

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 112

16 FEBRUARY 2018

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 2004 (ACT NO. 10 OF 2004)**DRAFT ALIEN AND INVASIVE SPECIES REGULATIONS**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby publishes for public comment, the draft Alien and Invasive Species regulations in terms of section 97(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) as set out in the Schedule hereto.

Any person who wishes to submit representations or comments in connection with the draft regulations are invited to do so within 30 days from the date of publication of this notice in the *Government Gazette* and by no later than 16h00 on the last day. Comments received after this time may not be considered. All representations and comments must be submitted in writing to the Deputy Director-General of the Department of Environmental Affairs, Branch: Environmental Programmes:

By hand: The Deputy Director-General
Attention: Dr. Guy Preston
National Department of Environmental
Affairs
Branch: Environmental Programmes
14 Loop Street
CAPE TOWN

By post to: The Deputy Director-General
Attention: Dr. Guy Preston
P.O. Box / Private Bag x4390
CAPE TOWN
8000

By e-mail to NembaRegs@environment.gov.za

Telephonic enquiries: Ms. Nomahlubi Geja at 021 441 2791 / 2707



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE**CHAPTER 1**
INTERPRETATION

1. Definitions

CHAPTER 2
CATEGORIES OF LISTED INVASIVE SPECIES

2. Category 1a Listed Invasive Species
3. Category 1b Listed Invasive Species
4. Category 2 Listed Invasive Species
5. Category 3 Listed Invasive Species

CHAPTER 3
RESTRICTED ACTIVITIES

6. Restricted activities
7. General obligations
8. Import of alien species
9. Ports of entry

CHAPTER 4
NATIONAL FRAMEWORK DOCUMENTS

10. Invasive Species Monitoring, Control and Eradication Plans
11. National register of alien and listed invasive species
12. Invasive species research and biological control
13. National status reports

CHAPTER 5
REGISTERS AND NOTIFICATION

14. Register of permits
15. Register of notifications and directives

CHAPTER 6
RISK ASSESSMENT

16. Risk assessment framework
17. Risk assessment practitioner
18. Risk assessment procedure
19. Risk assessment report

CHAPTER 7
ISSUING, AMENDMENT AND CANCELLATION OF PERMITS

20. Nature of permit
21. Form and content of application for permit
22. Consideration of application
23. Decision
24. Permit conditions
25. Special provisions for research, biological control, display and inter-basin transfer
26. Form and content of permits
27. Period of validity of permits

28. Amendment of permits
29. Return of cancelled permits
30. Renewal of permits
31. Sale or transfer of alien and listed invasive species

CHAPTER 8
EMERGENCY SUSPENSION

32. Emergency suspension of permits

CHAPTER 9
COMPLIANCE AND ENFORCEMENT

33. Request for directives
34. Withdrawal of directives
35. Limitation of liability
36. Offences and penalties

CHAPTER 10
TRANSITIONAL ARRANGEMENTS AND SHORT TITLE

37. Repeal
38. Short title and commencement date

LIST OF ANNEXURES

Annexure A: Fees

Annexure B: Request to issue a directive in terms of regulation 32

CHAPTER 1 **INTERPRETATION**

1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act, has the meaning so assigned and, unless the contents otherwise indicates—

“authorised official” means an environmental management inspector;

“biological control” means the use of specimens of one species for the purpose of preying on, parasitising on, damaging, killing, suppressing or controlling a specimen of another species;

“biomass” means organic plant matter that can be utilised—

- (a) as fuel or converted to fuel;
- (b) as an energy source;
- (c) as building materials including structures, furniture and other products; or
- (d) material used for conservation purposes;

“botanical institution” means an establishment where plants are grown for scientific study and for display to the public;

“catch and release” means the catching and release of a live fresh-water animal in the same area in which it was caught;

“Category 1a Listed Invasive Species” means invasive species contemplated in Regulation 2;

“Category 1b Listed Invasive Species” means invasive species contemplated in Regulation 3;

“Category 2 Listed Invasive Species” means invasive species contemplated in Regulation 4;

“Category 3 Listed Invasive Species” means invasive species contemplated in Regulation 5;

“inter-basin transfer scheme” means a man-made conveyance scheme which moves water from one river catchment where it is available, to another catchment where water is less available;

“Invasive Species Monitoring, Control and Eradication Plan” means a plan contemplated in section 76 of the Act and in Regulation 10;

“off-shore island” means the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948), or any other off-shore island in South Africa’s exclusive economic zone;

“**pathway**” means the route by which a specimen of an alien or listed invasive species is transported, introduced into, dispersed or spread within the Republic, whether by natural, unnatural, deliberate or inadvertent means or by an act of omission;

