- (ii) the use of biological resources in those protected areas to secure sustainability of those resources;
- (iii) access to protected areas;

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- (iv) tourism in those protected areas where tourism is allowed;
    - (v) activities that may be carried out in terms of section 125; or
    - (vi) the use of land and water in those protected areas;
  - (c) prohibiting or restricting –
    - (i) activities that have an adverse effect in those protected areas;
    - (ii) the use of biological resources in those protected areas when necessary to secure sustainability of those resources; or
    - (iii) land uses in those protected areas that are harmful to the environment; or
  - (d) providing for the establishment of advisory committees for those protected areas, the appointment of members and their powers and functions;
  - (e) providing for any other matter that will facilitate the implementation of this Act in relation to those protected areas;
  - (f) setting, enforcing and monitoring of norms and standards issued in terms of section 4, and for any of the above matters; and
  - (g) providing for any other matter that may be necessary to facilitate the implementation of this Act.
- (2) Regulations made in terms of subsection (1) must be consistent with any norms and standards prescribed in terms of section 4.

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- (3) Any regulation which entails the expenditure of funds may be made only with the concurrence of the MEC responsible for finance in the Province.
- (4) Before publishing any regulations in terms of subsection (1), the MEC must publish draft regulations in the *Gazette* for public comment.

**General**

- 131.** (1) Regulations made in terms of section 130 or this section may –
- (a) restrict or prohibit any act either absolutely or conditionally;
  - (b) apply –
    - (i) generally throughout the Province, as the case may be, or only in a specified area or category of areas;
    - (ii) generally to all persons or only a specified category of persons; or
    - (iii) generally with respect to all species or only a specified species or category of species; or
  - (c) differentiate between –
    - (i) different areas or categories of areas;
    - (ii) persons or categories of persons; or
    - (iii) species or categories of species.
- (2) Regulations made in terms of section 130 or this section may, when appropriate, provide that any person who contravenes or fails to comply with a provision thereof is guilty of an offence and liable on conviction to –

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- (a) imprisonment for a period not exceeding five years;
- (b) an appropriate fine; or
- (c) both a fine and imprisonment.

***Database***

- 132.** (1) The MEC must cause the establishment and regular update of an electronic database containing –
- (a) the text of this Act;
  - (b) the text of all subordinate legislation issued in terms of this Act;
  - (c) information in the Register of Protected Areas referred to in section 36;
  - (d) information about all management authorities, including –
    - (i) their names;
    - (ii) their functions;
    - (iii) the protected areas they manage; and
    - (iv) particulars of contact persons;
  - (e) information about any other matter that may be useful for the proper implementation of this Act.

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- (2) The database must be accessible by any person.
- (3) The MECs and all municipalities managing protected areas must assist the MEC in establishing and regularly updating the database.

***Incentives***

- 133.** The MEC may take steps to provide incentives, whether fiscal, scientific, technological or otherwise, to stimulate activities and programmes which contribute to the achievement of the objectives of this Act.

***Extension of time periods***

- 134.** The MEC may on reasonable grounds extend, or condone a failure by a person to comply with, a time period in terms of this Act, except a time period which binds the MEC.

**Powers of MEC to make regulations not inconsistent with national legislation**

- 135.** The MEC may, by notice in the *Gazette*, make regulations not inconsistent with national legislation in respect of the following:
- (a) preservation of caves and cave formations;
  - (b) mountain catchment areas;
  - (c) waste management;
  - (d) air quality;
  - (e) noise, vibration and shock;
  - (f) sea-shore and coastal management;

**MEC's powers to amend Schedules**

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**136.** The MEC may by notice in the *Gazette*, amend a Schedule to this Act.

**MEC's general regulatory powers**

**137.** The MEC may by notice in the *Gazette* make regulations prescribing the forms of licences, permits and other documents required for the administration of this Act, the conditions subject to which they may or must be issued or renewed, the periods for which they are valid and the fees or other charges that must be paid in connection therewith.

**Offences in terms of regulations**

**138.** Any regulation made in terms of this Act may, unless otherwise provided –

- (a) provide that any contravention thereof or failure to comply therewith shall constitute an offence;
- (b) impose a penalty for any such offence, of a fine or in default of payment imprisonment or both such fine and such imprisonment.

**Miscellaneous powers of MEC**

**139.** The MEC may by notice in the *Gazette*, in respect of the Province or any area specified in such notice and either indefinitely or for a specified period

- (a) determine the number of any species of protected wild animal mentioned in such proclamation and which may subject to the provisions of this Act be hunted -
  - (i) in the case of a protected wild animal other than a fish, during the period commencing one hour before sunrise and ending one hour after sunset, and

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- (ii) in the case of fish, during the period of twenty-four hours commencing at midnight, on any one day;
- (b) if in his or her opinion it is necessary or desirable in the interests of environmental conservation and subject to such conditions as he or she may deem fit, suspend the operation of any provision of this Act in so far as such provision relates to any fauna or flora specified in such notice;
- (c) despite the provisions of this Act, prohibit, control or restrict the hunting of a wild animal;
- (d) suspend the operation of any provision of this Act in respect of a problem wild animal in any area specified in such notice;
- (e) prohibit, restrict or regulate the capture, injuring, destruction, export, sale or acquisition in any manner of any invertebrate wild animal specified in such notice;
- (f) prohibit, restrict or regulate the transport of any wild animal specified in such notice;
- (g) prohibit or regulate either generally or specially the use -
  - (i) on any inland waters, of any vessel designed or intended for propulsion by any means other than human power, or
  - (ii) on the sea-shore, of any motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
- (h) despite the provisions of this Act prohibit or regulate the use of any implement for the catching of fish in any inland waters; and
- (j) prohibit, control or regulate the picking, uprooting or destruction of indigenous flora or any species of such flora in any manner or by any means specified in such notice.

**CHAPTER 16**

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**OFFENCES, PENALTIES, PRESUMPTIONS AND MISCELLANEOUS**

**Offences**

**140.** Any person who –

- (a) contravenes or fails to comply with any provision of this Act;
- (b) alters or fabricates or forges any permit, licence or other authorization required for the lawful performance of any activity in terms of this Act;
- (c) passes, uses, utters or has in his possession any altered, fabricated or forged permit, licence or other authorization or permission;
- (d) under a false name obtains any of the documents contemplated in paragraph (b);
- (e) fails to comply with or contravenes any term, condition or restriction of any permit, licence or other authorization, or any term, condition or restriction subject to which it was issued to him or her under this Act, or fails or refuses to comply with any lawful requirement, demand, direction or order of an Environmental Officer or ranger;
- (f) falsely holds himself or herself out to be an Environmental Officer or ranger or honorary Environmental Officer;
- (g) resists or assaults or hinders, obstructs or interferes, refuses or fails to comply with an order of an Environmental Officer or ranger referred to in paragraph (e) or any other officer or employee of the Department in the exercise of his powers or the performance of his functions under this Act or without good cause refuses or fails on demand to furnish such officer, ranger or employee with his name and address or with any information or document required by such officer, ranger or employee for the purposes of this Act, or furnishes him or her with a false name and address or with false information, as the case may be;

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- (h) while in possession of a weapon or any trap, net, snare, birdlime, cage or other contrivance or substance which could be used for the hunting of any wild animal, trespasses on land on which there is, or is likely to be any wild animal;
- (i) is or who has recently been in possession of any wild animal including a fish or the carcass thereof and is unable to give a satisfactory account of such possession;
- (j) willfully damages, alters, moves, or in any way interferes with or destroys any beacon, notice, notice board, sign or mark referred to in this Act or contravenes or fails to comply with the requirements, conditions or terms of any such notice;
- (k) knowingly makes a false statement in any application made or in any other document furnished by him or her in terms of any provision of this Act;
- (l) obtains or applies for any authorization or permit well knowing that he or she is lawfully debarred from obtaining such authorization or permit; or
- (m) any person who coerces any other person or persons or allows any persons to commit an act or omission of an act in contravention of this Act,
- (n) hinders or interferes with a management authority, or a member or staff member of a management authority, in the execution of official duties; or
- (o) falsely professes to be a member or staff member of a management authority, or the interpreter or assistant of such an officer, shall be guilty of an offence.

**Penalties**

- 141.** (1) Any person convicted of an offence under this Act is, subject to the provisions of subsection (2), be liable, in the case of a –

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- (a) contravention of sections 68, 96, 99, 112, and 125 involving endangered wild animals, prohibited methods of hunting, hunting under false pretences, pollution of inland waters, endangered flora to a fine not exceeding two hundred thousand rands or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any endangered wild animal or the carcasses thereof or any endangered flora in respect of which the offence was committed;
  - (b) contravention of section 89 involving an African elephant or a hippopotamus, to a fine not exceeding one hundred thousand rands or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any African elephant or the carcass thereof in respect of which the offence was committed;
  - (c) contravention of sections 70 and 114 involving a protected wild animal or wild animal of the order *Artiodactyla* that is not a protected wild animal (but not including an African elephant or a hippopotamus) or protected or unprotected indigenous flora, to a fine not exceeding fifty thousand rands or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any such protected wild animal or the carcasses thereof or any such flora in respect of which the offence was committed, and
  - (d) any other offence in terms of this Act or any contravention of any other provision of this Act in respect of which no specific penalty is prescribed, to a fine not exceeding twenty thousand rands or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any wild animal or the carcasses thereof or any flora in respect of which the offence was committed.
- (2) Where a penalty is specifically prescribed by regulation for a contravention of or failure to comply with any regulation, a person

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convicted of such contravention or failure is liable only to the penalty so prescribed.

