



CPHC-SA CONFERENCE & AGM: 27 & 28 NOVEMBER 2023

LEGISLATIVE OVERVIEW



forestry, fisheries
& the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA



Abbreviation & full reference

1. Biodiversity Management Pan	BMP	8. Norms and Standards	N&S
2. Convention on International Trade in Endangered Species of Wild Fauna and Flora	CITES	9. Restricted Activity	RA
3. Chief State Law Advisors	CSLA	10. South African National Parks	SANParks
4. National Environmental Management Act, 1998 (Act No. 107 of 1998)	NEMA	11. South African National Biodiversity Institute	SANBI
5. National Environmental Management Biodiversity Act, 2004 (Act 10 of 2004)	NEMBA	12. Department of Agriculture, Land Reform & Rural Development	DALRRD
6. National Environmental Management Protected Areas Act, 2003 (Act No. 57 of 2003)	NEMPAA	13. Socio-Economic Impact Assessment	SEIA
7. National Council of Provinces	NCOP	14. Threatened of Protected Species	TOPS



Constitution

**International
Agreements**

**Constitutional
Acts: PAJA**

**Policies:
White
Paper**

NEMA

**NEMBA
A**

NEMPAA

**Provincial
acts/
ordinances**



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Legislative principles

- Nature conservation = concurrent competence
 - Both national and provincial spheres of government have the legal mandate to develop and implement conservation legislation
 - National legislation does not automatically prevail over provincial legislation
 - Constitution provides for the resolution of conflict (section 146)
- Functional Areas of Concurrent National and Provincial Legislative **Competence = Schedule 4** of the Constitution of the Republic of South Africa
- Necessary empowering provisions must be provided in NEMBA



Legislative principles

Legislative tool	Enabler	Example
NEMBA	To prohibit, regulate or exempt a restricted activity (RA)	<ul style="list-style-type: none"> • Permit required to hunt a leopard • Prohibited to collect cycads from the wild
Regulations and Regulations) (TOPS CITES)	Prohibit a RA in certain circumstances	Prohibit the hunting of a listed large predator in a controlled environment
Norms and Standards (section 9 intends N&S to be enforceable)	How a RA may be carried out	<ul style="list-style-type: none"> • Parameters in which a leopard may be hunted • Specifications for keeping of an elephant



NEMBA

Regulations

**TOPS
Regulations
CITES
Regulations**

**AIS Regulations
BABS Regulations**

**Domestic rhino
horn trade
Regulations**

Norms and Standards

**Marking of rhino
and horns, and
hunting of rhino**

**Management of
elephants in South
Africa**

**Trophy hunting of
leopard**

Prohibition Notice

**Cycad
prohibitions**

**Powdering or
shaving of rhino
horn, and trade in
powder**

Biodiversity Management Plan

African lion

**Black rhino
White rhino**

**Cape mountain
zebra**

Who are stakeholders?

- Conservation authorities:
 - SANParks and SANBI
 - Provincial conservation authorities
- Other affected departments, e.g. DALRRD
- Organised industry (e.g. Wildlife Forum, Wildlife Well-being Forum, People and Parks)
- Communities, Traditional Leaders and Healers
- Interested and affected parties/ public
- General approach to stakeholder workshops:
 - Government
 - Industry organisations
 - Roadshows (solicit inputs & feedback sessions)
 - General public



Progress on legislation and other tools



Policies	Progress
White Paper on Conservation and Sustainable Use of South Africa's Biodiversity	<ul style="list-style-type: none"> • Published on 14 June 2023 for implementation • Gazette No. 48785, Notice No. 3537 • Copy available on www.dffe.gov.za
Draft Policy Position on the Conservation and Sustainable Use of Elephant, Lion, Leopard and Rhinoceros	<ul style="list-style-type: none"> • Published on 19 September 2023, for public comment • Gazette No. 49322 • Commenting period closed on 20 November 2023
Legislation	Progress
Draft NEMBA Bill (comprehensive review of NEMBA)	<ul style="list-style-type: none"> • Inter-governmental consultation concluded • Submitted to the Chief State Law Advisors for Pre-Certification • Next step: Cabinet approval to publish for public comment • Publication anticipated in April 2024
Draft revised TOPS Regulations and species list	<ul style="list-style-type: none"> • TOPS Regs – Gazette No. 49469/ Species list – Gazette No. 49470 • Commenting period closed on 21 November 2023



Legislation	Progress
Draft lion prohibition notice – prohibition to establish new controlled environments (including facilities) for lion	<ul style="list-style-type: none"> Published on 29 September 2023 for public comment Gazette No. 49383 Commenting period closed on 21 November 2023
Review of the cycad prohibition notice	<ul style="list-style-type: none"> Inter-governmental consultation in Oct/ Nov 2023 To be published for public comment in January 2024
Revised N&S for the management of elephants in South Africa	To be re-published for implementation together with the finalised revised TOPS Regulations and species list
N&S for the trophy hunting of leopard in South Africa	
N&S for management of elephant, rhino, lion and leopard	To be initiated in April 2024



Other tools/ processes	Progress
Plans (BMP) for white and black	01 September 2023 <ul style="list-style-type: none"> • Draft BMPs are being developed
Review of BMP for lion	Procurement process to appoint a service provider is in process
Leopard Conservation Strategy	in process <ul style="list-style-type: none"> • Long-term goal is to develop a Biodiversity
Elephant Research Strategy for South Africa	<ul style="list-style-type: none"> • Phase 2: Research work by UPE and UKZN completed; stakeholder consultations held in 2022
National Elephant Heritage Strategy	elephants completed – 2021/2022 <ul style="list-style-type: none"> • First draft of the strategy is ready for another round



Other tools/ processes	Progress
Draft National Vulture BMP	<ul style="list-style-type: none">• Inter-governmental structure consultation underway to seek approval.



THANK YOU!

Thank You



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