“**riparian area**” means within 32 metres of the edge of a river, lake, dam, wetland or estuary, or within the 1:100 year floodline, whichever is the greater;

“**risk assessment**” means a scientific evaluation of the threat or potential threat to ecosystems, habitats, other species, the economy, the environment or human health or well-being posed by a restricted activity involving a specimen of an alien or listed invasive species in terms of Chapter 6 of these regulations;

“**scientific institution**” means—

- (a) an organ of state that is involved in research;
- (b) a registered research unit of a tertiary institution; or
- (c) a museum or herbarium;

“**these regulations**” includes any Notices published in terms of sections 66(1), 67(1), 70(1)(a), 71(3) and 71A of the Act;

“**vector**” means any object by, with or on which a specimen of an alien or listed invasive species is inadvertently or deliberately transported, dispersed or spread; and

“**zoological institution**” means a facility in which animals are confined within enclosures, displayed to the public, and in which they may also be bred.

CHAPTER 2 **CATEGORIES OF LISTED INVASIVE SPECIES**

2. Category 1a Listed Invasive Species

- (1) Category 1a Listed Invasive Species are those species listed as such by notice in terms of section 70(1)(a) of the Act as species which must be combatted or eradicated.
- (2) A person in control of a Category 1a Listed Invasive Species must—
 - (a) immediately take steps to combat or eradicate listed invasive species in compliance with sections 75(1), (2) and (3) of the Act; and
 - (b) allow an authorised official to inspect a property as provided for in terms of section 31K of the National Environmental Management Act and to monitor, assist with or implement the combatting or eradication of the listed invasive species.
- (3) If an Invasive Species Management Programme has been developed in terms of section 75(4) of the Act, a person must combat or eradicate the listed invasive species in accordance with such programme.

3. Category 1b Listed Invasive Species

- (1) Category 1b Listed Invasive Species are those species listed as such by notice in terms of section 70(1)(a) of the Act as species which must be controlled.
- (2) A person in control of a Category 1b Listed Invasive Species must control the listed invasive species in compliance with sections 75(1), (2) and (3) of the Act.
- (3) If an Invasive Species Management Programme has been developed in terms of section 75(4) of the Act, a person must control the listed invasive species in accordance with such programme.
- (4) A person contemplated in sub-regulation (2) must allow an authorised official to inspect a property as provided for in terms of section 31K of the National Environmental Management Act and to monitor, assist with or implement the control of the listed invasive species, or compliance with the Invasive Species Management Programme contemplated in section 75(4) of the Act.
- (5) The Minister may require any person to develop a Category 1b Control Plan for one or more Category 1b species, which plan must be submitted to the Minister for approval, and such Control Plan must include the following:
 - (a) species identification;
 - (b) extent of invasion;
 - (c) control measures to be used;
 - (d) an action plan or schedule including time-frames for the clearing of each species;
 - (e) whether or not any species can be utilised as biomass; and
 - (g) any other information which the Minister may require.

4. Category 2 Listed Invasive Species

- (1) Category 2 Listed Invasive Species are those species listed by notice in terms of section 70(1)(a) of the Act as species which require a permit to carry out a restricted activity within an area specified in the Notice or an area specified in the permit, as the case may be.
- (2) Unless otherwise indicated in the Notice, no person may carry out a restricted activity in respect of a Category 2 Listed Invasive Species without a permit.
- (3) A person in control of a Category 2 Listed Invasive Species, or person in possession of a permit, must ensure that the specimens of the species do not spread outside of the land or the area specified in the Notice or permit.
- (4) Unless otherwise specified in the Notice, any species listed as a Category 2 Listed Invasive Species that occurs outside the specified area contemplated in sub-regulation (1), must, for purposes of these regulations, be considered to be a

Category 1b Listed Invasive Species and must be managed according to Regulation 3.

- (5) Notwithstanding the specific exemptions relating to existing plantations in respect of Listed Invasive Plant Species, any person or organ of state must ensure that the specimens of such Listed Invasive Plant Species do not spread outside of the land over which they have control, or the specified area on such land, where any restricted activity is authorised in respect of any Listed Invasive Plant Species.

5. Category 3 Listed Invasive Species

- (1) Category 3 Listed Invasive Species are species that are listed by notice in terms of section 70(1)(a) of the Act, as species which are subject to exemptions in terms of section 71(3) and prohibitions in terms of section 71A of Act, as specified in the Notice.
- (2) Any plant species identified as a Category 3 Listed Invasive Species that occurs in riparian areas, must, for the purposes of these regulations, be considered to be a Category 1b Listed Invasive Species and must be managed according to regulation 3.