- (3) The court convicting any person of an offence under this Act may, in addition to any penalty imposed under any provision thereof -
- (a) issue an order that any permit, written authority or exemption issued to such person in terms of this Act, be cancelled if in the opinion of the court, the rights conferred by such permit, written authorization or exemption were abused by such person in the commission of the offence;
  - (b) issue an order disqualifying such person from obtaining for a specific period not exceeding 3(three) years, any specific permit, written authority or exemption under this Act;
  - (c) in the case of a second or subsequent conviction of an offence under the same chapter of this Act -
    - (i) cancel any licence or permit or other authority issued to such person in terms of this act and shall declare him or her to be ineligible for obtaining from any conservation authority any similar or other licence or permit or other authority under this act for a period not less than two years and not exceeding five years, and
    - (ii) cause all relevant competent authorities to be notified of such cancellation and declaration;
  - (d) declare to be forfeited to the Department –
    - (i) any vehicle, vessel, boat, craft, float, aircraft or other conveyance, any container, lamp, weapon, ammunition, implement, trap, net or other article that was used for the purposes of or in connection with the commission of the offence;
    - (ii) any fauna or flora in respect of which the offence was committed;

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- (4) The Head of Department may deal as he or she deems fit with anything declared to be forfeited to the Department under this section: Provided that anything so declared to be forfeited (other than a perishable thing) must not be destroyed or otherwise disposed of while any appeal against the declaration, or the conviction which gave rise to such declaration, is pending or until a period of three months has elapsed from the date of such declaration, whichever is the later: Provided further that the MEC may, on application made to him or her and if he or she is satisfied that the convicted person at the time of the commission of the offence was not the owner of the thing declared to be forfeited or, if he or she was the owner, that he or she was unable to prevent the use of such thing by the convicted person, direct that such thing be returned to its lawful owner or, if it has been sold, that the proceeds of such sale after deduction of any expenses incurred by the Provincial Government be paid to such owner.
- (5) Whenever any order of forfeiture is made under this section the registrar or clerk of the court in question must advise the Head of Department accordingly and must call upon the Department to uplift anything that falls to be dealt with by the MEC under subsection (3).
- (6) Whenever any person is convicted of an offence in terms of this Act, the court must summarily enquire into and determine the monetary value of any advantage that he or she may have gained in consequence of that offence, and may, in addition to any other punishment that may be imposed in respect of that offence, impose a fine equal to three times the amount so determined and, in default of payment thereof, imprisonment for a period not exceeding one year.

### **Presumptions**

- 142.** (1) When any fire-arm, live wild animal, carcass of a wild animal including a fish or flora is found or is proved to have been in or on any vehicle, vessel, boat, craft, float, aircraft or other conveyance, it is deemed, until the contrary is proved, to have been in the possession of the person in charge of such vehicle, vessel, boat, craft, float, aircraft or other conveyance.

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- (2) When any person is found, or is proved to have been, in possession of any endangered flora, protected flora or unprotected indigenous flora he or she must, unless the contrary is proved, be deemed to have picked such flora.
- (3) When any person is found or is proved to have been in possession of any live wild animal he or she must, until the contrary is proved, be presumed to have been keeping such animal in captivity at the relevant time.
- (4) When any person is found removing or is proved to have removed any wild animal or the carcass of a wild animal from a trap, snare, pitfall, net, birdlime or any other like device or substance he or she must be presumed, until the contrary is proved, to have laid or prepared such trap, snare, pitfall, net, birdlime or other like device or substance and to have captured the animal concerned.
- (5) Whenever –
  - (a) a vehicle, vessel, boat, craft, float, aircraft or other conveyance is being or has been used for the purpose of or in connection with the commission of an offence under this Act;
  - (b) (i) any wild animal or the carcass of a wild animal including a fish in respect of which an offence has been committed under this Act; or  
  
(ii) any weapon, implement, line, poison or any other object that could be used for the hunting or catching of any wild animal including a fish and that is being or was used or formed an element in the commission of an offence under this Act, is found or has been in or on any vehicle, vessel, boat, craft, float, aircraft or other conveyance,
  - (iii) the owner of such a vehicle, vessel, boat, craft, float, aircraft or other conveyance as well as every person thereon or therein at the time of the commission of the offence or at the time when the wild animal, carcass or other object contemplated in paragraphs (a) and (b) is found or was in such vehicle, vessel, boat, craft, float, aircraft or other conveyance, must be presumed to have committed the offence concerned and be liable to conviction and sentence in

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respect thereof unless he or she proves that he or she did not commit such offence and did not take part in and could not prevent the commission of the offence.

- (6) Whenever any person is found to have in his or her possession on any public road any fire-arm (other than a pistol or revolver) that is loaded or is not enclosed in such a way that the barrel and the trigger are completely covered, he or she must be deemed to be hunting a wild animal on or from such road, until the contrary is proved.
- (7) Whenever in any prosecution under this Act it is alleged that an offence has been committed in connection with or in respect of any fauna or flora of the species stated in the charge, it must be presumed that such fauna or flora is of that species, until the contrary is proved.
- (8) If in any prosecution it is alleged in the charge that an act that constitutes an offence under this Act, was committed within the boundaries of a Provincial nature reserve or wilderness area, local nature reserve, private nature reserve, conservancy, hiking trail, coastal conservation area, protected natural environment or limited development area, that act must be presumed to have been committed within the boundaries of that Provincial nature reserve or wilderness area, local nature reserve, private nature reserve, conservancy, hiking trail or coastal conservation area, protected natural environment or limited development area, until the contrary is proved.
- (9) Whenever in any prosecution under this Act it is alleged that any fauna or flora that forms an element in the commission of an offence is of a specific dimension or mass, it must be presumed that such fauna or flora is of that dimension or mass, until the contrary is proved.
- (10) Whenever a person is found shining a spotlight and carrying a firearm he or she must be presumed to be hunting with the aid of artificial light.
- (11) A wild animal or indigenous plant in or on which an electronic transponder has been fixed must be presumed to have originated

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from the locality in which it was so fixed as recorded in the register kept for the purpose by the Department.

**Jurisdiction as to punishment**

**143.** A magistrate's court has jurisdiction to impose any punishment provided for in this Act.

**Limitation of liability**

**144.** (1) The Provincial Government, the MEC, the Department or any person in the service of the Provincial Government, is not liable by virtue of anything done in good faith under the provisions of this Act.

(2) The Provincial Government, the MEC, the Department or any person in the service of the Provincial Government, is not liable (except in the case of any willful act or omission on the part of such person) to any person who in the performance of a duty or function under this Act or any other law –

(a) makes use of any vehicle, boat or other vessel or aircraft that is the property of the Provincial Government, or the Department;

(b) is present in any Provincial protected area; or

(c) leaves any boat or other vessel or other property in a Provincial nature reserve or wilderness area or makes use of the facilities of a Provincial nature reserve or wilderness area,

or to the spouse or a dependant of any such person, for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to any property caused by or arising out of or in any manner connected with the use of any vehicle, boat or other vessel or aircraft contemplated in paragraph (a), the presence contemplated in paragraph (b) or the presence of any property or the use of any facilities contemplated in paragraph (c).

**Inquiries by MEC**

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- 145.** (1) The MEC may order an inquiry into any matter provided for in this Act.
- (2) For the purposes of an inquiry contemplated in subsection (1), the MEC may appoint one or more persons, including a chairperson, as a committee to conduct the inquiry.
- 3) A committee appointed under subsection (2) may -
- (a) order any person who in its opinion may be able to give information of material importance concerning the subject of the inquiry, or who is believed to have in his or her possession or custody or control, any register, book, document or thing which may have a bearing on that subject, to appear before the committee, together with such register, book, document or thing if that be the case;
- (b) call upon and administer an oath to, or accept an affirmation from any person present at the inquiry, if he or she has been or could have been ordered in terms of paragraph (a);
- (c) question or require any person who has been called upon in terms of paragraph (b) to produce a register, book, document or thing referred to in paragraph (a).
- (4) An order for the attendance before the committee must be in the form determined by that committee and must be signed by the chairperson.
- (5) The law relating to privilege as applicable to a person giving evidence or producing a register, book, document or thing before a court of law, is applicable in respect of the questioning of, or production of a register, book, document or thing by, a person referred to in subsection (3).

**Scientific research and investigation**

- 146.** The MEC may, subject to the provisions of this Act, permit or initiate any scientific research or investigation into any matter provided for in this Act.

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**Repeal of laws and savings**

- 147.** (1) The laws specified in Schedule 7 are hereby repealed to the extent set out in the third column of that Schedule.
- (2) Any proclamation, regulation, by-law, rule, notice, approval, authority, return, certificate, document, direction, declaration or appointment lawfully proclaimed, made, issued, promulgated, given, declared or granted, and any other act done under any provision of any law repealed by this Act is, subject to the provisions of subsection (3), deemed to have been proclaimed, made, issued, promulgated, given, granted, declared or done under the corresponding provisions of this Act.
- (3) Despite the repeal of any law by subsection (1), criminal proceedings that have under such law at the date of commencement of this Act been commenced in any superior court, regional court or magistrate's court and in which evidence has at such date been led in respect of the relevant charge, must, if such proceedings have at that date not been concluded, be continued and concluded under such law as if it had not been repealed.

**Short title**

- 148.** This Act is called the Eastern Cape Environmental Conservation Act, 2003.