CHAPTER 3 **RESTRICTED ACTIVITES**

6. Restricted activities

In addition to those activities defined in terms of section 1 of the Act as restricted activities, the following activities are hereby prescribed as restricted activities:

- (a) spreading or allowing the spread of, any specimen of a listed invasive species;
- (b) releasing any specimen of a listed invasive species;
- (c) the transfer or release of a specimen of a listed invasive fresh-water species from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier;
- (d) discharging of or disposing into any waterway, water body or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a specimen of an alien species or a listed invasive freshwater species;
- (e) catch and release of a specimen of a listed invasive fresh-water fish or listed invasive fresh-water invertebrate species;
- (f) the introduction of a specimen of an alien or listed invasive species to off-shore islands; and
- (g) the release of a specimen of a listed invasive fresh-water fish species, or of a listed invasive fresh water invertebrate species into a discrete catchment system in which it already occurs.

7. General obligations

- (1) Any landowner, occupier of land, person in control of land or any person in control of a listed category 1a, 1b and 3 invasive species must take steps to prevent the escape and spread of the species, including its growth or spread of propagules, and must take all necessary steps to control any specimen that escapes or spread.
- (2) A person entering the Republic, must upon the instruction of an Environmental Management Inspector, declare any alien or listed invasive species on their person or in their luggage at ports of entry.

8. Import of alien species

Notwithstanding any Notice of exempted alien species published in terms of section 66(1) of the Act, an exempted alien specimen or any other alien specimen for which a permit is required, entering the Republic from outside the country, must be accompanied by veterinary health certificates or phytosanitary certificates as official declaration by the exporting authority that the risk of such specimen becoming a potential vector of invasive diseases or pathogens has been effectively managed.

9 Ports of entry for import

A person may not import a specimen of an alien or listed invasive species through a port of entry other than the following—

- (a) land ports—
 - (i) Beit Bridge border post;
 - (ii) Golela border post
 - (iii) Groblersbrug border post;
 - (iv) Lebombo border post;
 - (v) Maseru border post;
 - (vi) Violsdrift border post; or
- (b) airports and harbours—
 - (i) Cape Town International Airport;
 - (ii) O.R. Tambo International Airport;
 - (iii) King Shaka International Airport;
 - (iv) Cape Town Harbour; or
 - (v) Durban Harbour.

CHAPTER 4
NATIONAL FRAMEWORK DOCUMENTS

10. Invasive Species Monitoring, Control and Eradication Plans

- (1) The Minister must-
 - (a) develop guidelines for the development of Invasive Species Monitoring, Control and Eradication Plans for listed invasive species as contemplated in section 76 of the Act;
 - (b) publish the guidelines contemplated in paragraph (a) on the Department's website; and
 - (c) review when necessary..
- (2) Management authorities of protected areas and organs of state in all spheres of government must—
 - (a) prepare their Invasive Species Monitoring, Control and Eradication Plans contemplated in section 76 of the Act based on priorities identified through the guidelines referred to in sub-regulation (1); and
 - (b) submit those plans to the Minister and to the Institute within 5 years of the publication of the guidelines contemplated in sub-regulation (1).
- (3) The Invasive Species Monitoring, Control and Eradication Plans referred to in sub-regulation (2) must be reviewed where necessary.

11. National register of alien and listed invasive species

- (1) The Minister must establish and maintain a national register of—
 - (a) all listed invasive species in relation to which a permit has been issued and the conditions subject to which the permit has been issued;
 - (b) all Invasive Species Monitoring, Control and Eradication Plans submitted to the Minister in terms of Regulation 10(2); and
 - (c) all Invasive Species Management Programmes developed in terms of section 75(4) of the Act.

12. Invasive species research and biological control

- (1) A proposal on any research and biological control relating to any aspect of the invasiveness or potential invasiveness of an alien species or a listed invasive species or the prevention, eradication or control of such invasive or potentially invasive species must be lodged with the Institute or a body designated by the Institute, by—
 - (a) any organ of state or organisation conducting or funding such research;

- (b) any person conducting such research where the research is wholly or partially funded by an organ of state; or
 - (c) any person to whom a permit is issued in terms of section 65(1) or 71(1) of the Act to carry out restricted activities for the purpose of research involving an alien or listed invasive species.
- (2) A proposal in terms of sub-regulation (1) must—
 - (a) be lodged prior to commencing the research;
 - (b) be lodged in writing; and
 - (c) contain the following information:
 - (i) the name of the researcher, his or her institution and contact details;
 - (ii) the species, pathway or vector being researched;
 - (iii) the hypothesis being tested;
 - (iv) the source of funding for the research; and
 - (v) the anticipated period of the research.
- (3) Any information provided in terms of sub-regulation (2)(c)(iii) is confidential.
- (4) A copy of any findings of research referred to in sub-regulation (1) must, upon completion, be lodged with the Institute and the Minister.

13. National status reports

- (1) The Institute or a body designated by the Institute must, for the purpose of reporting as contemplated in section 11(1)(a)(iii) of the Act, submit a report on the status of listed invasive species to the Minister within three years of the date on which these regulations come into effect, and at least every three years thereafter.
- (2) A report contemplated in sub-regulation (1) must contain a summary and assessment of—
 - (a) the status of listed invasive species and other species that have been subjected to a risk assessment; and
 - (b) the effectiveness of these regulations and control measures based *inter alia* on information from—
 - (i) notifications received from owners of land regarding listed invasive species occurring on their land;
 - (ii) permits issued for listed invasive species;
 - (iii) Invasive Species Monitoring, Control and Eradication Plans received from organs of state and management authorities of protected areas; and
 - (iv) emergency interventions and enforcement actions involving listed invasive species.
- (3) In preparing a report contemplated in sub-regulation (1), the Institute must carry out the research and monitoring necessary to identify the matters contemplated in sub-regulation (2).

CHAPTER 5 **REGISTERS AND NOTIFICATION**

14. Register of permits

The issuing authority must—

- (a) establish and maintain a register of—
 - (i) all permits, including integrated permits, issued by that issuing authority;
 - (ii) all permits that were refused;
 - (iii) all permits issued by that issuing authority that were subsequently cancelled or suspended; and
 - (iv) all risk assessments that have been carried out in terms of sections 65(2) and 71(2) of the Act;
- (b) record in the register contemplated in paragraph (a)—

- (i) in the case of applications that were granted, the unique number assigned to each permit;
 - (ii) the scientific and common name of the species for which the permit was issued, refused or cancelled;
 - (iii) whether the species was subjected to a risk assessment;
 - (iv) the restricted activity for which the permit was issued;
 - (v) any conditions under which the permit was issued;
 - (vi) the date on which the permit was issued;
 - (vii) the period of validity of the permit; and
 - (viii) the location where the restricted activity is to be carried out; and
- (c) provide the Institute with a copy of the register.

15. Register of notifications and directives

A competent authority must—

- (a) establish and maintain a register of-
 - (i) all notifications received in terms of section 73(2)(a) of the Act;
 - (ii) the directives issued in terms of sections 69(2) or 73(3) of the Act; and
 - (iii) all Invasive Species Monitoring, Control and Eradication Plans contemplated in regulation 10(2); and
- (b) provide the Department and the Institute with a copy of the register.

CHAPTER 6 **RISK ASSESSMENT**

16. Risk assessment framework

- (1) A risk assessment undertaken for an application for an import permit for an alien species, or for the growing, breeding or in any other way propagating or causing to multiply of a listed invasive species, must consider—
- (a) information regarding the relevant species, including—
 - (i) the taxonomy of the species, including its class, order, family, scientific name if known, genus, scientific synonyms and common names of the species;

- (ii) the originating environment of the species, including climate, extent of geographic range and trends;
 - (iii) persistence attributes of the species, including reproductive potential, mode of reproduction, dispersal mechanisms and undesirable traits;
 - (iv) invasive tendencies of the species elsewhere and of close taxonomic relatives in South Africa and elsewhere;
 - (v) the history of domestic propagation or cultivation of the species, introductions and the extent of naturalisation in South Africa and elsewhere;
 - (vi) nutritional or dietary requirements of the species and, where applicable, whether it has a specialist or generalist diet;
 - (vii) the ability of the species to create significant change in an ecosystem; and
 - (viii) the potential to hybridise with other species and to produce fertile hybrids; and
- (b) information regarding the restricted activity in respect of which the permit is sought, including—
- (i) the nature of the restricted activity;
 - (ii) the reason for the restricted activity;
 - (iii) the location where the restricted activity is to be carried out;
 - (iv) the number and, where applicable, the gender of the specimens of the species involved; and
 - (v) the intended destination of the specimens, if they are to be translocated; and
- (c) information regarding the receiving environment, including—
- (i) climate match;
 - (ii) habitat;
 - (iii) disturbance regimes;
 - (iv) the presence of natural enemies, predators and competitors; and
 - (v) the presence of potentially reproductive compatible species.
- (2) A risk assessment carried out in terms of sub-regulation (1) must identify—
- (a) the probability that the species will naturalise in the area in which the restricted activity is to be carried out or in any other area elsewhere in the Republic;