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**SCHEDULE 1**

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**ENDANGERED WILD ANIMALS**

Scientific name	common name (where known)	volksnaam (waar bekend)	igama elaziwayo (xa lisaziwa) (Z) = Zulu
<b>MAMMALIA</b>	<b>mammals</b>	<b>soogdiere</b>	<b>izidalwa ezanyisayo</b>
<i>Acinonyx jubatus</i>	cheetah	jagluiperd	ingwenkala, ihlozi
<i>Bunolagus monticularis</i>	riverine rabbit	rivierkonyn	
<i>Ceratotherium simum</i>	square-lipped rhinoceros	witrenoster	umkhombe (Z)
<i>Diceros bicornis</i>	black rhinoceros	swartrenoster	umkhombe, ubhejane (Z)
<i>Equus zebra zebra</i>	Cape mountain zebra	Kaapse bergkwagga	idawuwa
<i>Manis temmincki</i>	African scaly anteater	ietermagog	uhalakavuma
<i>Ourebia ourebi</i>	oribi	oorbietjie	iula
<b>AVES</b>	<b>birds</b>	<b>voëls</b>	<b>iintaka</b>
<i>Anthropoides paradiseus</i>	blue crane	bloukraanvoël	indwe
<i>Bucorvus leadbeateri</i>	ground hornbill	bromvoël	intsikizi, intsingizi
<i>Bugeranus carunculatus</i>	wattled crane	Ielkraanvoël	iqaqolo, igwampi
<i>Geronticus calvus</i>	bald ibis	wildekalkoen	umcwangele
<i>Gypaetus barbatus</i>	bearded vulture	lammergeier	inqo emdaka
<i>Gyps coprotherus</i>	Cape vulture	Kaapse Aasvoel	
<i>Poicephalus robustus</i>	Cape parrot	Krans Aasvoel grootpapegai	isikhwenene
<i>Sterna dougallii</i>	roseate tern	Kaapse papegai	
<i>Turnix hottentota</i>	blackrumped button quail	rooiborsseeswaël	
<i>Zootera guttata</i>	Spotted Ground Thrush	Kaapse kwarteltjie	isigwaca (Z)
<i>Heteromirafra ruddi</i>	Rudds Lark	Drakensberglewerik	
<b>REPTILIA</b>	<b>reptiles</b>	<b>reptiele</b>	<b>izilwanyana ezinegazi Elibandayo</b>
<i>Bitis albanica</i>	Albany adder	Albany adder	
<i>Bradypodion taenia-bronchum</i>	Smiths's dwarf chamaeleon	Smith se dwerg- verkleurmannetjie	
<b>AMPHIBIA</b>	<b>amphibians</b>	<b>amfibië</b>	<b>izilwanyana eziphila emhlabeni nasemanzini amasele</b>
<b>ANURA</b>	<b>frogs &amp; toads</b>	<b>paddas</b>	
<i>Anhydrophryne rattrayi</i>	Hogsback frog	Hogsback padda	
<i>Bufo amatolica</i>	Amatola toad	Amatola-skurwepadda	
<i>Heleophryne hewitti</i>	Hewitt's ghost frog	Hewitt se spookpadda	
<b>PISCES</b>	<b>fishes</b>	<b>visse</b>	<b>iintlanzi</b>
<i>Austroglanis sclateri</i>	Rock catfish	klipbarber	
<i>Barbus pallidus</i>	goldie barb	goudghielientjie	
<i>Barbus trevelyani</i>	Border barb	Grens ghielientjie	
<i>Galaxias zebratus</i>	Cape galaxias	Kaapse galaxias	
<i>Pseudobarbus afer</i>	Eastern Cape redfin	Oos-Kaapse rooivlerkie	
<i>Pseudobarbus amatolicus</i>	Amatola barb	Amatola rooivlerkie	
<i>Pseudobarbus asper</i>	smallscale redfin	kleinskub rooivlerkie	
<i>Redigobius dewaali</i>	checked goby		
<i>Sandelia bainsii</i>	Eastern province rocky	Oosterlike provinsie kurper	
<i>Sandelia capensis</i>	Cape kurper	Kaapse kurper	

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<b>INSECTA</b>	<b>insects</b>	<b>insekte</b>	<b>izinambuzane</b>
<i>Aloeides clarki</i>	Clark's copper butterfly		
<i>Bavea concolor</i>	forest croaking cicada		
<i>Chrysoritis lyncurium</i>	Tsomo opal butterfly		
<i>Circellium bacchus</i>	flightless dung beetle	vlugtelose miskruier	inkubabulongo engabha- bhiyo
<i>Colophon</i> , all spp.	stag beetles, all spp.	grootkaakkewer, alle spp.	
<i>Deloneura immaculata</i>	Mbashe buff butterfly		
<i>Stagira ecca</i>	Ecca Pass ticking cicada		
<i>Tettigomyia vespiformis</i>	bumblebee croaking		
<i>Xosopsaltria barettae</i>	short-winged croaking		
cicada			
<b>ONYCHOPHORA</b>			
<i>Onychophora</i> spp.	peripatus		
<i>Opisthopatus</i> spp.	peripatus		
<i>Peripatopsis</i> spp.	Peripatus		

**SCHEDULE 2**

**PROTECTED WILD ANIMALS**

Scientific name	common name	volksnaam	igama elaziwayo
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	(where known)	(waar bekend)	(xa lisaziwa)
			(Z) = Zulu
<b>MAMMALIA</b>	<b>mammals</b>	<b>soogdiere</b>	<b>izidalwa ezanyisayo</b>
<b>Soricidae</b> all spp.	<b>shrews</b> all spp.	<b>skeerbekmuise</b> alle spp.	<b>oocwethe</b> zonke iintlobo
<b>Erinaceidae</b> <i>Atelerix frontalis</i>	<b>hedgehogs</b> hedgehog	<b>krimpvarkies</b> krimpvarkie	<b>iintloni</b> intloni
<b>Chrysochloridae</b> <i>Amblysomus iris</i> <i>Chrysospalax trevelyani</i> <i>Chrysospalax villosus</i>	<b>golden moles</b> Zulu golden mole giant golden mole rough-haired golden mole	<b>gouemol</b> Zoeloe gouemol gouemol	<b>iintuku</b> intuku yakwaZulu intuku-yehlathi
<b>Macroscelididae</b> all spp.	<b>elephant shrews</b> all spp.	<b>klaasneus</b> alle spp.	
<b>CHIROPTERA</b> all spp.	<b>bats</b> all spp.	<b>vlermuise</b> alle spp.	<b>amalulwane</b> zonke iintlobo
<b>Cercopithecidae</b> <i>Cercopithecus mitis</i>	<b>monkeys</b> samango monkeys	<b>ape</b> samango-aap	<b>iintsimango</b> intsimango
<b>Hyaenidae</b> <i>Hyaena brunnea</i> <i>Proteles cristatus</i>	<b>aardwolf, hyaenas</b> brown hyaena aardwolf	<b>wolve</b> strandwolf maanhaarjakkals	<b>iingcuka, iingci</b> ingcuka ingci, iyongci
<b>Felidae</b> <i>Felis nigripes</i>  <i>Felis serval</i> <i>Panthera leo</i> <i>Panthera pardus</i>	<b>cats</b> small-spotted (black-footed) cat serval cat lion leopard	<b>katte</b> miershooptier  tierboskat leeu luiperd	<b>iingada</b> ingweyeziduli, ingada enamanqina amnyama ihlozi ingonyama ihlosi, ingwe
<b>Canidae</b> <i>Otocyon megalotis</i> <i>Vulpes chama</i>	<b>foxes, jackals</b> bat-eared fox Cape fox	<b>jakkalse</b> bakoorjakkals silwerjakkals	udyalashe okhazimla okwesilvere
<b>Mustelidae</b>  <i>Aonyx capensis</i> <i>Lutra maculicollis</i> <i>Mellivora capensis</i> <i>Poecigale albinucha</i>	<b>otters, weasels, honey badger</b> Cape clawless otter spotted-necked otter honey badger striped weasel, snake mongoose	<b>otters, ratel, muishonde</b> groot otter klein otter ratel slangmuishond	<b>iintini, iinyengelezi, iichelesi</b> intini intini ichelesi inyengelezi
<b>Pinnipedia</b>	<b>seals, sea lions</b>  all spp.	<b>robbe, seeleus</b>  all spp. alle spp.	<b>iintini zolwandle, izinja zolwandle</b>  zonke iintlobo
<b>Orycteropodidae</b> <i>Orycteropus afer</i>	<b>antbear</b>	<b>erdvark</b> erdvark	<b>ihodi</b> ihodi, ibhenxa
<b>Elephantidae</b> <i>Loxodonta africana</i>	<b>elephants</b> African elephant	<b>olifante</b> Afrika olifant	<b>iindlovu</b> indlovu yase Afrika
<b>Procavidae</b> <i>Dendrohyrax arboreus</i>	<b>hyraxes</b> tree hyrax	<b>dassies</b> boomdassie	umqha
<b>Equidae</b> <i>Equus quagga burchelli</i>	<b>zebras</b> plains (Burchell's) zebra	<b>kwaggas</b> bontkwagga	iqhwarha, inqanqarhu
<b>Suidae</b>	<b>pigs</b>	<b>varke</b>	<b>iingulube</b>