- (b) the possible impact of the species on the biodiversity and sustainable use of natural resources of—
 - (i) the area in which the restricted activity is to be carried out; and
 - (ii) in any other area elsewhere in the Republic;
 - (c) the risks of the specimen serving as a vector through which specimens of other alien species may be introduced;
 - (d) the risks of the method by which a specimen is to be introduced or the restricted activity carried out serving as a pathway through which specimens of other alien species may be introduced; and
 - (e) any measures proposed in order to manage the risks.
- (3) Based on the information in sub-regulations (1) and (2), a risk assessment must consider—
- (a) the likelihood of the risks being realised;
 - (b) the severity of the risks and consequences of the realisation of the risks for other species, habitats and ecosystems;
 - (c) the potential costs associated with the control of the species to minimise harm to biodiversity; and
 - (d) options for minimising the potential risks.
- (4) Notwithstanding the provisions of sub-regulation (2), an assessment of the risks and potential impacts on biodiversity for the importation into the Republic or the introduction into a province, of a specimen of an alien species or listed invasive species which was introduced into the Republic more than five years prior to the date on which these regulations come into effect, need only consider the matters contemplated in sub-regulations (2)(d), (e) and (3).
- (5) A risk assessment undertaken for an application for a permit to undertake any other restricted activity not mentioned in sub-regulation (1), must consider—
- (a) information regarding the relevant species, including—
 - (i) the taxonomy of the species, including its class, order, family, genus, scientific name, scientific synonyms and common names of the species; and
 - (ii) the source or place of origin of the species including the area, the type of facility and environmental parameters where species are kept;
 - (b) information regarding the restricted activity in respect of which the permit is sought, including—
 - (i) the nature of the restricted activity;

- (ii) the reason for the restricted activity;
 - (iii) the location and GPS coordinates where the restricted activity is to be carried out;
 - (iv) the number and the sex of the specimens of the species involved; and
 - (v) intended destination of the specimens, if they are to be translocated;
- (c) the possible impact of the species on the biodiversity and sustainable use of natural resources of—
- (i) the area (Province and District) in which the restricted activity is to be carried out; and
 - (ii) in any other area elsewhere in the Republic; and
- (d) any measures proposed in order to manage the risks.
- (6) Notwithstanding the provisions of sub-regulations (1), (2), (3), (4) and (5), the issuing authority may determine the information which must be considered in a risk assessment.
- (7) Notwithstanding the provisions of sub-regulations (1), (2), (3), (4) and (5), the issuing authority may request the applicant to provide additional information.

17. Risk assessment practitioner

- (1) A risk assessment contemplated in regulation 16(1) must be undertaken by a risk assessment practitioner.
- (2) Notwithstanding sub-regulation (1), the Institute or the issuing authority may undertake the risk assessment.
- (3) A risk assessment practitioner contemplated in sub-regulation (1) must—
- (a) have knowledge of the Act, these regulations and any guidelines that have relevance to the proposed application;
 - (b) have expertise in biodiversity matters;
 - (c) have expertise in conducting risk assessments;
 - (d) consult at least one relevant expert; and
 - (e) be in compliance with any requirements of the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003).
- (4) The applicant must take all reasonable steps to verify whether the risk assessment practitioner complies with sub-regulation (3).

- (5) The issuing authority may determine whether a risk assessment practitioner is required to undertake a risk assessment in terms of regulation 16(5).

18. Risk assessment procedure

- (1) A risk assessment must be undertaken in accordance with the provisions of Regulation 16.
- (2) The applicant must provide the person undertaking the risk assessment with access to all information at the disposal of the applicant regarding the application, whether or not such information is favourable to the applicant.
- (3) The risk assessment report must be submitted, with the application, to the issuing authority.

19. Risk assessment report

- (1) A risk assessment report must contain the following details:
- (a) The personal details and qualifications of the risk assessment practitioner carrying out the risk assessment;
 - (b) the personal details and qualifications of the expert consulted as required in regulation 17(3)(e);
 - (c) the risk of invasion as a result of the issuing of the permit;
 - (d) key economic, social and ecological considerations that will guide a decision on whether or not to issue a permit;
 - (e) any risk management measures that must be applied;
 - (f) a recommendation on whether or not a permit should be issued; and
 - (g) any conditions or control measures that should apply if a permit is to be issued.
- (2) A risk assessment report prepared in terms of sub-regulation (1) may be submitted by the issuing authority to the Institute for scientific review.
- (3) The applicant will be responsible for the cost associated with the review.

CHAPTER 7 **ISSUING, AMENDMENT AND CANCELLATION OF PERMITS**

20. Nature of a permit

- (1) A permit to authorise the carrying out of restricted activities, may be issued for—
- (a) multiple restricted activities;

- (b) multiple specimens of a species;
 - (c) multiple species; or
 - (d) multiple instances of the same restricted activity.
- (2) Notwithstanding the provision of sub-regulation (1)(d), a permit for the import into the Republic, including introduction from the sea, of an alien or listed invasive species is valid for one consignment unless otherwise specified in the permit.

21. Form and content of application for permit

- (1) An application for a permit contemplated in sections 65(1) or 71(1) of the Act must be made on a form obtained from the issuing authority.
- (2) An application referred to in sub-regulation (1) must—
- (a) be made by the person to whom the permit must be issued or by such person's duly authorised representative;
 - (b) be accompanied by the applicable application fee specified in Annexure A;
 - (c) be accompanied by the details of the risk assessment practitioner;
 - (d) be accompanied by the risk assessment report contemplated in Regulation 19;
 - (e) include any other additional information as may be required by the issuing authority; and
 - (f) be lodged—
 - (i) with the issuing authority together with such additional copies as may be required by the issuing authority;
 - (ii) in a manner as required by the issuing authority; and
 - (iii) with the original or certified documentation in support of the application, if required by the issuing authority.
- (3) Notwithstanding the provisions of sub-regulation (2)(b)—
- (a) payment of the applicable application fee as set out in Annexure A does not apply to organs of state; and
 - (b) payment of the applicable application fee as set out in Annexure A may be waived for scientific institutions.

22. Consideration of application

- (1) The issuing authority must, on receipt of an application for a permit—

- (a) request, within 30 working days of receipt of the application and the risk assessment report, such further information as the issuing authority may require;
- (b) notify any province that may be adversely affected by the proposed activity, of the application;
- (c) have regard to the contents of the risk assessment report accompanying the application;
- (d) consider the application and any objections that have been lodged with regard thereto by an MEC for Environmental Affairs;
- (e) conduct such inspections as may be appropriate; and
- (f) reach a decision in accordance with regulation 23.

23. Decision

- (1) Subject to subregulation (5), a decision on an application for a permit must be made within 60 working days of receiving the risk assessment report or, where further information has been requested in terms of regulation 22(a), (d) or (e), within 30 working days of receiving such information or taking such action.
- (2) The issuing authority must—
 - (a) notify the applicant and any objectors contemplated in regulation 22(1)(d) to the application of the decision in writing; and
 - (b) if the application has been approved, issue a permit in the name of the person authorised to carry out the restricted activity.
- (3) The notification contemplated in sub-regulation (2)(a) must stipulate—
 - (a) the alien species or listed invasive species to which the application relates;
 - (b) whether the decision relates to a single specimen or to multiple specimens of the same alien species or listed invasive species; and
 - (c) the restricted activities involving the alien species or listed invasive species to which the application relates.
- (4) A permit may not be issued with retrospective effect.
- (5) Where the issuing authority for a permit in terms of these regulations, is also the authority for issuing any other authorisation for the same activity in terms of another law, the timeframes for making a decision in terms of such other law applies to a decision for a permit in terms of these regulations.

24. Permit conditions

- (1) In addition to any permit conditions imposed in terms of section 88(2)(c) of the Act, the following conditions apply to all permits:

- (a) The permit subject to regulations 31(2) and (3) may not be transferred to any other person; and
 - (b) the holder of the permit must take all the necessary steps to prevent the escape and spread of the species, including the growth or spread of seeds or any other specimens of the species, outside the area for which the permit is issued, and must take all necessary steps to control any specimen that escapes or spreads.
- (2) The issuing authority may issue a permit to carry out a restricted activity involving a specimen of an alien or listed invasive species subject to conditions, including but not limited to, control methods determined by the issuing authority, including the use of sterile varieties or the concurrent introduction of biological control agents.

25. Special provisions for research, biological control, display purposes, and inter-basin transfer

- (1) Despite anything to the contrary in these regulations, a permit may be issued subject to permit conditions, to a scientific institution to carry out a restricted activity involving a specimen of an alien or listed invasive species, and must be issued under the conditions that the specimen must—
- (a) be kept for identification or research purposes only;
 - (b) form part of a preliminary study into biological control methods; or
 - (c) form part of an effective biological control programme.
- (2) When issuing a permit for the specimens contemplated in sub-regulation (1), the issuing authority must determine—
- (a) restrictions and conditions, including quarantine conditions and conditions for the prevention of escape, for the importation or the carrying out of other restricted activities involving the specimen;
 - (b) mechanisms for ensuring compliance with conditions determined in terms of sub-regulation 2(a);
 - (c) procedures to be followed in the event of a specimen contemplated in sub-regulation 1(a) escaping or failure to comply with the conditions determined in terms of sub-regulation 2(a); and
 - (d) restrictions and conditions for the release of the specimen into the wild.
- (3) Despite anything to the contrary in these regulations, a permit may be issued, subject to permit conditions, to a zoological or botanical institution to carry out a restricted activity involving a specimen of an alien or listed invasive species, including for display purposes.
- (4) A permit may not be issued in terms of sub-regulation (3) unless the relevant institution is able to demonstrate that an alien or listed invasive species cannot escape from the facility.