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<i>Phacochoerus aethiopicus</i>	warthog		vlakvark		inxagu, ihagu
<b>Hippopotamidae</b>	<b>hippopotami</b>		<b>seekoei</b>		<b>iimvubu</b>
<i>Hippopotamus amphibius</i>	hippopotamus		seekoei		imvubu
<b>Giraffidae</b>	<b>giraffe</b>		<b>kameelperd</b>		<b>indlulamthi</b>
<i>Giraffa camelopardalis</i>	giraffe		kameelperd		icowa, umcheya, indlulamthi
<b>Bovidae</b>	<b>antelopes, buffalo</b>		<b>bokke, buffels</b>		<b>iinyamakazi</b>
<i>Alcelaphus buselaphus</i>	red hartebeest		rooihartbees		ixhama
<i>Antidorcas marsupialis</i>	springbuck		springbok		ibhadi
<i>Connochaetes taurinus</i>	black wildebeest		swartwildebees		inqu
<i>Damaliscus dorcas dorcas</i>	bontebok		bontebok		ilinga
<i>Damaliscus dorcas phillipsi</i>	blesbuck		blesbok		ilinga
<i>Oreotragus oreotragus</i>	klipspringer		klipspringer		igogo
<i>Oryx gazella</i>	gemsbuck		gemsbok		inkukhama
<i>Pelea capreolus</i>	grey rhebuck		vaalribbok		iliza
<i>Philantomba monticola</i>	blue duiker		bloubokkie		iphuthi
<i>Raphicerus campestris</i>	steenbuck		steenbok		itshabanqa
<i>Raphicerus melanotis</i>	grysbuck		grysbok		ingxungxu, inxunxu
<i>Redunca arundinum</i>	southern reedbuck		rietbok		intlangu
<i>Redunca fulvorufula</i>	mountain reedbuck		rooiribbok		inxala
<i>Sylvicapra grimmia</i>	common duiker		duiker		impunzi
<i>Syncerus caffer</i>	African buffalo		buffel		inyathi
<i>Taurotragus oryx</i>	eland	eland		impofu	
<i>Tragelaphus scriptus</i>	bushbuck		bosbok		imbabala (ungece, unkonka)
<i>Tragelaphus strepsiceros</i>	kudu		koedoe		iqudu
<b>AVES</b>	<b>birds</b>		<b>voëls</b>		<b>iintaka</b>
all spp., but not including any mentioned in Schedule 1 and the following -	all spp., but not including any mentioned in Schedule 1 and the following -		alle spp., maar nie insluitend dië in Bylae 1 bepaal en die volgende nie -		zonke iintaka zikhuselwe ngumthetho ngapandle kwezilandilayo -
<b>Columbidae</b>	<b>pigeons, doves</b>		<b>duiwe</b>		<b>amahobe</b>
<i>Columba livea</i>	feral pigeon		tuinduif		ihobe
<i>Columba guinea</i>	rock pigeon		kransduif		ivukuthu
<b>Coliidae, all spp.</b>	mousebirds, all spp.		muisvoëls, alle spp.		iindlazi, zonke iintlobo
<b>Corvidae, all spp.</b>	crows, ravens, all spp		kraaie, alle spp.		ihlungulu, igwangwa & unomyayi, zonke iintlobo
<b>Pycnonotidae</b>	<b>bulbuls</b>		<b>tiptols</b>		<b>iikhwebula</b>
<i>Pycnonotus barbatus</i>	black-eyed bulbul		swartoogtiptol		ikhwebula
<i>Pycnonotus capensis</i>	Cape bulbul		Kaapse tiptol		
<i>Pycnonotus nigricans</i>	red-eyed bulbul		rooioogtiptol		
<b>Sturnidae</b>	<b>starlings</b>		<b>spreus</b>		
<i>Acridotheres tristis</i>	Indian myna		Indiese spreeu		
<i>Onychognathus morio</i>	red-winged starling		rooivlerkspreu		isomi
<i>Sturnus vulgaris</i>	European starling		Europese spreeu		
<b>Ploceidae</b>	<b>sparrows, weavers</b>		<b>mossies, vinke</b>		
<i>Euplectes capensis</i>	yellowrumped widow		Kaapse flap		isahomba
<i>Euplectes orix</i>	red bishop		rooivink		umcumse, umliilo
<i>Passer domesticus</i>	house sparrow		huismossie		
<i>Passer melanurus</i>	Cape sparrow		Kaapse mossie		umnondlwane, undlunkulu
<i>Ploceus capensis</i>	Cape weaver		Kaapse wewer		ihobohobo
<i>Ploceus velatus</i>	masked weaver		swartkeelvink		irheza
<i>Quelea quelea</i>	red-billed quelea		rooibekkwelea		



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Scientific name	common name (where known)	volksnaam (waar bekend)	igama elaziwayo (xa lisaziwa)
<b>MAMMALIA</b>	<b>mammals</b>	<b>soogdiere</b>	<b>izidalwa ezanyisayo</b>
<i>Canis mesomelas</i> udyakalashe	black-backed jackal	Rooi jakkals	impungutye,
<i>Felis caracal</i> Vagrant Dog	caracal, lynx	rooikat	ingqawa

**SCHEDULE 4**

**ENDANGERED FLORA FOR WHICH A POSSESSION PERMIT IS REQUIRED**

Note: a species marked \* is protected in terms of section 12(1)(d) of the National Forests Act, 1998.

Scientific name	common name (where known)	volksnaam (waar bekend)	igama elaziwayo (xa lisaziwa)
<i>Acharia tragodes</i>			
<i>Alepidea galpinii</i>			
<i>Aloe bowiea</i>			
<i>Aloe longistyla</i>			
<i>Aloe reynoldsii</i>	Mbashe aloe		
<i>Anthospermum streyi</i>			
<i>Apodolirion amyanum</i>			
<i>Aristea platycaulis</i>			
<i>Aspidoglossum uncinatum</i>			
<i>Bowiea volubilis</i>			
<i>Brachystelma kerzneri</i>			
<i>Brachystelma tenellum</i>			
<i>Brachystelma caffrum</i>			
<i>Brachystelma comptum</i>			
<i>Brachystelma cummingii</i>			
<i>Brunsvigia litoralis</i>			
<i>Cassipourea flanaganii</i>			
<i>Catha abbottii</i>	Pondo khat		
<i>Cassipourea flanaganii</i>			
<i>Coilostigma zeyherianum</i> var. <i>tenuifolium</i>			
* <i>Colubrina nicholsonii</i>			
<i>Crassula planifolia</i>			
<i>Cyclopia filiformis</i>			
<i>Cyclopia longifolia</i>			
<i>Cyclopia pubescens</i>			
<i>Cyrtanthus spiralis</i>			
<i>Cyrtanthus suaveolens</i>			
* <i>Dahlgrenodendron natalense</i>	Natal quince	Natalkweper	
<i>Diaphananthe millarii</i>			
<i>Disa hallackii</i>			
* <i>Encephalartos</i> , all spp.	cycads, all spp.	broodbome, alle spp.,	umphanga, mguza,
<i>Englerodaphane subcordata</i>			

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<i>Erica abbottii</i>			
<i>Erica cubica</i>			
<i>Eugenia simii</i>			
* <i>Eugenia umtamvunensis</i>			
<i>Euphorbia globosa</i>			
<i>Euphorbia jansenvillensis</i>			
<i>Euphorbia meloformis</i>	eselskos, pol		intsele
<i>Euphorbia obesa</i>			
<i>Euphorbia symmetrica</i>			
<i>Euphorbia valida</i>			
<i>Ezoscadium capense</i>			
<i>Faucaria gratiae</i>			
<i>Faucaria tigrina</i>			
<i>Guthria capensis</i>			
<i>Gymnosporia bachmannii</i>			
<i>Gymnosporia elliptica</i>			
<i>Haworthia bruynsii</i>			
<i>Haworthia springbokvlakensis</i>			
<i>Haworthia woolleyi</i>			
<i>Herschelianthe lugens</i>			
var. <i>nigrescens</i>			
<i>Herschelianthe venusta</i>			
<i>Holothrix longicornu</i>			
<i>Indigofera 'braamtonyi' ms</i>			
<i>Indigofera 'gogosa' ms</i>			
<i>Indigofera 'herrstreyi' ms</i>			
<i>Isoetes wormaldii</i>			
<i>Jamesbrittenia albanensis</i>			
* <i>Jubaeopsis caffra</i>	Pondo coconut	Pondokokospalm	inkhomba
<i>Lachenalia convallarioides</i>			
<i>Lauridia reticulata</i>			
<i>Ledebouria coriacea</i> S.Venter ined			
<i>Leucadendron pondoense</i>			
<i>Leucadendron spissifolium</i>	Oribi spear-leaved cone-		
subspecies <i>oribinum</i>	bush		
<i>Leucospermum innovans</i>	Pondoland pincushion		
<i>Lobelia zwartkopensis</i>			
* <i>Manilkara nicholsonii</i>	south coast milkberry	suidkusmelkbessie	
* <i>Maytenus abbottii</i>	rock silky bark	klipsybas	
<i>Maytenus vanwykii</i>			
<i>Metarungia galpinii</i>			
<i>Nerine masoniorum</i>			
<i>Ochna natalitia</i>			
<i>Orbea speciosa</i>			
<i>Orthopterum coegana</i>			
<i>Phyllica natalensis</i>	Natal hard-leaf	Natalhardeblaar	
<i>Plectranthus hilliardii</i>			
<i>Plectranthus malvinus</i>			
<i>Plectranthus praetermissus</i>			
<i>Plectranthus pentheri</i>			
<i>Plectranthus reflexus</i>			
* <i>Pseudosalacia streyi</i>	rock lemon	kliplemoen	
<i>Psoralea abbottii</i>	Pondo fountain bush	Pondofonteinbos	

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<i>Rapanea gilliana</i>			
* <i>Raspalia trigyna</i>			
<i>Rhus albomarginata</i>			
* <i>Rhynchochalyx lawsonioides</i>	Natal privet	Natalliguster	
* <i>Rinorea domatiosa</i>	bearded white violet bush	bebaarde witviooltjebos	
<i>Satyrium hallackii</i> subsp. <i>Hallackii</i>			
<i>Selago polycephala</i>			
<i>Schizoglossum amatolicum</i>			
<i>Streptocarpus formosus</i>			
<i>Streptocarpus kentaniensis</i>			
<i>Streptocarpus johannis</i>			
<i>Streptocarpus liliputana</i> ms			
<i>Streptocarpus modestus</i>			
<i>Streptocarpus porphyrostachys</i>			
* <i>Syzygium pondoense</i>	Pondo waterwood	Pondowaterhout	
<i>Tephrosia bachmannii</i>			
* <i>Tricalysia africana</i>	Pondo coffee	Pondokoffee	isiceza
<i>Turraea pulchella</i>	Pondo honeysuckle tree		
<i>Turraea streyi</i>	Strey's honeysuckle tree		
<i>Utricularia sandersonii</i>	bladderwort	blaaskruid	

**SCHEDULE 4(A)**

**ENDANGERED FLORA FOR WHICH NO POSSESSION PERMIT IS REQUIRED**

*Encephalartos seedlings*, cycads seedlings, all spp., broodbome saailinge, alle spp., umphanga, mguza,

**SCHEDULE 5**

**PROTECTED FLORA**

Note: A species marked \* is protected in terms of section 12(1)(d) of the National Forests Act, 1998.

Scientific name	common name (where known)	volksnaam (waar bekend)	igama elaziwayo (xa lisaziwa)
(Z) = Zulu			
<hr/>			
<i>Acmadenia kiwanensis</i>			
* <i>Acridocarpus natalitius</i>	moth-fruit		umabhope
<i>Adiantum</i> , all spp.	maidenhair ferns, all spp	vrouehaar, alle spp.	umsolo womlambo, zonke iintlobo

*Adromischus fallax*

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<i>Agathosma stenopetala</i>			
* <i>Alberta magna</i>	Natal flame bush	breekhout	umabophe
<i>Albuca crudenii</i>			
<i>Alepidea amatymbica</i>			
<i>Alepidea stellata</i>			
* <i>Allophylus natalensis</i>	dune false currant	duinebastertaaibos	umgqalagquzu, uzingathi
<i>Aloe</i> , all spp., but not including <i>A. arborescens</i> , <i>A. ferox</i> and any mentioned in Schedule 4	aloes, all spp. but not including krantz aloe, bitter aloe and any	aalwyne, alle spp. Maar nie insluitend kransaal- wyn, bitteraalwyn en dié	amakhala, zonke intlobo, ngaphandle kuka nomaweni ezo
	mentioned in Schedule 4	in Bylae 4 bepaal nie	zikhankhanywe kwisiHlomelo 4
<b>AMARYLLIDACEAE</b>			
all spp.			
<i>Anacampseros</i> , all spp.	love-plants, all spp.	hasieskos, alle spp.	
<i>Anemone caffra</i>			
<i>Anemone tenuifolia</i>	anemone	anemoon	
<b>APOCYNACEAE</b>			
All sp			
<i>Apodytes abbottii</i>	Pondo white pear	Pondowitpeer	
* <i>Apodytes dimidiata</i> subsp. <i>dimidiata</i>	white pear	witpeer	umdakane
<b>ASCLEPIADACEAE</b>			
all spp.			
<i>Aspalathus gerrardii</i>			
<i>Aspalathus fourcadei</i>			
<i>Aspalathus lanceicarpa</i>			
<i>Aspidoglossum flanaganii</i>			
<i>Asplenium simii</i>			
<i>Aster laevigatus</i>			
* <i>Atalaya capensis</i>	Cape krantz ash	Kaapse kransesseboom	
<i>Atalaya natalensis</i>	Natal krantz ash	Natalse kransesseboom	umhlambila (Z)
* <i>Avicennia marina</i>	white mangrove	witseebasboom	isikhungathi
<i>Barberetta aurea</i>			
<i>Bauhinia bowkeri</i>	Kei neat's foot	Keibeeskrou	
umdlanlovu			
* <i>Bauhinia natalensis</i>	Natal bauhinia	Natalsebeeskrou	
<i>Begonia dregei</i>			
<i>Bergeranthus albomarginatus</i> A.P.Dold ined.			
<i>Bergeranthus artus</i> .			
<i>Brachystelma australe</i>			
* <i>Bridelia micrantha</i>	mitseeri	mitserie	mhlahlamakhwaba
* <i>Bruguiera gymnorrhiza</i>	black mangrove	swartwortelboom	isikhungathi
* <i>Buddleja saligna</i>	false olive	witolienhout	umnceba, umgqeba
<i>Bulbine inae</i> sp. nov.			
<i>Bulbine frutescens</i> var. <i>cholumnensis</i> Baijnath ined.			
<i>Bulbine latifolia</i>			
<b>BRUNIACEAE</b>			
all spp. but not including any mentioned in Schedule 4			
<i>Buxus macowanii</i>	Cape box	Kaapse buksboom	umgalagala
* <i>Caesalpinia bonduc</i>	bonduc		

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<i>Calopsis paniculata</i>			
* <i>Canthium vanwykii</i>	Pondo rock alder	Pondoklipels	
* <i>Carissa wylei</i>	forest num-num	bos noemnoem	
<i>Cassipourea flanaganii</i>	Cape onionwood	Kaapse uiehout	
* <i>Cassipourea gerrardii</i>	common onionwood	gewone uiehout	umqonga,umemezi, umkhatane
* <i>Cassine aethiopica</i>	kooboo-berry	koeboebessie	umgxube, umbovane
<i>Cassytha pondoensis</i>			
* <i>Celtis durandii</i>	false white stinkwood	basterwitstinkhout	umvumvu
<i>Centella graminifolia</i>			
<i>Centella hermanniifolia</i> var. <i>hermanniifolia</i>			
<i>Cephalanthus natalensis</i>	strawberry bush	witaarbeibos	umfimfi (Z)
* <i>Chionanthus foveolatus</i>	common pock ironwood	gewone pokysterhout	umdlebe, umnqumaswili
subsp. <i>foveolatus</i>			
* <i>Chionanthus peglerae</i>	giant pock ironwood	reusepokysterhout	
<i>Chironia, all spp.</i>			
<i>Chondropetalum microcarpum</i>			
* <i>Combretum caffrum</i>	Cape bushwillow	Kaapse vaderlandswilg	umdubu
* <i>Combretum erythrophyllum</i>	river bushwillow	riviervaderlandswilg	umdubu
* <i>Cordia caffra</i>	septee tree	septeeboom	umlovulovu
<i>Cotyledon adscendens</i>			
<i>Crassula perfoliata</i>			
<i>Crassula streyi</i>	Pondoland crassula		
<i>Craterostigma nanum</i>	mole's spectacles		
<i>Cryptocarya myrtifolia</i>	myrtle quince	mirtekweper	isithungwa
* <i>Cyathea, all spp.</i>	tree ferns, all spp.	boomvarings, alle spp.	izihihi, zonke
iintlobo			
<i>Cyclopia filiformis</i>			
<i>Cyclopia longifolia</i>			
<i>Cyclopia pubescens</i>			
* <i>Cunonia capensis</i>	red alder	rooi-els	umqwashube
* <i>Curtisia dentata</i>	assegai	assegaai	usirhayi, umgxina
* <i>Cussonia gamtoosensis</i>			
<i>Diascia, all spp.</i>			
<i>Dioscorea elephantipes</i>	elephant's foot	olifantsvoet	
<i>Dioscorea sylvatica</i>	elephant's foot	skilpadknol	ingwevu (Z)
<i>Dracaena aletiformis</i>			
<i>Drimia hyacinthoides</i>			
<i>Drimia elata</i>			
* <i>Drypetes arguta</i>	water ironplum	waterysterpruim	umnqungqute
<i>Ecbolium flanaganii</i>			
<i>Echiostachys spicatus</i>			
<i>Elaphoglossum angustatum</i>			
<i>Elephantorrhiza elephantina</i>			
* <i>Encephalartos</i> all spp.,	cycads, all spp.,	broodboome, alle spp.	umphanga, umguza,
cultivated seedling only	cultivated seedling only	gekweekde saailing alleen	zonke iintlobo, kwezilinyiweyo ngembewu
<b>ERICACEAE,</b>	<b>ericas</b>	<b>heide</b>	<b>onontlango</b>
all sp, but not including any mentioned in Schedule 4	all spp. but not including any mentioned in Sche-	alle spp., maar nie insl- uitend dié in Bylae 4	zonke iintlobo, zazo ezingakhankanywanga

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	dule 4	bepaal nie	kwisihlomelo 4
<i>Eriosema dregei</i>			
<i>Eriosema latifolium</i>			
<i>Eriosema luteopetalum</i>			
<i>Eriosema umtamvunense</i>			
<i>Eriosemopsis subanisophylla</i>			
<i>Eriospermum appendiculatum</i>			
<i>Eriospermum occultum</i>			
<i>Erythrina acanthocarpa</i>	tamboekie thorn	tamboekie thorn	
<i>Erythrina humeana</i>	dwarf coral tree	kleinkoraalboom	umsintsana
* <i>Euclea natalensis</i> subsp. <i>natalensis</i>	Natal guarri	Natalghwarrie	umtshekisani, umkhaza
* <i>Euclea racemosa</i>	sea guarri	seeghwarrie	
<i>Eucomis</i> , all spp.	pineapple flowers, all spp.	pynappelblomme, alle spp.	umathunga (Z), mbola (Z), zonke iintlobo
* <i>Eugenia capensis</i>	dune myrtle	duinemirt	umbelwana, umpofana
<i>Eugenia erythrophylla</i>	large-leaved myrtle	grootblaarmirt	
<i>Eugenia verdoorniae</i>	small-leaved myrtle	fynblaarmirt	
<i>Eugenia</i> sp. nov. C			
<i>Euphorbia albipollinifera</i>			
<i>Euphorbia astrophora</i>			
<i>Euphorbia bruynsii</i>			
<i>Euphorbia bupleurifolia</i>			
<i>Euphorbia decepta</i>		melkbol	intsele
<i>Euphorbia ericoides</i>			inkamamasane
<i>Euphorbia globosa</i>			
<i>Euphorbia horrida</i>			
<i>Euphorbia meloformis</i> subsp. <i>meloformis</i> forma <i>magna</i>			
<i>Euphorbia</i> sp. nov. <i>Palmer 1336</i>			
<i>Euphorbia stellata</i>			
<i>Euphorbia tubiglans</i>			
<i>Euryops ciliatus</i>			
<i>Euryops ericifolius</i>			
<i>Euryops gracilipes</i>			
<i>Euryops hypnoides</i>			
<i>Euryops leiocarpus</i>			
<i>Faurea macnaughtonii</i>	terblanz beech	terblans	isafu, umkhubane
<i>Ficus bizanae</i>	Pondo fig	Pondovy	umthombe
<i>Ficus sur</i>	broom cluster fig	besemtrosvy	umkhiwane
<i>Gasteria</i> , all spp.	gasterias, all spp.	bosaalwyne, alle spp.	iimpundu, zonke iintlobo
<b>GERANIACEAE</b>			
All sp.			
<i>Geranium subglabrum</i>			
<i>Gloriosa superba</i>	flame lily		inyibiba yodumo,
<i>Gnidia singularis</i>			
<i>Gnidia triplinervis</i>			
* <i>Grewia pondoensis</i>	Pondo raisin	Pondorosyntjie	
<i>Greyia flanaganii</i>	Kei bottlebrush	Keibaakhout	usinya
<i>Gunnera perpensa</i>			
<i>Harveya</i> , all spp.	harveyas, all spp.		
<i>Haworthia</i> , all spp.	haworthias, window plants, all spp.		
<i>Helichrysum glaciale</i>			

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<i>Helichrysum pannosum</i>			
<i>Helichrysum populifolium</i>	poplar helichrysum		
<i>Helichrysum sessilioides</i>			
<i>Heliophylla subulata</i>			
<i>Hernia hystrix</i>			
<i>Hydnora africana</i>			
<i>Hypodematium crenatum</i>			
<b>HYPOXIDACEAE</b>	star flowers	sterblomme	ixahanxa, inongwe,
all spp.	all spp.	alle spp	inkomfe, zonke iintlobo
<i>*Ilex mitis</i>	Cape holly	without	umduduma, umduma
<i>Impatiens flanagani</i>			
<i>Indigofera pondoensis</i> ms			
<i>Indigofera rubroglandulosa</i>			
<b>IRIDACEAE</b>			
all spp. but not including any mentioned in Schedule 4			
<i>Kalanchoe thysiflora</i>	white lady	geelplakkie	
<i>Kniphofia</i> , all spp.	redhot poker, all spp.	vuurpyl, alle spp.	ixonya, zonke iintlobo
<i>Lachenalia</i> , all spp	lachenalias, all spp.		
<b>LENTIBULARIACEAE</b>	bladderworts, all spp.	blaaskruide alle spp.	zonke iintlobo,
all spp. but not including any mentioned in Schedule 4	but not including any mentioned in Sche- dule 4	maar nie insluitend dié in Bylae 4 bepaal nie	ngaphandle zikhanka- nywe kwisiHlomelo 4
<i>Leucadendron orientale</i>			
<i>Leucadendron spissifolium subsp. natalense</i>			
<i>Liparia genistoides</i>			
<i>Littonia modesta</i>	climbing bells	geelklokke	iintsimbikhwelenc
<i>Lopholaena dregeana</i>			
<i>Lotononis bachmanniana</i>			
<i>Lotononis holosericea</i>			
<i>Lotononis monophylla</i>			
<i>Lotononis viminea</i>	white lotononis		
<i>Lotononis trichodes</i>			
<i>Lygodium kerstenii</i>			
<i>Lysimachia nutans</i>			
<i>*Macaranga capensis</i>	wild poplar	wildepopulier	umbengele
<i>*Margaritaria discoidea</i> var. <i>discoidea</i>	common pheasant- berry	gewone fisantebessie	umphanzitha, umhlulazembe
<i>Marsilea schelpeana</i>			
<i>*Maytenus bachmannii</i>	willow koko tree	wilgerkokoboom	
<i>*Maytenus oleosa</i>			
<i>*Memecylon bachmannii</i>	Pondo rose-apple	Pondoroosappel	umbande
<i>Merxmuellera cincta subsp. sericea</i>			
<b>MESEMBRYANTHEMACEAE</b>	<b>mesembs</b>	<b>vygies</b>	
all spp.	all spp.	alle spp.	
<i>Microsorium ensiforme</i>			
<i>*Milletia sutherlandii</i>	giant umzimbeet	reuseomsambeet	umqunye
<i>*Mimusops caffra</i>	coastal red milkwood	kusrooimelkhout	umthunzi
<i>Monsonia galpinii</i>			
<i>Monsonia natalensis</i>			
<i>Mossia intervallaris</i>			
<i>Nectaropetalum capense</i>	Kei coca tree	Keikokaboom	iqande
<i>Nectaropetalum zuluense</i>	Natal coca tree	Natalkokaboom	iqande

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*Neopaterosonia uitenhagensis*

<i>*Nuxia floribunda</i>	forest elder	bosvlier	ingqotha, isikhali
<i>Nymphaea capensis</i>	blue water lily	blou waterlelie, kaai- maanblom	inyibiba yasemanzini ezuba
<i>*Ocotea bullata</i>	stinkwood	stinkhout	umnukani
<i>*Ocotea kenyensis</i>	Transvaal stinkwood	Transvaalstinkhout	umnukani
<i>*Oldenburgia grandis</i>	Suurberg cushion bush	Suurbergse kussingbos	
<i>*Olea capensis</i>	ironwood	ysterhout	ugqwangxe
subsp. <i>macrocarpa</i>			
<i>*Olea europea</i> subsp.	<i>africana</i> wild olive	olienhout	umnquma
<i>*Olinia radiata</i>	Natal hard pear	Natalhardepeer	umbovana, umphanzi
<i>*Olinia ventosa</i>	hard pear	hardepeer	ingobamakhosi, umgenalahla, inqudu
<i>Orbea macloughlinii</i>	Macloughlin's orbea		
<i>Orbea speciosa</i>			

**ORCHIDACEAE**

**orchids**

all spp.	all spp.		
<i>Ornithogalum</i> , all spp.	chinkirinchee, all spp.	tjenkerientjee, alle spp.	umabalaza (Z), zonke intlobo

*Osteospermum imbricatum*

<i>*Pachypodium</i> , all spp.			
<i>*Pachystigma bowkeri</i>			
<i>*Pappea capensis</i>	jacket-plum	doppruim	ilitye, umgqalutye
<i>Pelargonium ochroleucum</i>			
<i>Pelargonium reniforme</i>			
<i>Peperomia</i> all spp.			
<i>Peucedanum natalense</i>			
<i>Peucedanum olifantianum</i>			
<i>Peucedanum typicum</i>			
<i>Phyllica tysoni</i>	Pondo hard-leaf	Pondohardeblaar	
<i>Phyllica simii</i>			
<i>Phyllanthus cedrelifolius</i>	forest potato bush	bosartappelbos	
<i>Phymaspermum erubescens</i>			
<i>*Platylophus trifolius</i>	white alder	witels	
<i>Plectranthus aliciae</i>			
<i>Plectranthus ernstii</i>			
<i>Plectranthus oertendahlii</i>			
<i>Plectranthus oribiensis</i>			
<i>Plectranthus saccatus</i>			
subsp. <i>pondoensis</i>			
<i>*Podocarpus falcatus</i>	Outeniqua yellowwood	Outeniekwageelhoud	umkhoba
<i>*Podocarpus henkelii</i>	Henkel's yellowwood	Henkel-se-geelhout	umsonti (Z)
<i>*Podocarpus latifolius</i>	real yellowwood	opregtegeelhoud	umcheya
<i>Podranea ricasoliana</i>	Port St Johns creeper		
<i>Polystichum</i> , all spp.	seven weeks fern, all spp.	seweweeksvarrings, alle spp.	

**PROTEACEAE**

**proteas**

**proteas**

all spp. but not including any mentioned in Schedule 4	all spp. but not including any mentioned in Schedule 4	alle spp. maar nie insluitend dié in Bylae 4 bepaal nie	
<i>Protorhus longifolia</i>			
<i>*Prunus africana</i>	red stinkwood	rooistinkhout	umkakazi, inyazangoma
<i>*Pseudoscolopia polyantha</i>	false red pear	valsrooipeer	
<i>Psilotum nudum</i>			

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<i>Psoralea abbottii</i>			
<i>Psoralea crista</i> C.H.Stirt. ined.			
* <i>Pterocelastrus tricuspidatus</i>	candlewood	kershout	utywina, ugobandlovu
* <i>Putterlickia retrospinosa</i>	large-leaved bastard spike-thorn		
* <i>Rapanea melanophloeos</i>	Cape beech	boekenhout	isiqwane sehlati
<i>Raphionacme lobulata</i>			
* <i>Rauvolfia caffra</i>	quinine tree	kinaboom	umthundisa, umjelo
<i>Relhania pungens</i> subsp. <i>angustifolia</i>			
* <i>Rhizophora mucronata</i>	red mangrove	rooiwortelboom	umhluma
<i>Rhoicissus tridentata</i>			
<i>Rhoicissus digitata</i>			
* <i>Rhus acocksii</i>			
<i>Rhus albomarginata</i>			
<i>Rhus pondoensis</i>			
* <i>Rinorea angustifolia</i>	white violet-bush	witviooltjebos	umzungulu
<i>Rubia petiolaris</i>			
<i>Rutaceae all species</i>	<i>Bugu</i>	<i>Boegoe</i>	
<i>Sandersonia aurantiaca</i>	Chinese lantern, christmas bell	geelklokkie	ihlamvu lasenhla (Z)
<i>Schizobasis intricata</i>			
* <i>Scolopia zeyheri</i>	thorn pear	doringpeer	iqumza elinameva
<i>Selago lepidoides</i>			
<i>Senecio austromontanus</i>			
<i>Senecio hirtifolius</i>			
<i>Senecio erubescens</i> var. <i>incisus</i>			
<i>Senecio glanduloso-lanosus</i>			
<i>Senecio medley-woodii</i>			
<i>Senecio scaposus</i> var. <i>addoensis</i>			
<i>Senecio serrurioides</i>			
* <i>Sideroxylon inerme</i>	white milkwood	witmelkhout	amasethole, umqwashu
* <i>Spirostachys africana</i>	tamboti	tambotie	umthombothi
<i>Stangeria eriopus</i>	stangeria	bobbejaankos,	imfingwane,
<i>Stapelia, all spp.</i>			
* <i>Sterculia alexandri</i>	Cape star-chestnut	Kaapse sterkastaiing	
<i>Strelitzia, all spp., excluding</i> <i>S. nicolae</i>	crane flowers, all spp. excluding Natal wild banana	kraanvoëlblomme, alle spp. uitsluitend Nattalse wildepiesang	ikhamanga, zonke iintlobo ngaphandle ikhamane omkulu
<i>Streptocarpus, all spp. but not</i> including any mentioned in Schedule 4	Cape primrose, rexia, nodding bells, twin sisters, wild gloxinia, all spp. but not including any ment- ioned in Schedule 4		
<i>Struthiola pondoensis</i>			
* <i>Strychnos mitis</i>	yellow bitterberry	geelbitterbessie	ibholo, umnqonqodi
<i>Sutera racemosa</i>			
<i>Syncolostemon, all spp</i>	pink plume, all spp.		
<i>Syncarpa recurvata</i>			
* <i>Syzygium gerrardii</i>	forest water berry	boswaterhout	umjomi-wehlathi, umansane
* <i>Tephrosia pondoensis</i>	Pondo poison pea	Pondogifertjie	

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<i>Tetradenia barberae</i>			
<i>Thamnocalamus tessellatus</i>	mountain bamboo	bergbamboes	
* <i>Trichilia dregeana</i>	forest mahogany	bosrooinessenhout	umkhuflu
<i>Trichomanes reptans</i>			
<i>Tulbaghia cominsii</i>			
* <i>Umtiza listeriana</i>	umtiza	omtisa	umthiza
<i>Urginea ciliata</i>			
<i>Veltheimia</i> all spp	forest lilies, all spp.	sanduisse, alle spp	
* <i>Voacanga thouarsii</i>	wild frangipani	wildefrangipani	umthofu, umthomfi
* <i>Widdringtonia nodiflora</i>	mountain cypress	bergsipres	unwelelwentaba
* <i>Widringtonia schwarzii</i>	Willowmore cedar	Baviaanskloofseder	
* <i>Xymalos monospora</i>	lemonwood	lemoenhout	uvethe
<i>Zaluzianskya angustifolia</i>			
<i>Zantedeschia elliotiana</i>			
* <i>Zanthoxylum davyi</i>	knobwood	perdepram	umlungumabele
<i>Zygophyllum divaricatum</i>			

## SCHEDULE 6

### NOXIOUS AQUATIC GROWTHS

Scientific name	common name (where known)	volksnaam (waar bekend)	igama elaziwayo (xa lisaziwa)
<i>Eichhornia</i> all spp.	water hyacinth, all spp.	waterhiasint, alle spp.	
<i>Myriophyllum</i> all spp.	parrot's feather all spp.	duisendblaar, alle spp.	
<i>Salvinia</i> all spp.	water fern, all spp.	watervaring, alle spp.	

## SCHEDULE 7

### REPEAL OF LAWS

Number and year of Act	Short title	Extent of amendment or repeal law
Act No. 73 of 1989	Environmental Conservation Act	The whole
Act No. 63 of 1970	Mountain Catchment Areas Act	The whole
Act No. 21 of 1935	Sea-Shore Act	The whole, in so far as it does not relate to the sea-shore and the sea within any port or harbour which in terms of any law falls under

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		the control and management of the company referred to in section 1 of the Legal Succession to the South African Transport Services Act, 1989(Act No. 9 of 1989), excluding sections 2, 6, 7(1)(b), and (2)(b), 8, 9, 11(2), 12, and 13(b) and (e)
Act No. 10 of 1987(Ciskei)	Nature Conservation Act (Ciskei)	The whole
Decree No. 9 1992(Transkei)	Environmental Conservation Decree (Transkei)	The whole
Ordinance No. 19 of 1974 (Cape Provincial Administration)	Nature and Environmental Conservation Ordinance (Cape Provincial Ordinance)	The whole
Ordinance No. 26 of 1957 (Cape Provincial Administration)	Problem Animal Control Ordinance (Cape Provincial Administration)	The whole
Ordinance No. 3 of 1982	Nature Reserves Validation Ordinance (Cape Provincial Administration)	The whole
Proclamation No. R6 of 1978	Nature Conservation in Black Areas Proclamation	The whole

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**EXPLANATORY MEMORANDUM ON THE ENVIRONMENTAL  
CONSERVATION BILL, 2003**

**PART I**

***(General Principles)***

**BACKGROUND**

This Bill is intended to consolidate Provincial legislation governing the administration of the environment. This forms part of the broad process to rationalise all old order legislation in the Province.

The national Department of Environmental Affairs and Tourism is currently engaged in rationalisation of environmental laws. Accordingly, that Department is amending the National Environmental Management Act, 1998(Act No. 107 of 1998)(hereinafter referred to as "NEMA", and has extracted from that Act provisions dealing with Biodiversity, Protected Areas, Waste Management, Coastal Management and Air Quality, and developed those chapters into separate pieces of legislation. NEMA serves as framework legislation dealing with the management of the environment.

**POLICY OBJECTIVES**

The purpose of the Bill is to provide for the administration, development and conservation of the environment in the Province. Consequently the Bill provides

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for the establishment of advisory bodies in respect of environmental conservation, to empower the MEC responsible for the environment to make certain declarations in relation to environmental conservation, to provide for the general powers of the MEC to ensure that environmental species are not endangered and exhausted, and that they are conserved for future generations.

### **FINANCIAL IMPLICATIONS**

Regarding the financial implications of this Bill, operational budget for the implementation of the provisions thereof has been budgeted for in the current and the next financial year.

### **SOCIAL IMPLICATIONS**

On personnel the Department has advertised 25 environmental officers' posts and successful candidates will assume duties from January 2004. In 2004 financial year 10 environmental officer's post will be advertised and have been budgeted for.

### **CONSULTATIONS**

Other than the comments herein below the majority of the comments received were from officials within the Department and the Office of the Director of Public Prosecutions, which have been dealt with internally.

<b>STAKEHOLDER</b>	<b>CONTACT PERSON</b>	<b>ADDRESS</b>	<b>TELEPHONE</b>	<b>COMMENTS</b>	<b>REMARKS</b>
Eastern Cape Falconry Club	Alan Stephenson	4 Cory Circle Grahamstown	046-6222409	Section 26 which provides that no person, whether authorised by permit or not, may restrain any wild animal by means of a rope, cord, chain or any similar contrivance should exempt	The definition of "wild animal" has been amended to exempt trained falcons

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					trained falcons restrained by leather jesses and a leash when not flying.	
Western District Council	Peter Coetzee	P.O. Box 318 Port Elizabeth 6000	041 – 5087127		Section 4 of the Bill gives wide discretionary powers to one civil servant which may lead to bribery for the issue of permits	There are certain prescribed requirements in the Bill which an applicant for a permit must satisfy before the Head of Department may issue a permit.
					There is reference in section 7(1) to nature conservation officers whereas they are defined as environmental conservation officers in section 1	An amended has been effected to refer to environmental conservation officers
Department of Botany, University of Transkei	Elize Cloete	P/Bag X1 Unitra Umtata	047- 5370310		1. The Bill does not make provision for the conservation of habitats outside protected areas	Refer to Schedules to the Bill which apply to habitats both within and outside protected areas.
					2. Evaluation	Dealt with by

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				of riverine systems	the Department of Water Affairs and Forestry
				3. The definition of “endangered flora”	Noted and discounted
				4. Definition of “indigenous” should exclude genetically manipulated fauna or flora	Noted and definition amended accordingly
				5. Section 23 (f), (g) and (h) Powers of environmental conservation officers – Are they Constitutional ?	Noted and discounted
				6. Consultation of the local community in respect of establishment of local nature reserves where members of the community are unable to read or have no access to printed media	Refer to section 61
				<b>7.1 Endangered flora additions -</b> 7.1.1 Erica cubica;	Refer to Schedule 4

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				<p>7.1.2 Plectranthus hilliardii; 7.1.3 Streptocarpus johannis; 7.1.4 Streptocarpus liliputana ms; 7.1.5 Guthria capensis;</p> <p><b>7.2 Protected flora additions –</b> 7.2.1 Chironia; 7.2.2 Peperomia; 7.2.3 Stapelia;</p> <p><b>7.3 Protected flora removals -</b> 7.3.1 Guthria capensis; 7.3.2 Plectranthus hilliardiae; 7.3.3 Peperomia rotundifolia; 7.3.4 Chironia laxa</p>	<p>Refer to Schedule 5</p> <p>Refer to Schedules 4 and 5</p>
<b>STAKEHOLDER</b>	<b>CONTACT PERSON</b>	<b>ADDRESS</b>	<b>TELEPHONE</b>	<b>COMMENTS</b>	<b>REMARKS</b>
Nelson Mandela Metropolitan Municipality	Dr P. Martin	12435 Central Hill Port Elizabeth 6000	041 - 5859711	1. Can all peace officers enforce regulations?	Yes
				2. Lack of protection for reserves from squaring	Protection exists in terms of other laws
				3. Angling licences are not available and the Reciever of Revenue refuses to	Refer to sections 104 and 137

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				issue them	
Department of Water Affairs	A. N. Sobekwa	P/B X68 Cradock 5880	048 - 8813545	1. Powers of Head of Department to withdraw or cancel authorisation without providing for compliance with rules of natural justice	This being an administrative action the provisions of the Promotion of Administrative Justice Act, 2000 are implied.
				2. Entry with or without consent the person entering still needs to continue with his responsibilities.	Noted and discounted
				3. Consultation on declaration of nature reserves and establishment of wilderness	Noted. Refer to sections 41, 42 and 43
				Waste disposal compliance with the Basil Convention	Refer to section 135
Office of the Director of Public Prosecutions, Umtata	Adv. N. J. Carpenter	Office of the DPP, Umtata	Office of the DPP, Umtata	Comments on coastal management area, tidal lagoon and tidal rivers	In summary Advocate Caprenter has commented on areas which we have identified to be dealt with by the MEC by regulation consistent with the National Environmental Management Act, 1998. Refer to section 135

**PART II**

***(Clause by clause analysis)***

Clause 1 : set out definitions

Clause 2 : set out objectives and principles

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- Clause 3 : provides for the application of the Act
- Clause 4 : provides for norms and standards
- Clause 5 : provides for MEC's powers to determine general policy
- Clause 6 : provides for the administration of the Act
- Clause 7 : provides for the powers of the Head of Department
- Clause 8 : provides for the general powers of the Head of the Department
- Clause 9 : provides for the designation of Environmental Officers
- Clause 10 : provides for the powers and duties of Environmental Officers
- Clause 11 : provides for the appointment and powers of Honorary Environmental Officers
- Clause 12 : provides for the appointment or Designation of Environmental Rangers by the Department and local authorities
- Clause 13 : provides for the establishment, functions and duties of Council
- Clause 14 : provides for composition of Council
- Clause 15 : provides for the powers and staffing of Council
- Clause 16 : sets out the purpose of protected areas
- Clause 17 : sets out protected areas in the Province
- Clause 18 : provides for the Register of protected areas
- Clause 19 : provides for the application of this Act to protected areas declared or designated in terms of legislation repealed by this Act
- Clause 20 : provides for the declaration of special nature reserves

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- Clause 21 : sets out criteria for declaring special nature reserves
- Clause 22 : provides for withdrawal of declarations or exclusion of parts of special nature reserves
- Clause 23 : provides for the declaration of nature reserves
- Clause 24 : sets out criteria for declaring nature reserves
- Clause 25 : provides for the designation of nature reserves
- Clause 26 : sets out criteria for designating wilderness areas
- Clause 27 : provides for the withdrawal of designation or exclusion of parts of wilderness areas
- Clause 28 : sets out criteria for designating controlled resource use areas
- Clause 29 : provides for the declaration of sites of ecological importance
- Clause 30 : sets out criteria for declaring sites of ecological importance
- Clause 31 : provides for consequences of declaration
- Clause 32 : provides for amendment or withdrawal of notices
- Clause 33 : provides for the declaration of protected natural environments
- Clause 34 : sets out criteria for declaring protected natural environments
- Clause 35 : provides for amendment or withdrawal of notices
- Clause 36 : provides for the declaration of limited development areas
- Clause 37 : sets out criteria for declaring limited development areas
- Clause 38 : provides for amendment or withdrawal of notices

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- Clause 39 : provides for Initiation of declarations
- Clause 40 : provides for endorsements by Registrar of Deeds
- Clause 41 : provides for consultation
- Clause 42 : provides for notice of declaration or designation
- Clause 43 : provides for concurrence of Premier in respect of Provincial I  
and
- Clause 44 : provides for management authorities
- Clause 45 : provides for preparation of management plans
- Clause 46 : sets out management criteria
- Clause 47 : sets out contents of management plans generally
- Clause 48 : provides for co-management of protected areas
- Clause 49 : provides powers for MEC to establish performance indicators
- Clause 50 : provides for termination of mandates to manage protected  
areas
- Clause 51 : provides for Provincial supervision of municipal management  
of local protected areas
- Clause 52 : provides for access to special nature reserves
- Clause 53 : provides for access to nature reserves

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- Clause 54 : sets out prohibited activities
- Clause 55 : provides for commercial and community activities in nature reserves and protected natural environments
- Clause 56 : provides for respect of certain rights and entitlements
- Clause 57 : provides for internal rules where tourism is allowed
- Clause 58 : provides for acquisition of private land by the Province
- Clause 59 : provides for cancellation of servitudes on, or privately held rights in or to Provincial land
- Clause 60 : provides for financing
- Clause 61 : provides for declaration of local protected areas
- Clause 62 : provides for establishment of private nature reserves
- Clause 63 : sets out rights and duties of owner of private nature reserves
- Clause 64 : provides for establishment of conservancies
- Clause 65 : sets out benefits of owners or occupiers of land in a conservancy
- Clause 66 : provides for declaration of Provincial trails
- Clause 67 : defines wild animal to include fish
- Clause 68 : sets out restrictions relating to endangered wild animals

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- Clause 69 : prohibits hunting of wild animals in captivity
- Clause 70 : prohibits hunting of wild animals and protected wild animals
- Clause 71 : provides for MEC to determine hunting season
- Clause 72 : prohibits killing or capturing wild animals in excess of daily bag limit
- Clause 73 : sets out prohibited methods of hunting
- Clause 74 : provides for Mec to make regulations regarding use of certain firearms and ammunition for hunting of wild animals
- Clause 75 : prohibits keeping of wild animals in captivity
- Clause 76 : regulates release of exotic wild animals
- Clause 77 : provides for alteration or removal of fences or interference therewith
- Clause 78 : prohibits laying of poison
- Clause 79 : prohibits use of vessel, motor vehicle or aircraft for hunting of wild animals
- Clause 80 : provides for certificate of adequate enclosure
- Clause 81 : sets out rights of holder of certificate of adequate enclosure
- Clause 82 : provides for the lapse of a certificate of adequate enclosure
- Clause 83 : provides for transfer of hunting and other rights

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- Clause 84 : provides for permission of owner of land to other persons to hunt wild animals on his or her land
- Clause 85 : provides for hunting of wild animals on land belonging to another person
- Clause 86 : provides for donation or sale of wild animal or carcass thereof
- Clause 87 : provides for possession of wild animal or carcass thereof
- Clause 88 : provides for documents relating to permission to hunt or to the donation of wild animals or carcasses thereof to be retained for a certain period
- Clause 89 : sets out miscellaneous offences in relation to wild animals other than endangered wild animals
- Clause 90 : provides for sale and purchase of wild animal biltong and biltong sausage
- Clause 91 : provides for buying and selling of carcasses of wild animals
- Clause 92 : provides for hunting of certain wild animals in urban areas
- Clause 93 : provides for authorization of professional hunters, hunting outfitters and Directors of professional hunting schools
- Clause 94 : sets out duties of professional hunters, hunting outfitters and their clients
- Clause 95 : provides for hunting outfitters to have landowner's permission to hunt
- Clause 96 : prohibits the organising or conducting hunting by a client under false pretenses

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- Clause 97 : sets out prohibited actions
- Clause 98 : sets out general powers of Head of Department in relation to Problem Animal Control
- Clause 99 : prohibits pollution of inland waters
- Clause 100 : prohibits obstruction of fish in inland waters
- Clause 101 : prohibits placing of fish or aquatic plants in inland waters
- Clause 102 : prohibits killing of fish
- Clause 103 : Prohibits catching certain species of fish and catching fish during closed season
- Clause 104 : provides for issuing of angling licence
- Clause 105 : provides for issuing of netting permit
- Clause 106 : prohibits catching fish in excess of daily bag limit and of under-sized fish
- Clause 107 : sets out prohibited methods of catching fish
- Clause 108. : prohibits sale of certain species of fish
- Clause 109 : regulates Import into, export from and transport of certain species of fish
- Clause 110 : regulates noxious aquatic growths

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- Clause 111 : regulates private inland waters
- Clause 112 : sets out miscellaneous provisions relating to endangered flora
- Clause 113 : provides for selling of endangered flora
- Clause 114 : prohibits picking of certain flora
- Clause 115 : provides for buying and selling of protected flora
- Clause 116 : provides for licencing of protected flora sellers
- Clause 117 : provides for registration and licencing of flora growers
- Clause 118 : regulates the sale of protected flora on the premises of registered flora growers and sellers
- Clause 119 : provides for sale of protected flora for charitable and other approved purposes
- Clause 120 : regulates export and import of protected and unprotected indigenous flora
- Clause 121 : regulates the issuing of licences and permits
- Clause 122 : prohibits pollination of indigenous flora
- Clause 123 : provides for donation or possession of flora
- Clause 124 : provides for application of Chapter
- Clause 125 : sets out prohibited acts

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- Clause 126 : provides for the continuation of the Provincial environmental management fund
- Clause 127 : provides for Imposition of levy
- Clause 128 : provides for furnishing of particulars and returns
- Clause 129 : provides for recovery of levy
- Clause 130 : empowers MEC to make regulations
- Clause 131 : provides for general provisions in respect of regulations
- Clause 132 : provides for the establishment of a database
- Clause 133 : provides for incentives
- Clause 134 : allows extension of time periods
- Clause 135 : empowers MEC to make regulations not inconsistent with national legislation
- Clause 136 : empowers MEC to amend Schedules
- Clause 137 : sets out MEC's regulatory powers
- Clause 138 : creates offences in terms of regulations
- Clause 139 : sets out miscellaneous powers of MEC
- Clause 140 : provides for offences
- Clause 141 : provides for penalties

**ACT NO 13 OF 2003 (EC) EASTERN CAPE ENVIRONMENTAL CONSERVATION ACT,  
2003 (EASTERN CAPE)**

- Clause 142 : sets out presumptions
- Clause 143 : provides for Jurisdiction as to punishment
- Clause 144 : provides for limitation of liability
- Clause 145 : empowers MEC to make enquiries
- Clause 146 : provides for scientific research and investigations
- Clause 147 : provides for repeal of laws and savings
- Clause 148 : sets out short title