- (5) Despite anything to the contrary in these regulations, a permit may be issued, subject to permit conditions, for the transfer of a specimen of an alien or listed invasive species from one fresh-water system in which it occurs to another fresh-water system in which it does not occur through a state inter-basin transfer scheme.

26. Form and content of permits

- (1) A permit contemplated in regulation 23(2)(b) must—
- (a) contain a unique permit number;
 - (b) specify—
 - (i) the name and identity number of the permit-holder;
 - (ii) the species to which the restricted activities relate;
 - (iii) the restricted activities for which the permit is issued;
 - (iv) the period for which the permit remains valid; and
 - (v) the conditions subject to which the permit is issued; and
 - (c) contain the signature of the issuing authority which must be endorsed by means of an official stamp.

27. Period of validity of permits

- (1) A permit issued in terms of these regulations may be issued for a period not exceeding ten years from the date of its issue or renewal thereof, as the case may be.
- (2) Notwithstanding the provisions of sub-regulation (1), a permit may be issued for a period exceeding ten years, if it is issued—
- (a) for a restricted activity that will be carried out by a scientific institution;
 - (b) in terms of an integrated permit and the other law to which the permit relates provides for a longer period; or
 - (c) to an applicant who is in possession of a valid authorisation in terms of section 22(1)(a) or (b) of the National Water Act, 1998 (Act No. 36 of 1998) or an aquaculture permit.
- (3) Notwithstanding the provisions of sub-regulation (1), the issuing authority may specify a period of validity which exceeds ten years, based on the recommendations in the risk assessment report.

28. Amendment of permits

- (1) A permit may be amended for good reason as contemplated in section 93A of the Act, including by—
- (a) adding or removing a condition;

- (b) amending a condition;
 - (c) amending any detail on the permit; or
 - (d) correcting a technical or editorial error on the permit.
- (2) An issuing authority which issued a permit may in addition to sub-regulation (1), amend the permit condition stipulated therein if information is obtained by the issuing authority indicating that the species or the restricted activity for which the permit was issued is likely to have a detrimental impact on biodiversity.
- (3) The issuing authority must, before amending a permit, notify the permit-holder in writing of its intention to do so and provide the permit-holder with an opportunity to make representations as to why the permit should not be amended.
- (4) The issuing authority must, if it decides to amend the conditions of the permit, after consideration of any representations made in terms of sub-regulation (3), notify the permit-holder in writing—
- (a) of the decision to amend the conditions of the permit; and
 - (b) of the date upon which the amendment becomes effective.

29. Return of cancelled permits

A permit that has been cancelled in terms of section 93 of the Act must be returned to the issuing authority within 30 calendar days of the date of cancellation.

30. Renewal of permits

- (1) A permit-holder may apply for the renewal of a permit to the issuing authority who issued the permit.
- (2) An application contemplated in sub-regulation (1) must be—
- (a) made at least 60 days before the expiry of the period for which the permit was issued;
 - (b) made on a form obtained from the issuing authority; and
 - (c) accompanied by the applicable renewal fee specified in Annexure A.
- (3) The provisions of regulation 24 apply to an application for the renewal of a permit.

31. Sale or transfer of alien and listed invasive species

- (1) If a permit-holder sells a specimen of an alien or listed invasive species, the new owner of such specimen must apply for a permit in terms of Chapter 7 of the Act prior to acquiring such specimen.
- (2) Notwithstanding the provisions of sub-regulation (1), a landowner or occupier of land may transfer a permit issued in terms of these regulations to the new landowner or occupier of the same land specified in the permit.

- (3) A new owner or occupier of the land contemplated in sub-regulation (2), must notify the issuing authority within 30 days of such transfer, after which the issuing authority must issue an amended permit in the name of the new landowner or occupier, subject to any other conditions or amendments which may be required.

CHAPTER 8 **EMERGENCY SUSPENSION**

32. Emergency suspension of permits

- (1) An issuing authority may suspend the operation of a permit if-
- (a) it is necessary in order to control or eradicate a particular alien or listed invasive species;
 - (b) the carrying out of the restricted activity permitted in terms thereof poses an immediate significant threat to the environment; or
 - (c) the alien or listed invasive species pose an immediate significant threat to the environment.
- (2) Notice of the suspension of a permit must be in writing and must be served on—
- (a) the permit-holder; or
 - (b) any other person acting on behalf of the permit-holder.
- (3) A suspension will be effective immediately upon notification, unless otherwise stated in the notice.
- (4) An issuing authority must, within 21 calendar days of suspending a permit, initiate proceedings in terms of regulation 28 to amend the permit in order to address the cause of the emergency or may cancel a permit in terms of section 93 of the Act.
- (5) A suspension will remain in force until the finalisation of proceedings in terms of regulation 28 or section 93 of the Act.

CHAPTER 9 **COMPLIANCE AND ENFORCEMENT**

33. Requests for directives

- (1) A request to issue a directive in terms of section 74(1) of the Act must be on a form that corresponds substantially with Annexure B.
- (2) A competent authority may waive any of the information required in Annexure B.

34. Withdrawal of directives

A directive issued under section 69(2) or section 73(3) of the Act may be withdrawn in writing by the competent authority if the circumstances giving rise to the issue of the directive no longer exist.

35. Limitation of liability

Section 49 of the National Environmental Management Act applies to any action taken in terms of these regulations.

36. Offences and penalties

- (1) Any offence committed in terms of section 101 of the Act must, upon conviction, carry the penalties referred to in section 102 of the Act.
- (2) Any person who contravenes or fails to comply with a provision of regulations 2(2) to (3), 3(2) to (5), 4(2) to (5), 5(2), 6, 7(1), 7(3), 8, 9, 12(1), 12(4), 17(1), 17(3), 17(4), 18, 24(1), 29, 31(1) and 31(3), is guilty of an offence and is liable, on conviction, to—
 - (a) a fine not exceeding five million rand, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million; or
 - (b) imprisonment for a period not exceeding 5 years and in the case of a second or subsequent conviction, to imprisonment not exceeding 10 years; or
 - (c) to both such fine and imprisonment.

CHAPTER 10 **REPEAL AND SHORT TITLE**

37. Repeal

The Alien and Invasive Species Regulations, 2014 published in *Government Gazette* No. 37885, Notice No R598 of 1 August 2014, are hereby repealed.

38. Short title and commencement

These Regulations are called the *Alien and Invasive Species Regulations, 2017* and take effect within 30 days of publication in the *Gazette*.

ANNEXURE A**FEEES**

Fees in connection with the application for alien and listed invasive alien species permits in terms of the National Environmental Management: Biodiversity Act, 2004

Explanatory Note:

In terms of section 97(1)(f)(ii) of the Act, and in terms of the National Environmental Management Act, 1998, the Minister may prescribed the fees to be paid in connection with the lodging and consideration of applications for permits and appeals

	Activity	Fee
Alien & Listed Invasive Species	Import into the Republic	R200.00
	All restricted activities	R100.00
	Renewal of permit	R50.00
	Appeals	R50.00

ANNEXURE B**Request to issue a directive in terms of section 74(1) of the National Environmental Management: Biodiversity Act for a listed invasive species****Explanatory Note:**

In terms of section 74(1) of the Act, any person may request the Minister, in writing, to issue a directive in terms of section 73(3) of the Act.

For official use:

Reference number:

Date:

1. DIRECTIVE REQUESTED BY:

Full name	
Identity number	
Physical address	Code
Postal address	Code
Telephone number	(+27) ()
Fax number	(+27) ()
Cellular number	(+27) ()
E-mail address	

2. DIRECTIVE TO BE ISSUED TO

Name:

.....
.....

2.1 SITE AND SPECIES DETAILS

2.1.1 Name (if applicable), province/magisterial district, erf number or physical address:

.....
.....
.....
.....
.....

2.1.2 Listed invasive species involved (Attach list if space is insufficient):

Scientific name:

.....
.....

Common name:

.....
.....

2.2 REASONS FOR REQUEST (Choose whichever is applicable)

2.2.1 Contravention of permit requirements in terms of section 71(1) of the Act and/or associated permit conditions?

Yes	No
-----	----

If yes, substantiate:

.....
.....

2.2.2 Contravention of notification requirements in terms of section 73(2)(a) of the Act?

If yes, substantiate:

Yes	No
-----	----

.....

.....
2.2.3 Contravention of measure to prevent spreading / control / eradicate in terms of section 73(2)(b) of the Act?

If yes, substantiate:

Yes	No
-----	----

.....
.....

2.2.4 Previous directives not implemented?

If yes, substantiate:

Yes	No
-----	----

.....
.....

I, the undersigned, [FULL NAME:]

.....

confirm that the above information is correct and complete to the best of my knowledge.

SIGNED: DATE: