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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 4887 **24 May 2024**

PUBLICATION OF THE DRAFT NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY BILL FOR PUBLIC COMMENT

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby publish for public comment, the draft National Environmental Management: Biodiversity Bill (the Biodiversity Bill) as set out in the Schedule hereto.

The Department of Forestry, Fisheries and the Environment (the Department) is the lead department responsible for the biodiversity sector, which includes the terrestrial, freshwater and marine sub-sectors. Biodiversity conservation within the country is currently achieved through the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEM: BA), as well as provincial conservation legislation. As a result of the recent finalisation of the White Paper on the Conservation and Sustainable Use of South Africa's Biodiversity, 2023 and due to a number of implementation challenges being identified in NEM: BA, this has necessitated substantial amendment of its provisions.

At policy and legislative level, the Biodiversity Bill has been informed by the:
- White Paper on Conservation and Sustainable Use of South Africa's Biodiversity, 2023; and
- National Environmental Management Laws Amendment Act, 2022.

The Biodiversity Bill will enable:
- more effective implementation of the provisions and achievement of the objectives of NEM: BA due to a revised regulatory approach;
- greater protection of species and ecosystems through additional provisions relating to the listing of species and ecosystems, implementation of international agreements and restriction of wildlife trafficking;
- more flexible management of species and ecosystems;
- more effective achievement of economic benefits in the biodiversity sector, as well as beneficiation from indigenous biological resources involved in bioprospecting; and
- transformation of the biodiversity sector.

Once the Bill is enacted and in operation, the Biodiversity Bill will repeal and replace the current NEM: BA.

The primary purposes of the Biodiversity Bill are to:
- provide for the conservation and sustainable utilisation of ecosystems and species within the Republic of South Africa;
- provide for the duty of care towards all components of biodiversity and for the well-being of wild animals;
- provide for the development and alignment of biodiversity planning tools;
- provide for the management of the impacts of invasive species;
- provide for the fair and equitable sharing of benefits arising from bioprospecting involving indigenous biological resources and indigenous knowledge;
- address historical imbalances, enable and facilitate transformation, facilitate cultural practices and achieve equity within the biodiversity sector;
- provide for the South African National Biodiversity Institute to develop, manage, co-ordinate, promote and provide assistance on biodiversity;
- provide for the Scientific Authority to assist in regulating trade in specimens of species which are subject to international agreements regulating international trade and to assist with the regulation of species of concern; and
- provide for appropriate measures in response to climate change.

The Department presented the Biodiversity Bill to Cabinet for approval. Cabinet approved the Biodiversity Bill on 27 March 2024 for publication for public comment.

The Socio-Economic Impact Assessment for the Biodiversity Bill has been approved by the Presidency. A copy of the assessment and Memorandum on the Objects is available for download from the Department's website at **https://www.dffe.gov.za/legislation/bills**. Copies can also be emailed if requested via the below email.

The public is herewith invited to submit written representations on the Biodiversity Bill within 60 (sixty) days from the date of publication of this notice in the Government *Gazette*, or from the date of publication of the corresponding newspaper notice, whichever is the later date. Written representations received after the closing date may not be considered. All representations and comments must be submitted as follows:

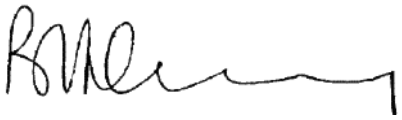
By post to: The Director-General: Department of Forestry, Fisheries and the Environment
Attention: Magdel Boshoff
Private Bag X447
PRETORIA
0001

By hand at: Reception, Environment House, 473 Steve Biko Road, Arcadia, Pretoria, 0083

By e-mail: biodiversitybill@dffe.gov.za

Enquiries in connection with this Notice can be directed to Ms Magdel Boshoff on 083 952 2334 or **biodiversitybill@dffe.gov.za**.

Written representations received after the closing date may be disregarded.



BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

REPUBLIC OF SOUTH AFRICA

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY BILL

(As introduced in the National Assembly (proposed section 76); explanatory summary of Bill published in Government Gazette No. … of … 2024)
(The English text is the official text of the Bill)

(MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT)

[B—2024]

BILL

To provide for the management and conservation of the Republic's biodiversity within the framework of the National Environmental Management Act, 1998; to provide for the South African National Biodiversity Institute to develop, manage, co-ordinate, promote and provide assistance on biodiversity; to provide for the development and alignment of biodiversity planning tools; to provide for the protection, conservation and management of species and ecosystems; to provide for the Scientific Authority to assist in regulating trade in specimens of species which are subject to international agreements regulating international trade and to assist with the regulation of species of concern; to provide for the sustainable use of components of biodiversity; to provide for the management of the impacts of invasive species; to provide for the fair and equitable sharing of benefits arising from bioprospecting involving indigenous biological resources and indigenous knowledge; to provide for permits and emergency interventions; to address historical imbalances, enable and facilitate transformation and to achieve equity within the biodiversity sector; to provide for the duty of care for all components of biodiversity; to provide for the well-being of animals; to provide for appropriate measures in response to climate change; to provide for regulations by the Minister; to provide for offences and penalties; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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CHAPTER 1

INTERPRETATION, OBJECTIVES AND APPLICATION

Definitions

1. In this Act, unless the context indicates otherwise—

"alien species" means a species that is not an indigenous species;

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

"biodiversity planning tool" means the framework or any plan developed in terms of sections 34, 35 and 36;

"biological diversity" or **"biodiversity"** means the variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes diversity at genetic, species, and ecosystem levels;

"bioprospecting" means any discovery-phase of bioprospecting or the commercial exploitation of an indigenous biological resource or indigenous knowledge;

"Board" means the board referred to in section 10;

"buying" means to receive or obtain, whether for money or in kind, and includes bartering;

"components", in relation to biodiversity, includes species, ecological communities, genes, genomes, ecosystems, habitats and ecological processes;

"conservation" means the protection, management, care, sustainable use, maintenance, rehabilitation, restoration, and recovery of ecological and evolutionary processes as well as biological diversity and its components, for their intrinsic and instrumental value, and for the benefit of present and future generations;

"conservation areas" means areas that are managed for conservation outcomes and which are not protected areas;

"control" means—

(a) the systematic destruction of all specimens of invasive species from within a specified area of or the whole of the Republic; or

(b) where systematic destruction is not possible, to prevent, as far as may be practicable, the recurrence, re-establishment, re-growth, multiplication, propagation, regeneration or spreading of invasive species;

"Council" has the meaning assigned to it in section 1 of the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997);

"Department" means the national department responsible for environmental affairs;

"derivative" means any part, tissue or extract of an animal, plant or other organism, whether fresh, preserved or processed, and includes any genetic material or chemical compound derived from that part, tissue or extract;

"Director-General" means the Director-General of the Department;

"domestication" means a process whereby wild plants and animals are subject to human-controlled directional selection over time to alter reproductive, physical, physiological or behavioural characteristics for human use, potentially leading to maladaptation to natural environments and dependency on humans for survival;

"duty of care" means reasonable measures to prevent harm to biodiversity and when those harms cannot reasonably be avoided or stopped, are minimised and remedied;

"ecological community" means an integrated group of species inhabiting a given area;

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

"environmental management inspector" has the meaning assigned to it in section 1 of the National Environmental Management Act;

"eradication" means the complete removal of invasive species from within the Republic, including all living parts of that species;

"export" means to take out or transfer, or attempt to take out or transfer, from the Republic to another country or to international waters;

"extra-limital species" means an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in the Republic, but excludes an indigenous species that has extended its natural distribution range by natural means of migration or dispersal without human intervention;

"*Gazette*", when used—

(a) in relation to the Minister, means the *Government Gazette*; or

(b) in relation to the MEC for environmental affairs of a province, means the Provincial *Gazette* of that province;

"genetic material" means any material of animal, plant, microbial or other biological origin containing functional units of heredity;

"genetic resource" includes—

(a) any genetic material; or

(b) the genetic potential, characteristics or information of any species;

"GMO Registrar" means the registrar as defined in section 1 of the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997);

"habitat" means a place where a species or an ecological community naturally occurs;

"humane practices" means any activities, methods, or actions involving wild animals that avoid or minimise pain, stress, suffering, or distress, and consider their well-being;

"import" means—

(a) to land on, bring into or introduce into the Republic, or attempt to land on, bring into or introduce into the Republic; or

(b) to bring into the Republic for re-export to a place outside the Republic;

"indigenous species" means a species that occurs, or has historically occurred, naturally in a free state in nature within the borders of the Republic, and that has not been introduced in the Republic as a result of human intervention, and includes migratory species;

"Institute" means the South African National Biodiversity Institute;

"introduction from the sea" means the transportation into the Republic of a specimen taken from a marine environment not under the jurisdiction of any state;

"invasive species" means any alien or extra-limital species that—

(a) threaten ecosystems, habitats or other species or have demonstrable potential to threaten ecosystems, habitats or other species or cause any other environmental harm; or

(b) may result in adverse economic or socio-economic impacts or harm to human health;

"issuing authority" means—

(a) the Minister, as contemplated in section 65(1) or (3);

(b) the MEC, as contemplated in section 65(2) or (3); or

(c) an organ of state in the national, provincial or local sphere of government, delegated in terms of section 42 of the National Environmental Management Act or assigned in terms of section 41 of the National Environmental Management Act as an issuing authority for a permit or registration of the kind in question;

"listed ecosystem" means any ecosystem published in terms of section 40(1);

"listed invasive species" means any invasive species published in terms of section 48(1);

"listed species" means any species published in terms of section 40(1) or 42(1);

"management authority" has the meaning assigned to it in the Protected Areas Act;

"MEC" means a member of the Executive Council of a province who is responsible for environmental affairs;

"migratory species" means a species that moves from one habitat or region to another, cyclically and predictably across one or more national jurisdictional boundaries;

"Minister" means the Cabinet member responsible for national environmental management;

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

"national botanical garden" means land declared or regarded as having been declared as a national botanical garden in terms of section 32(1);

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

"national zoological garden" means land declared or regarded as having been declared as a national zoological garden in terms of section 32(1);

"non-detriment finding" means the determination whether or not the impact of an action will be detrimental to the survival of a species in the wild;

"other effective area-based conservation measure (OECM)" means a geographically defined area other than a protected area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in-situ conservation of biodiversity, with associated ecosystem functions and services

and where applicable, cultural, spiritual, socio–economic, and other locally relevant values;

"organ of state" has the meaning assigned to it in section 239 of the Constitution of the Republic of South Africa, 1996;

"permit" means a permit issued in terms of section 64;

"prescribe" means to prescribe by notice or regulation in terms of this Act;

"protected area" means a protected area defined in the Protected Areas Act;

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

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"re-export" means the export from the Republic of a specimen of a species previously imported into the Republic;

"selling" means to give or hand over, whether for money or in kind, and includes any form of bartering, offering or presenting for sale;

"species" means a population of animals, plants or other organisms that does not normally interbreed with individuals of another kind, and includes any sub-species, cultivar, variety, geographic race, strain, hybrid or geographically separate population;

"specimen" means—

(a) any living or dead animal, plant or other organism;

(b) 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;

(c) any derivative of any animal, plant or other organism; or

(d) any goods which—

(i) contain a derivative of an animal, plant or other organism; or

(ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;

"sustainable use" means the use of any component of biodiversity in a manner that—

(a) is ecologically, economically, and socially sustainable;

(b) does not contribute to its long-term decline in the wild, or disrupt the genetic integrity of the population;

(c) does not disrupt the ecological integrity of the ecosystem in which it occurs;

(d) ensures continued benefits to people that are fair, equitable and meet the needs and aspirations of present and future generations; and

(e) ensures a duty of care towards all components of biodiversity for thriving people and nature;

"this Act" includes any regulation or notice made or issued under this Act;

"transformation" means the redress of discrimination and unfair disadvantage of previously disadvantaged individuals and communities through the promotion of inclusivity, access, empowerment, dignity, respect, ownership, and the equitable sharing of benefits;

"well-being" means the holistic circumstances and conditions of an animal or population of animals which are conducive to their physical, physiological, and mental health and quality of life, including their ability to cope with their environment; and

"wildlife trafficking" includes the illegal killing, collecting, harvesting, gathering, possession, transportation, importing, exporting, re-exporting, buying, selling or distribution of a specimen of a species published in terms of section 42 for purposes

of national or transnational movement.

Objectives of Act

2. Within the framework of the National Environmental Management Act, the objectives of this Act are to—

(a) provide for the management and conservation of biological diversity within the Republic and of the components of that biological diversity, including animal well-being;

(b) provide for the protection of the ecosystem as a whole, including species which are not targeted for exploitation;

(c) provide for the sustainable use of components of biodiversity with due care, including facilitating cultural practices;

(d) provide for the fair and equitable sharing among stakeholders of benefits arising from bioprospecting involving indigenous biological resources and protecting indigenous knowledge;

(e) give effect to ratified international agreements relating to biodiversity which are binding on the Republic;

(f) provide for cooperative governance in the sustainable use, management and conservation of biodiversity;

(g) give effect to the best available science;

(h) provide for the Institute to assist in achieving the objectives of this Act;

(i) address historical imbalances, enable and facilitate transformation and to achieve equity within all branches of the biodiversity sector; and

(j) provide for appropriate response measures to climate change including the mitigation of environmental degradation.

State trusteeship of biological diversity

3. (1) In fulfilling the rights contained in section 24 of the Constitution of the Republic of South Africa, 1996, the State, through its functionaries and institutions implementing this Act, must—

(a) act as the trustee of the Republic's biodiversity and its components and genetic resources; and

(b) take reasonable steps to achieve the progressive realisation of those rights.

(2) The Minister may, by notice in the *Gazette*, specify the species and the circumstances under which the State remains the custodian of faunal components of biodiversity that escape from land under its control.

Application of Act

4. (1) This Act applies—

(a) in the Republic, including—

(i) its territorial waters, exclusive economic zone and continental shelf described in the Maritime Zones Act, 1994 (Act No. 15 of 1994); and

(ii) the Prince Edward Islands referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948); and

(b) to all persons, vessels and aircraft on, or in the airspace above or the waters referred to in paragraph *(a)*.

(2) This Act binds all organs of state.

Conflicts with other legislation

5. In the event of any conflict between a section of this Act and other national legislation relating to biodiversity, this Act prevails.

Application of National Environmental Management Act

6. (1) This Act must, in relation to biodiversity management, be read, interpreted and applied in conjunction with the National Environmental Management Act.

(2) This Act is a specific environmental management Act as defined in section 1 of the National Environmental Management Act.

(3) The application of this Act must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act, as well as the principles set out in the White Paper on the Conservation and Sustainable Use of South Africa's Biodiversity.

(4) Chapter 4 of the National Environmental Management Act applies to the resolution of conflicts arising from decisions made in terms of this Act.

CHAPTER 2

SOUTH AFRICAN NATIONAL BIODIVERSITY INSTITUTE

Part 1

South African National Biodiversity Institute, functions and powers

South African National Biodiversity Institute

7. (1) The South African National Biodiversity Institute, as established in terms of section 10 of the Biodiversity Act, continues to exist in terms of this Act as if established under this Act.

(2) The Institute is a juristic person.

Functions of Institute

8. (1) The Institute—

(a) must develop national biodiversity indicators in order to assess and monitor the status and trends in biodiversity at an ecosystem, species and genetic level;

(b) must monitor and assess the status and trends in biological invasions and the environmental impacts of all categories of genetically modified organisms, and may assess the status and trends related to other threats and pressures on biodiversity;

(c) must report to the Minister on all its functions as contemplated in this Act;

(d) must co-ordinate and promote the management of biodiversity information in the Republic, including—

(i) establishing and maintaining a national biodiversity information system; and

(ii) disseminating biodiversity information to enable research,

in order to support better management and conservation of biodiversity;

(e) must, when requested, provide advice and decision support to organs of state involved in managing and conserving biodiversity, based on the best available

science and have regard to indigenous knowledge, where applicable;

(f) may provide advice to other stakeholders engaged in or impacting on biodiversity, based on the best available science and have regard to indigenous knowledge, where applicable;

(g) must co-ordinate and promote the taxonomy of the Republic's biodiversity and, upon request by an organ of state, must confirm, in writing, that the identification of a specimen of an indigenous biological resource is taxonomically accurate, where scientifically possible;

(h) must develop, co-ordinate and maintain a national ecosystem classification system;

(i) must manage, control and maintain all national botanical gardens and national zoological gardens declared in terms of section 32 and any other place or facility under its control, which may include—

(i) allowing, regulating or prohibiting access by the public;

(ii) educational programs; or

(iii) any other services to visitors;

(j) must co-ordinate and promote biodiversity collections;

(k) may establish, manage, control and maintain its own or other biodiversity collections;

(l) must co-ordinate and promote research to support the management and conservation of biodiversity;

(m) may undertake research to support the functions of the Institute, including taxonomy, assessment, provision of science-based advice or management of national botanical gardens or national zoological gardens;

(o) may convene or lead programmes to strengthen the management and conservation of biodiversity;

(p) must provide logistical, administrative and financial support for the proper functioning of the Scientific Authority established in terms of section 45;

(q) must provide scientific and technical expertise, including data to support the functions of the Scientific Authority;

(r) may host structures that support the execution and implementation of the Republic's obligations in terms of any international agreement that has a bearing on biodiversity;

(s) on the Minister's request, must assist the Minister in the performance of functions and the exercise of powers assigned to the Minister in terms of this Act;

(t) on the Minister's request, must advise the Minister on any matter regulated in terms of this Act, including—

(i) the implementation of this Act and any international agreements affecting biodiversity which are binding on the Republic;

(ii) the preparation and content of any planning tool developed in terms of this Act;

(iii) other aspects of biodiversity planning;

(iv) the management and conservation of biological diversity; and

(v) the sustainable use of components of biodiversity;

(u) must perform any other function—

(i) assigned to it in terms of this Act; or

(ii) as may be prescribed; and

(v) must assess and monitor any other matter as prescribed.

(2) When the Institute gives advice in terms of subsection (1) relating to—

(a) any scientific matter relating to the marine or coastal environment, the

Institute must provide that advice in consultation with the Department's relevant research components; and

(b) any other scientific matter, the Institute may consult any appropriate organ of state, person or institution which has expertise in that matter.

(3) The Institute must exercise its powers and perform its functions subject to any norms and standards, instruction and determination issued by the Minister in terms of section 29.

Powers of Institute

9. The Institute may, for the purpose of performing its functions—

(a) appoint its own staff, subject to section 26;

(b) obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act, task or assignment;

(c) acquire or dispose of any right in or to movable or immovable property, or hire or let any property;

(d) open and operate its own bank accounts;

(e) establish a company which has as its object the production and supply of goods or the rendering of services on behalf of the Institute, subject to the Public Finance Management Act;

(f) invest any of its money, subject to section 28;

(g) borrow money, subject to section 66 of the Public Finance Management Act;

(h) charge fees—

(i) for access to a national botanical garden or a national zoological garden, herbaria and other places under its control;

(ii) for any work performed or services rendered by it;

(iii) for access to the results of, or to other information in connection with, any research performed by it;

(i) collect royalties resulting from any discoveries, inventions or computer programmes;

(j) insure itself against—

(i) any loss, damage or risk; or

(ii) any liability it may incur in the application of this Act;

(k) perform legal acts, including acts in association with, or on behalf of, any other person or organ of state; and

(l) institute or defend any legal action.

Part 2

Governing board, composition and membership

Composition of Board

10. (1) The Institute is governed by a Board consisting of—

(a) not fewer than seven and not more than nine members appointed in terms of section 12;

(b) the Director-General or an official of the Department designated by the Director-General; and

(c) the Chief Executive Officer of the Institute.

(2) The Minister—

(a) must determine the number of members to be appointed in terms of subsection (1)*(a)*; and

(b) may alter the number determined in terms of paragraph *(a)*, but a reduction in

the number may be effected only when a vacancy in the Board occurs.

(3) The Board takes all decisions in the performance of the functions and exercise of powers of the Institute, except—

(a) those decisions taken in consequence of a delegation in terms of section 24; or

(b) where the Public Finance Management Act provides otherwise.

Qualifications

11. (1) A member of the Board must—

(a) be a fit and proper person to hold office as a member; and

(b) have appropriate qualifications and experience in the field of biodiversity or another relevant field.

(2) The following persons are disqualified from becoming or remaining a member of the Board:

(a) A person holding office as a member of Parliament, a provincial legislature or a municipal council; or

(b) a person who has been removed from office in terms of section 18.

Appointment procedure

12. (1) Whenever it is necessary to appoint members of the Board who are referred to in section 10(1)*(a)*, the Minister must—

(a) through advertisements in the media circulating nationally and in each of the provinces, invite nominations for appointment as such a member; and

(b) compile a list of the names of persons nominated, setting out the particulars of

each individual nominee.

(2) Any nomination made pursuant to an advertisement in terms of subsection (1)*(a)* must be supported by—

(a) the personal details of the nominee;

(b) nominee's qualifications or experience; and

(c) any other information that may be prescribed.

(3) The Minister must, subject to subsection (4), appoint the required number of persons from the list compiled in terms of subsection (1)*(b)*, but if the persons on that list are inadequate, appoint any other suitable persons.

(4) When making appointments, the Minister must—

(a) consult the MECs responsible for environmental affairs; and

(b) have regard to the need for appointing persons to promote representivity.

(5) The Minister must make appointments in such a way that the Board is composed of persons covering a broad range of appropriate expertise in the field of biodiversity or another relevant field.

Chairperson

13. (1) The Minister must appoint a member of the Board as the Chairperson of the Board.

(2) The Chairperson is appointed for a period which is determined by the Minister which may, in the case of a member referred to in section 10(1)*(a)*, not extend beyond the period of their term as a member.

(3) The Minister may appoint a member of the Board as acting Chairperson of the Board if—

(a) the Chairperson is absent for a substantial period; or

(b) the appointment of a Chairperson is pending.

Term of office

14. Members of the Board referred to in section 10(1)*(a)*—

(a) are appointed for a period of three years or, if section 19(2) applies, for a term determined in terms of that section;

(b) on completion of that term, are eligible for reappointment for one additional term of three years; and

(c) may have their appointment in terms of paragraph *(a)* or *(b)* extended by the Minister for a specific period not exceeding one year.

Conditions of appointment

15. (1) The Minister must determine the conditions of employment of members of the Board referred to in section 10(1)*(a)*.

(2) The Minister may, by agreement with the Minister of Finance, determine the terms and conditions of employment of members of the Board who are not in the employment of the Government.

(3) The Institute must pay the remuneration and allowances of members of the Board.

(4) Members who are in the employ of the Government are not entitled to remuneration and allowances and—

(a) must be compensated for out-of-pocket expenses by the Institute; and

(b) are appointed on a part-time basis.

Conduct of members

16. (1) A member of the Board—

(a) must perform their functions in good faith and without favour or prejudice;

(b) must disclose to the Board any personal or private business interest which that member, or any spouse, partner or close family member of that Board member, may have in any matter before the Board, and must withdraw from the proceedings of the Board when that matter is considered, unless the Board decides that the interest of that Board member in the matter is trivial or irrelevant;

(c) may not use the position, privileges or knowledge of a member for private gain or to improperly benefit another person; and

(d) may not act in any other way that compromises the credibility, impartiality, independence or integrity of the Institute.

(2) A member of the Board who contravenes or fails to comply with subsection (1) is guilty of misconduct.

Termination of membership

17. (1) A member of the Board referred to in section 10(1)*(a)* ceases to be a member when that person—

(a) is no longer eligible in terms of section 11 to be a member;

(b) resigns; or

(c) is removed from office in terms of section 18.

(2) A member of the Board may resign by giving at least three

months' written notice to the Minister, but the Minister may accept a shorter period in a specific case.

Removal from office

18. (1) The Minister may remove a member of the Board referred to in section 10(1)*(a)* from office, but only on one of the following grounds:

(a) Misconduct, incapacity or incompetence;

(b) absence from three consecutive meetings of the Board without the prior permission of the Board except on good cause shown;

(c) insolvency; or

(d) conviction of a criminal offence without the option of a fine.

(2) A member of the Board may be removed from office on the ground of misconduct or incompetence only after a finding to that effect has been made by a board of inquiry appointed by the Minister.

(3) The Minister may suspend a member under investigation in terms of this section.

Filling of vacancies

19. (1) A vacancy in the Board is filled—

(a) in the case of a vacating Chairperson, by appointing another member in terms of section 13(1) as the Chairperson; and

(b) in the case of a vacating member referred to in section 10(1)*(a)*, by following the procedure set out in section 12.

(2) A person appointed to fill a vacancy holds that office for the

remaining portion of the term of the vacating Chairperson or member.

Part 3

Operating procedures of Board

Meetings

20. (1) The Chairperson of the Board decides when and where the Board meets, but a majority of the members may request the Chairperson, in writing, to convene a Board meeting at a time and place set out in the request.

(2) The Chairperson presides at meetings of the Board, but if the Chairperson is absent from a meeting, the members present must elect another member from among them to preside at the meeting.

Procedures

21. (1) The Board may determine its own procedures subject to the provisions of this Act.

(2) The Board must keep records of its proceedings and of decisions taken.

Quorum and decisions

22. (1) A majority of the members of the Board serving at any relevant time constitutes a quorum for a meeting of the Board.

(2) A matter before the Board is decided by the votes of a majority

of the members present at the meeting.

(3) If on any matter before the Board there is an equality of votes, the member presiding at the meeting must exercise a casting vote in addition to that person's vote as a member.

Committees

23. (1) The Board may establish one or more committees to assist it in the performance of its functions or the exercise of its powers.

(2) When appointing members to a committee, the Board is not restricted to members of the Board.

(3) The Board—

(a) must determine the functions of a committee;

(b) must appoint a chairperson and other members of the committee;

(c) may remove a member of a committee from office at any time, taking into account the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and

(d) may determine the procedure by which a committee functions.

(4) The Board may dissolve a committee at any time.

(5) Section 15, read with the necessary changes as the context may require, applies to the terms and conditions of employment of committee members.

(6) A staff member of the Institute appointed to a committee serves on the committee subject to the terms and conditions of that person's employment with the Institute.

Delegation of powers and functions

24. (1) Where necessary for the proper performance of its functions, the Board may, subject to subsection (2), delegate any of its powers or functions to—

(a) a member of the Board;

(b) a committee referred to in section 23; or

(c) a staff member of the Institute.

(2) The Board may not delegate any of the following powers and functions:

(a) The appointment or reappointment of a person as the Chief Executive Officer in terms of section 25(1) or (2);

(b) the determination of the terms and conditions of service of the Chief Executive Officer in terms of section 25;

(c) the determination of an employment policy in terms of section 26(1); or

(d) the setting of financial limits in terms of section 26(2)*(a)* or (3).

(3) A delegation in terms of subsection (1)—

(a) is subject to any limitations, conditions and directions that the Board may impose;

(b) must be in writing;

(c) does not divest the Board of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty; and

(d) does not prevent the exercise of the delegated power or the carrying out of the delegated duty by the Board.

(4) The Board may confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision.

Part 4

Administration of Institute

Appointment of Chief Executive Officer

25. (1) The Board, by agreement with the Minister, must appoint a person with appropriate qualifications and experience as the Chief Executive Officer of the Institute.

(2) The Chief Executive Officer—

(a) is appointed for a term not exceeding five years; and

(b) may be reappointed by the Board by agreement with the Minister, but only for one additional term not exceeding five years.

(3) The Chief Executive Officer is employed subject to terms and conditions of employment as the Board may determine in accordance with a policy approved by the Minister by agreement with the Minister of Finance.

(4) The Chief Executive Officer—

(a) is responsible for the management of the Institute;

(b) must perform the functions and may exercise the powers as the Board may delegate to him or her; and

(c) must report to the Board on aspects of management, the performance of functions and the exercise of powers, at the times or intervals and in the manner, as the Board may determine.

(5) The Chairperson of the Board may appoint another employee of the Institute to act as Chief Executive Officer for a maximum period of six months, whenever—

(a) the Chief Executive Officer is, for any reason, absent or unable to perform their functions; or

(b) there is a vacancy in the office of the Chief Executive Officer.

(6) While acting as Chief Executive Officer, that employee—

(a) has the powers and functions of the Chief Executive Officer; and

(b) is employed subject to the terms and conditions of employment as the Chairperson may determine in accordance with the policy referred to in subsection (3).

Employment of staff

26. (1) The Board, acting by agreement with the Minister, must determine an employment policy for the Institute.

(2) The Chief Executive Officer—

(a) within the financial limits set by the Board, must determine a staff establishment necessary for the work of the Institute; and

(b) may appoint persons in posts on the staff establishment.

(3) An employee of the Institute is employed subject to the terms and conditions of employment determined by the Chief Executive Officer in accordance with the employment policy of and within the financial limits set by the Board.

(4) A person in the service of another organ of state may be seconded to the Institute by agreement between the Chief Executive Officer and that organ of state.

(5) Persons seconded to the Institute perform their functions under the supervision of the Chief Executive Officer.

(6) A person in the service of the Institute may, with the consent of that person, be seconded to another organ of state by agreement between the Chief Executive Officer and that organ of state.

Part 5

Financial matters

Funding

27. The funds of the Institute consist of—

(a) income derived by it from the performance of its functions and the exercise of its powers;

(b) money appropriated by Parliament;

(c) grants received from organs of state;

(d) voluntary contributions, donations and bequests;

(e) money borrowed in terms of section 9*(g)*;

(f) income derived from investments referred to in section 28; and

(g) money derived from any other source, subject to the Public Finance Management Act.

Investments

28. (1) The Institute may invest any of its funds that it does not immediately require subject to any investment policy that may be prescribed in terms of section 7(4) of the Public Finance Management Act.

(2) The Minister may direct the manner in which the Institute invests

its funds in terms of subsection (1).

Part 6

General

Powers of Minister

29. (1) The Minister—

(a) must monitor the exercise and performance by the Institute of its powers and functions;

(b) may set norms and standards for the exercise and performance by the Institute of its powers and functions;

(c) may instruct the Institute on policy, planning, strategy and procedural issues to ensure its effective and efficient functioning;

(d) may determine limits on fees charged by the Institute in the exercise and performance of its powers and functions by agreement with the Minister of Finance; and

(e) may identify land for new national botanical gardens or national zoological gardens and extensions to existing botanical or zoological gardens.

Absence of functional Board

30. In the event of absence of a functional Board, the powers and functions of the Board revert to the Minister who, in such a case, must exercise those powers and perform those duties until the Board is functional again.

Winding-up or dissolution of Institute

31. (1) The Institute may not be wound up or dissolved except by or in terms of an Act of Parliament.

(2) Upon its winding-up or dissolution, the Institute must transfer its remaining assets or the proceeds of those assets, after satisfaction of its liabilities, to the State or to an equivalent Schedule 3A Public Entity, which has the same objectives as the Institute and which, itself, is exempt from income tax in terms of section 10(1)*(c*A*)* of the Income Tax Act, 1962 (Act No. 58 of 1962).

CHAPTER 3

NATIONAL BOTANICAL GARDENS AND NATIONAL ZOOLOGICAL GARDENS

Declaration of national botanical garden and national zoological garden

32. (1) The Minister, acting with the approval of the Cabinet member responsible for the administration of the land in question may, by notice in the *Gazette*, declare any state land described in the notice as—

(a) a national botanical garden;

(b) a national zoological garden; or

(c) part of an existing national botanical garden or a national zoological garden.

(2) A declaration in terms of subsection (1)*(a)* may be issued—

(a) to protect and conserve an area which includes relatively undisturbed natural habitats, representative of some of the main vegetation types and ecological interactions of the province;

(b) to promote education and research;

(c) to provide horticultural potential with suitable areas of arable soil; or

(d) to protect cultural heritage and promote community participation.

(3) A declaration in terms of subsection (1)*(b)* may be issued—

(a) to set aside land for the conservation of faunal biodiversity;

(b) to promote education and research; or

(c) to facilitate community participation.

(4) The Minister, acting in accordance with an agreement with the owner of the land described in that agreement may, by notice in the *Gazette*, declare that land as—

(a) a national botanical garden;

(b) a national zoological garden; or

(c) part of an existing national botanical or national zoological garden.

(5) A notice in terms of subsection (1) or (4) must assign a name to the national botanical garden or national zoological garden.

(6) The Minister must keep a register of all existing national botanical gardens and national zoological gardens, as well as any declaration made in terms of subsections (1) or (4).

(7) The Minister must notify the relevant Registrar of Deeds, in writing, whenever a national botanical garden or national zoological garden has been declared in terms of this section.

(8) The notification to the relevant Registrar of Deeds must—

(a) include a description of the land involved;

(b) be accompanied by a diagram as defined in section 1 of the Land Survey Act, 1997 (Act No. 8 of 1997), of the land involved and which is signed by a land surveyor; and

(c) comply with any additional requirements under the Deeds Registries Act,

1937 (Act No. 47 of 1937).

Amendment or withdrawal of declarations

33. (1) The Minister may, by notice in the *Gazette*—

(a) amend or withdraw a notice referred to in section 32, subject to subsection (2); or

(b) amend the name assigned to a national botanical garden or a national zoological garden.

(2) The declaration of state land as a national botanical garden or a national zoological garden, or part of an existing national botanical garden or national zoological garden, may not be withdrawn and a part of a national botanical garden or national zoological garden on state land may not be excluded from it, except by resolution of each House of Parliament.

CHAPTER 4

BIODIVERSITY PLANNING

National biodiversity framework

34. (1) The Minister must adopt a national framework for biodiversity conservation within the Republic to provide for an integrated, co-ordinated and uniform approach to biodiversity conservation, including—

(a) identifying priority areas and action to be taken for conservation;

(b) the establishment of protected areas, conservation areas, and Other Effective area-based Conservation Measures (OECMs);

(c) identifying threats and pressures to species and ecosystems;

(d) identifying duty of care measures;

(e) matters relating to regional and international cooperation on issues concerning biodiversity conservation;

(f) developing a plan to facilitate the transformation of the biodiversity sector; and

(g) any other matter which the Minister considers necessary.

(2) The Minister must publish the national framework adopted in terms of subsection (1) in the *Gazette*.

(3) The Minister must review the national framework every 10 years.

Spatial biodiversity plans

35. (1) The Minister may, by notice in the *Gazette*, publish a spatial biodiversity plan in respect of a geographical area that spans more than one province.

(2) The MEC may, by notice in the *Gazette*, publish a spatial biodiversity plan which applies to a geographical area within a particular province.

(3) A municipality may, by notice in the *Gazette*, publish a spatial biodiversity plan which applies to a geographical area within that municipality.

(4) A spatial biodiversity plan must—

(a) in the case of subsection (2), align with the boundaries of a province, and in the case of subsection (3), align with the boundaries of a municipality;

(b) identify a set of geographic biodiversity priority areas within the municipality or province, based on the best available science;

(c) provide measures for the management and conservation of the biodiversity

priority areas identified in terms of paragraph *(b)*;

(d) provide for the monitoring of the plan;

(e) if developed by the MEC, align with any national spatial biodiversity plan published by the Minister;

(f) if developed by a municipality, align with any national spatial biodiversity plan and provincial spatial biodiversity plan published by the Minister or MEC, respectively; and

(g) comply with any other requirement prescribed by the Minister.

Biodiversity management plans

36. (1) The Minister or MEC may, by notice in the *Gazette*, publish a biodiversity management plan for—

(a) a listed ecosystem or any other ecosystem which warrants special conservation attention; or

(b) a listed indigenous species or any other indigenous species which warrants special conservation attention.

(2) Before approving a biodiversity management plan, the Minister or MEC may identify a suitable person, organisation or organ of state that will be responsible for the implementation of the plan.

(3) A biodiversity management plan developed by the MEC must align with any biodiversity management plan published by the Minister.

Contents of biodiversity management plans

37. A biodiversity management plan must—

(a) be aimed at ensuring the long-term conservation and effective management of the species or ecosystems to which the plan relates;

(b) identify duty of care measures;

(c) promote well-being and humane practices, actions, and activities towards wild animals;

(d) provide for the responsible person, organisation or organ of state to monitor and report on progress with implementation of the plan; and

(e) take into consideration—

(i) any plans issued in terms of Chapter 3 of the National Environmental Management Act;

(ii) any municipal integrated development plan;

(iii) any applicable spatial biodiversity plan; and

(iv) any other plans prepared in terms of national or provincial legislation that are affected.

Biodiversity management agreements

38. The Minister or MEC may enter into a biodiversity management agreement with a person, organisation or organ of state, regarding—

(a) the implementation of a biodiversity planning tool; or

(b) a matter relating to biodiversity management.

Co-ordination and alignment with biodiversity planning tools

39. (1) The preparation of—

(a) an environmental implementation or environmental management plan in terms

of Chapter 3 of the National Environmental Management Act;

(b) an integrated development plan in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

(c) any spatial development framework in terms of legislation regulating land-use management, land development and spatial planning; and

(d) any other plan prepared in terms of national or provincial legislation that is affected, must—

(i) be aligned with any biodiversity planning tool;

(ii) incorporate into that plan those provisions of any biodiversity planning tool that specifically apply to it;

(iii) demonstrate how any biodiversity planning tool may be implemented; and

(iv) align with the provisions relating to any listed ecosystem or listed species.

(2) The Institute may—

(a) assist in the preparation of any biodiversity planning tool to comply with subsection (1); and

(b) make recommendations to organs of state or municipalities referred to in subsection (1) to align their plans referred to in that subsection.

CHAPTER 5

ECOSYSTEMS AND SPECIES

Part 1

Listed ecosystems and species

Species and ecosystems of concern

40. (1) The Minister may, after consultation with the relevant MEC, by notice in the *Gazette*, publish a national list of species or ecosystems that—

(a) are threatened;

(b) in need of conservation or protection;

(c) require careful consideration when promoting access for traditional, cultural or spiritual use; or

(d) require additional consideration to promote animal well-being and humane practices, actions and activities.

(2) The Minister may, in a notice in terms of subsection (1)—

(a) impose conditions;

(b) identify prohibitions or restrictions;

(c) identify activities which require a permit; or

(d) identify any other measure.

(3) A notice in terms of subsection (1) may—

(a) apply generally—

(i) throughout the Republic or a province, as the case may be, or only in a specified area or specified category of areas;

(ii) to all persons or only to a specified category of persons; or

(iii) to all species or ecosystems or only to a specified species or ecosystems or specified category of species or ecosystems; or

(b) differentiate between—

(i) areas or categories of areas;

(ii) persons or categories of persons; or

(iii) species or ecosystems or categories of species or ecosystems.

Management of species and ecosystems

41. (1) The Minister may, after consultation with the relevant MEC, prescribe, in relation to any species or ecosystem which is not a listed species or a listed ecosystem and that is in need of management, any—

(a) conditions;

(b) prohibitions or restrictions;

(c) activities which require a permit; or

(d) other measure.

(2) A matter prescribed in terms of subsection (1) may—

(a) apply generally—

(i) throughout the Republic or a province, as the case may be, or only in a specified area or specified category of areas;

(ii) to all persons or only to a specified category of persons; or

(iii) to all species or ecosystems or only to a specified species or ecosystems or specified category of species or ecosystems; or

(b) differentiate between—

(i) areas or categories of areas;

(ii) persons or categories of persons; or

(iii) species or ecosystems or categories of species or ecosystems.

Listing of priority species or ecosystems

42. (1) The Minister may, after consultation with the MEC, by notice in the *Gazette*, publish a national list of priority species, priority specimens or priority

ecosystems, which—

(a) require preferential protection;

(b) are vulnerable to organised crime or wildlife trafficking;

(c) require additional compliance and enforcement resources; or

(d) require stricter penalty provisions.

(2) The Minister may, in a notice in terms of subsection (1)—

(a) impose conditions;

(b) identify prohibitions or restrictions;

(c) identify activities which require a permit; or

(d) identify any other measure.

(3) The provisions of section 40(3) apply to a notice issued in terms of subsection (1).

Part 2

Scientific Authority

Establishment of Scientific Authority

43. The Minister must establish a Scientific Authority for the purposes of assisting in regulating and restricting the trade in specimens of species to which an international agreement regulating international trade, and trade in species listed in terms of section 40, applies.

Functions of Scientific Authority

44. (1) The Scientific Authority must—

(a) monitor and evaluate the legal and illegal trade in specimens of species to which an international agreement regulating international trade applies in the Republic, and the legal and illegal trade in species listed in terms of section 40;

(b) advise the Minister and any other interested organs of state on the matters contemplated in paragraph *(a)*;

(c) make non-detriment findings as prescribed relating to the international trade in specimens of species to which an international agreement regulating international trade applies, and must submit those findings to the Minister;

(d) advise the Minister on—

(i) the registration of ranching operations, nurseries, captive breeding operations and other facilities;

(ii) whether an operation or facility meets the criteria for producing species considered to be bred in captivity or artificially propagated;

(ii) any amendments to a notice published in terms of section 40(1);

(iv) the nomenclature of species;

(v) species that require specific management intervention;

(vi) the setting of any quota; and

(vii) any other matter as prescribed;

(e) assist the Minister or an environmental management inspector in the identification of specimens for the purpose of enforcing the provisions of this Act;

(f) perform any other function that may be—

(i) prescribed; or

(ii) delegated to it by the Minister in terms of the National Environmental Management Act; and

(g) deal with any other matter necessary for, or reasonably incidental to, its powers and duties.

(2) In performing its duties, the Scientific Authority must—

(a) base its findings, recommendations and advice on a scientific and professional review of available information; and

(b) consult, when necessary, organs of state, the private sector, non-governmental organisations, local communities and other stakeholders before making any findings or recommendations or giving any advice.

Part 3

Trade in species

Activities involving species or ecosystems to which international agreements apply

45. (1) No person may import, export, re-export or introduce from the sea, a specimen of a species listed in terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora without a permit issued in terms of section 60.

(2) Subsection (1) does not apply to specimen of a species conveyed from outside the Republic in transit through the Republic to a destination outside the Republic, provided that the transit through the Republic takes place with the required original documentation from the country of origin accompanying the

shipment.

(3) The Minister may prescribe conditions, measures including prohibitions or restrictions, or activities that require a permit in respect of any—

(a) specimen of a species referred to in subsection (1); or

(b) specimen of a species or ecosystem to which any other international agreement applies.

CHAPTER 6

ALIEN AND INVASIVE SPECIES AND GENETICALLY MODIFIED ORGANISMS

Management of alien species

46. (1) No person may import a specimen of an alien species without a permit issued in terms of section 63.

(2) An application for a permit mentioned in subsection (1) may only be considered after a risk assessment has been submitted.

(3) The Minister may prescribe any conditions, prohibitions, restrictions, requirements for a permit or any other measure, necessary for—

(a) the management of an alien species or category of alien species;

(b) the keeping, propagation, or breeding of an alien species.

(4) Regulations in terms of subsection (3) may apply—

(a) within the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;

(b) to all persons, to specific persons or only to a specified category of persons; or

(c) to all species or only to a specified species or a specified category of species.

List of invasive species

47. (1) The Minister must, after consultation with the relevant MEC, by notice in the *Gazette*, publish a national list of invasive species, with any conditions, prohibitions, restrictions, requirements for a permit or any other measure, necessary for the management of that listed invasive species.

(2) The Minister may review the list published in terms of subsection (1), as may be appropriate.

(3) A notice in terms of subsection (1) may apply—

(a) within the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;

(b) to all persons, to specific persons or only to a specified category of persons; or

(c) to all species or only to a specified species or a specified category of species.

Invasive species control plans

48. (1) The management authority of a protected area preparing a management plan for the area in terms of the Protected Areas Act, must incorporate invasive species control strategies into that management plan.

(2) The Minister may prescribe when an organ of state or any other person must prepare an invasive species control plan for land which they own, occupy or is under their control, or for any listed invasive species under their control.

Genetically modified organisms

49. (1) The GMO Registrar must, prior to every meeting of the Council, provide the Minister with all applications submitted for authorisation in terms of the Genetically Modified Organisms Act, 1997.

(2) The Minister must notify the Council if an applicant in subsection (1) is required to—

(a) apply for an environmental authorisation in terms of the National Environmental Management Act; or

(b) undertake any other environmental assessment as may be prescribed.

(3) The Council must notify the applicant where an environmental authorisation or prescribed assessment is required.

(4) No person may release a genetically modified organism into the environment without an authorisation contemplated in subsection (2), if required.

CHAPTER 7

ACCESS TO INDIGENOUS BIOLOGICAL RESOURCES AND INDIGENOUS KNOWLEDGE, BIOPROSPECTING AND BENEFIT SHARING

Definitions

50. In this Chapter—

"**access agreement**" means a written agreement concluded with a person giving access to an indigenous biological resource or indigenous knowledge for bioprospecting;

"**benefit-sharing agreement**" means a written agreement between an applicant for

a commercial bioprospecting permit and—

(a) a person giving access; or

(b) an organ of state,

to regulate the commercial exploitation of an indigenous biological resource or indigenous knowledge;

"**biotrade**" means the trade in an indigenous biological resource or indigenous knowledge by any person who lawfully obtains permission to use an indigenous biological resource or indigenous knowledge from the holder of a commercial bioprospecting permit;

"**commercial bioprospecting permit**" means a permit issued in terms of section 55(1);

"**commercial exploitation of an indigenous biological resource or indigenous knowledge**" means any activity listed in terms of section 55(2);

"**discovery-phase bioprospecting permit**" means a permit issued in terms of section 53(1);

"**discovery-phase of bioprospecting**" means any research on, or application of, indigenous biological resources or indigenous knowledge, to discover genetic or biochemical information, where the nature and extent of any actual or potential benefits is not sufficiently clear or known, with the intention to undertake commercial exploitation of an indigenous biological resource or indigenous knowledge;

"**indigenous biological resource**"—

(a) means—

(i) any component of biodiversity, whether gathered from the wild or accessed from any other source, including any animals, plants or other organisms of an indigenous species cultivated, bred or kept in captivity or altered in any way by means of technology;

(ii) any cultivar, variety, strain, derivative, hybrid or fertile version of any indigenous species referred to in subparagraph (i); and

(iii) any alien species, including alien animal, plant or other organism, whether gathered from the wild or accessed from any other source, which have been altered to contain any genetic material or chemical compound found in any indigenous species referred to in subparagraph (i) or (ii); and

(b) excludes—

(i) genetic material of human origin; and

(ii) any alien species, including alien animals, plants or other organisms, other than the alien species referred to in paragraph *(a)*(iii);

"**indigenous community**" has the meaning assigned to it in the Indigenous Knowledge Act;

"**indigenous knowledge**" has the meaning assigned to it in the Indigenous Knowledge Act;

"**Indigenous Knowledge Act**" means the Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019 (Act No. 6 of 2019);

"**non-commercial research**" means research that is undertaken with the specific intention not to use any results of the research for the commercial exploitation of indigenous biological resources or indigenous knowledge; and

"**person giving access**" means—

(a) an indigenous community or the person representing that community who is authorised to give access to an indigenous biological resource owned by that community or indigenous knowledge belonging to that community;

(b) the owner of land on which an indigenous biological resource occurs;

(c) a person who is lawfully authorised or lawfully entitled to give access to an

indigenous biological resource or indigenous knowledge; or

(d) the Minister, on behalf of the State, as trustee for purposes of section 54(2).

Application of Chapter

51. (1) This Chapter applies to—

(a) the use of indigenous biological resources for bioprospecting; and

(b) the use of indigenous knowledge, where the Indigenous Knowledge Act is not applicable.

(2) Where indigenous knowledge has been registered in terms of the Indigenous Knowledge Act, the processes and provisions of that Act applies and this Chapter does not apply.

Prior informed consultation, consent process and access agreement

52. (1) Before applying for a discovery-phase bioprospecting permit or a commercial bioprospecting permit, an applicant must first apply to the Minister for written approval of—

(a) the prior informed consultation and consent process, and must address the following criteria in that application:

(i) the nature and extent of the access to the indigenous biological resource or indigenous knowledge which has been requested;

(ii) the details of all material information relating to the proposed bioprospecting which will be disclosed to the person giving access;

(iii) whether or not the person giving access or the applicant will be required to sign a written non-disclosure agreement to protect any

intellectual property belonging to any party to that agreement;

(iv) the cultural and historical characteristics, customs, rules and practices of the person giving access and how this information will be acquired;

(v) the nature of the consultation process to be undertaken; and

(vi) any other matter relating to the prior informed consultation and consent process which may be prescribed; and

(b) the contents of an access agreement and must address the following criteria in that application:

(i) whether or not the terms of that agreement are fair towards the person giving access;

(ii) the nature of the access to indigenous biological resources and indigenous knowledge given to the applicant;

(iii) the nature of the compensation the person giving access will receive for that access;

(iv) how the customary and traditional rights of the person giving access are adequately protected in terms of that agreement; and

(v) any other matter relating to an access agreement which may be prescribed.

(2) Subsection (1) does not apply to an applicant who owns the land on which the indigenous biological resource is located, except if the applicant intends to utilise indigenous knowledge.

(3) Subsection (1) does not apply to an applicant for a commercial bioprospecting permit if that applicant has been granted a discovery-phase bioprospecting permit.

Discovery-phase bioprospecting permit

53. (1) No person may—

(a) undertake the discovery-phase of bioprospecting;

(b) export an indigenous biological resource to undertake the discovery-phase of bioprospecting; or

(c) undertake the discovery-phase of bioprospecting outside of the Republic,

without a permit issued by the Minister.

(2) The Minister may issue a discovery-phase bioprospecting permit if—

(a) a prior informed consultation and consent process has been completed, with the approval of the Minister, in terms of section 52(1)*(a)*.

(b) the access agreement, approved by the Minister in terms of section 52(1)*(b)*, has been signed by all parties to that agreement; and

(c) the applicant has complied with any other discovery-phase of bioprospecting requirements which may be prescribed.

(3) The holder of a discovery-phase bioprospecting permit may not access any indigenous knowledge associated with the indigenous biological resource, unless access to that indigenous knowledge is also specifically authorised in that permit.

Benefit-sharing agreement

54. (1) An applicant for a commercial bioprospecting permit must—

(a) conclude a benefit-sharing agreement; and

(b) obtain the Minister's written approval of the benefit-sharing agreement,

prior to applying for a permit.

(2) An applicant for a commercial bioprospecting permit relating to an indigenous biological resource located on land owned by the applicant must conclude a benefit-sharing agreement with the Minister who, on behalf of the State, acts as trustee of the Republic's indigenous biological resources and any money resulting from that agreement must be transferred to the suspense bank account referred to in section 59(1).

(3) When applying for approval in terms of subsection (1)*(b)*, an applicant must address the following criteria:

(a) Whether the applicant was issued with a discovery-phase bioprospecting permit in terms of section 54(1), if applicable; and

(b) whether the applicant has complied with any other benefit-sharing agreement requirement which may be prescribed.

(4) A benefit-sharing agreement may provide for monetary and non-monetary benefits.

Commercial bioprospecting permit

55. (1) No person may—

(a) undertake the commercial exploitation of an indigenous biological resource or indigenous knowledge;

(b) export indigenous knowledge or an indigenous biological resource in order to undertake the commercial exploitation of that resource; or

(c) undertake the commercial exploitation of an indigenous biological resource or indigenous knowledge outside of the Republic,

without a permit issued by the Minister.

(2) The Minister must, by notice in the *Gazette*, list activities that are activities for the commercial exploitation of an indigenous biological resource or indigenous knowledge for purposes of commercial bioprospecting.

(3) Subject to section 52(3), the Minister may issue a commercial bioprospecting permit if—

(a) a prior informed consultation and consent process has been completed, with the approval of the Minister, in terms of section 52(1);

(b) the access agreement, approved by the Minister in terms of section 52(1), has been signed by all parties to that agreement;

(c) a benefit-sharing agreement approved by the Minister in terms of section 54(1) is signed by all parties to that agreement; and

(d) the applicant has complied with any other commercial bioprospecting permit requirements which may be prescribed.

Biotrade agreement

56. (1) No person may engage in biotrade unless they have concluded a biotrade agreement with the Minister.

(2) The Minister may prescribe the requirements, contents and process for the conclusion of a biotrade agreement.

(3) The Minister must, by notice in the *Gazette*, determine a financial benefit, as a percentage of the financial value of any right, ingredient, product or resource sold as part of biotrade that is payable to the person giving access, and that financial benefit percentage may apply to different—

(a) areas or categories of areas;

(b) persons or categories of persons;

(c) indigenous biological resources or categories of indigenous biological resources;

(d) indigenous knowledge or categories of indigenous knowledge; or

(e) products or categories of products.

Import of indigenous biological resources from other countries

57. No person may import or utilise, within the Republic, an indigenous biological resource or indigenous knowledge from another country for bioprospecting, unless that person declares in writing that the regulatory requirements of the country in which the resource or knowledge is located, were complied with.

Non-commercial research

58. No person may undertake non-commercial research outside the Republic utilising an indigenous biological resource or indigenous knowledge without a permit.

Collection and payment of benefit sharing funds

59. (1) The following funds must be paid into a suspense bank account administered by the Department and set up specifically for the administration of those funds:

(a) Funds arising from an access agreement, which are lawfully owed to any party to that agreement, except for funds lawfully owed to the applicant who is

party to that agreement;

(b) funds arising from a benefit-sharing agreement, which are lawfully owed to any party to that agreement, except for funds lawfully owed to the holder of a commercial bioprospecting permit who is a party to that agreement;

(c) funds arising from a biotrade agreement, which are lawfully owed to a person giving access in terms of that agreement; and

(d) any other funds which the Minister, by agreement with the Minister of Finance, may deposit into that account.

(2) The Director-General is the accounting officer responsible for funds paid into the suspense bank account and for payment of funds from that account.

(3) All funds paid into the suspense bank account must be managed in accordance with the Public Finance Management Act.

(4) The Director-General must pay, from the suspense bank account, funds arising from an access agreement, benefit-sharing agreement or biotrade agreement, to any party who is lawfully owed funds in terms of any of those agreements, except to—

(a) an applicant in the case of an access agreement;

(b) the holder of a commercial bioprospecting permit; or

(c) any person who concluded a biotrade agreement with the Minister in terms of section 57.

CHAPTER 8

ISSUING OF PERMITS AND EMERGENCY INTERVENTIONS

Permits

60. (1) Any permit issued in terms of this Act, may be—

(a) issued for a specified period;

(b) issued subject to the conditions determined by the issuing authority in the permit;

(c) renewed for a specific period; or

(d) issued against the payment of any prescribed fees.

(2) A permit to exercise an existing right in terms of this Act may be refused if the conditions of a previously issued permit had not been adhered to.

(3) An issuing authority may defer a decision to issue a permit if the applicant is under investigation for the contravention or failure to comply with any provision of this Act, until such time that the investigation is concluded and—

(a) no prosecution in respect of that contravention or failure is instituted against the applicant concerned;

(b) the applicant concerned is acquitted or found not guilty, if a prosecution in respect of that contravention or failure has been instituted; or

(c) the applicant concerned has been convicted by a court of law of an offence in respect of that contravention or failure and the applicant has, in respect of the conviction, exhausted all the recognised legal proceedings pertaining to appeal or review.

Issuing authority

61. (1) The Minister is the issuing authority responsible for deciding an

application for a permit—

(a) for a specimen of a marine species;

(b) involving a specimen of a listed species, listed ecosystem or species managed in terms of section 41(1)—

(i) in a national protected area; or

(ii) applied for by an official, on behalf of—

(aa) a provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;

(bb) a national protected area;

(cc) the Institute; or

(dd) an organ of state in the national sphere of government;

(c) for the import, export, re-export or introduction from the sea, of a specimen of a species listed in terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora of 1973—

(i) originating from a national protected area; or

(ii) applied for by an official, on behalf of—

(aa) a provincial department or provincial organ of state responsible for the conservation of biodiversity in a province;

(bb) a national protected area;

(cc) the Institute; or

(dd) an organ of state in the national sphere of government;

(d) for a specimen of an alien species or a listed invasive species;

(e) in terms of Chapter 7; and

(f) for the export of any indigenous biological resources from the Republic for the purpose of bioprospecting.

(2) The MEC is the issuing authority responsible for deciding an

application for any permit not listed in subsection (1).

(3) The Minister and the MEC may, in writing, agree that any application for a permit or a type of permit—

(a) contemplated in subsection (1), may be decided by the MEC; or

(b) contemplated in subsection (2), may be decided by the Minister.

Risk assessments and expert evidence

62. Before issuing a permit, the issuing authority may, in writing, require the applicant to furnish it, at the applicant's expense, with an independent risk assessment or expert evidence as the issuing authority may determine.

Amendment, revocation and suspension of permits

63. (1) An issuing authority may amend, revoke or suspend a permit issued in terms of this Act, if—

(a) the permit-holder contravenes or fails to comply with a condition subject to which the permit was issued or any provision of this Act or other law governing the permitted activity;

(b) changes in circumstances require the amendment, revocation or suspension;

(c) it is necessary to meet the Republic's international obligations;

(d) the permit-holder has been issued with a final notice or directive in terms of the National Environmental Management Act or any specific environmental management Act;

(e) the applicant or permit-holder has been convicted of an offence in terms of this Act;

(f) the carrying out of the activity has a detrimental impact on the species or ecosystem; or

(g) the permit was issued as a result of a misleading or false representation by the applicant or a person acting on behalf of the applicant.

(2) An issuing authority must notify the permit-holder in writing of an intention to act in terms of subsection (1) and request the permit-holder to make written representations within 30 days from the date of being notified as to why the permit should not be amended, revoked or suspended.

(3) After the 30-day period in subsection (2) has expired, the issuing authority must consider any representations made by the permit-holder, and may—

(a) revoke the permit;

(b) suspend the permit for a period determined by the issuing authority;

(c) amend the terms or conditions of the permit; or

(d) decide not to amend, revoke or suspend the permit.

Emergency intervention

64. (1) The Minister may, by notice in the *Gazette*, declare an emergency intervention for—

(a) the control or eradication of an alien species or a listed invasive species, if that alien species or listed invasive species constitutes a significant threat to the environment;

(b) the protection or management of a listed species or listed ecosystem or any other species or ecosystem managed in terms of this Act, if that species or ecosystem is under or may be under significant threat from natural or human impacts or activities;

(c) any indigenous biological resource regulated by Chapter 7, where that resource is required for immediate research, distribution or use, or for the protection of human health or the environment; or

(d) the protection and management of any other species or ecosystem not mentioned in paragraphs *(a)*, *(b)* or *(c)*.

(2) A notice in terms of subsection (1) must—

(a) list the species, ecosystem or component of biodiversity to which the emergency intervention relates;

(b) provide a brief summary of the reasons for the intervention; and

(c) provide the details relating to the intervention.

(3) When publishing a notice in terms of subsection (1), the Minister must follow an appropriate consultation process having regard to the nature of the emergency, but does not have to comply with the process contemplated in section 61.

(4) An intervention may provide for, but is not limited to, the following:

(a) The suspension of all or any activity or authorisation, or any specified part of it;

(b) the restriction or prohibition of any activity in relation to any species, ecosystem or resource;

(c) the restriction of the number of persons in a particular area or areas of operation; or

(d) a declaration that an area is closed and may not be accessed by the public until such time as the circumstances giving rise to the intervention have been adequately resolved.

(5) The Minister may, by notice in the *Gazette*, amend, withdraw or

suspend an intervention issued in terms of subsection (1).

CHAPTER 9

GENERAL AND MISCELLANEOUS

Biodiversity officers

65. (1) The Minister or an MEC may appoint any member of the public who they deem fit as a biodiversity officer.

(2) The Minister or an MEC may—

(a) prescribe the responsibilities and duties of biodiversity officers;

(b) clearly define the responsibilities and duties of each biodiversity officer in their letter of appointment; and

(c) issue each biodiversity officer with an identity card that confirms their appointment.

Recognition of associations and organisations and establishment of fora

66. (1) The Minister may recognise any industrial body, association or organisation which, in the opinion of the Minister, is representative of any part of the biodiversity sector and may prescribe the application process, requirements and any other criteria.

(2) The Minister may establish fora to co-ordinate and assist with the management of any aspect of biodiversity.

(3) The Minister must consult the Institute before assigning a function to a forum that may fall within the functional area of the Institute.

Norms and standards

67. (1) The Minister may, after consultation with the relevant MEC, by notice in the *Gazette*—

(a) issue norms and standards for the achievement of any of the objectives of this Act, including for the—

(i) management and conservation of the Republic's biodiversity and its components;

(ii) restriction of activities which impact on biodiversity and its components; or

(iii) restriction of practices, actions, and activities that impact on the well-being of animals or populations of animals;

(b) set indicators to measure compliance with those norms and standards; and

(c) amend any notice issued in terms of paragraph *(a)* or *(b)*.

(2) Norms and standards may apply—

(a) nationwide;

(b) in a specific area only; or

(c) to a specific category of biodiversity only.

(3) Different norms and standards may be issued for—

(a) different areas; or

(b) different categories of biodiversity.

Public participation

68. (1) Before publishing or amending a notice in terms of this Act, the

Minister must follow an appropriate consultation process and consider any comments by the general public, relevant biodiversity stakeholders and affected organs of state.

(2) For purposes of subsection (1), the Minister must publish a notice—

(a) in the *Gazette* inviting members of the public to submit written representations or objections within a minimum period of 30 days from the date of that publication; and

(b) in at least one newspaper distributed nationally, or if the exercise of the power affects only a specific area, in at least one newspaper distributed in that area.

Exemptions

69. (1) The Minister may, in writing or by notice in the *Gazette*, exempt any person or group of persons or organ of state from a provision of this Act, provided that the exemption does not conflict with the objects of the Act.

(2) An exemption granted in terms of subsection (1) may—

(a) be subject to conditions;

(b) be subject to payment of a fee; and

(c) be amended or cancelled at any time by the Minister.

Regulations by Minister

70. (1) The Minister may make regulations relating to—

(a) any matter that may or must be prescribed in terms of this Act;

(b) any measures necessary for the management or well-being of an animal or

any species, ecosystem or other component of biodiversity managed in terms of this Act;

(c) the implementation of any international agreement regulating international trade in specimens of species and any other international agreement relating to biodiversity;

(d) the systems and requirements for the compulsory or voluntary registration of persons, institutions, facilities or operations;

(e) the composition, operating procedures and functions of the Scientific Authority including the making of non-detriment findings;

(f) the sustainable use of components of biodiversity, including—

(i) ensuring a duty of care towards all components of biodiversity;

(ii) limiting the number of permits;

(iii) qualifications or requirements necessary for the undertaking of a particular activity;

(iv) criteria for the equitable allocation of permits which enables and facilitates transformation;

(v) certification or labelling systems or schemes;

(vi) methods, gear, equipment, measure or devices;

(vii) quotas, bag limits, off-take limits or any other measure, restrictions or prohibitions;

(viii) the requirements for a permit for hunters, hunting facilities, or any other hunting operator or body involved in the hunting industry;

(ix) prohibitions, restrictions, or specific provisions for the taking of animals from the wild into captivity, and for their captive keeping, breeding and use;

(x) prohibitions, restrictions, or specific provisions for the export of

components of biodiversity ex situ;

(xi) to mitigate any risk of domestication of faunal components of biodiversity;

(xii) training requirements;

(xiii) a person or category of person who may not operate without a permit; or

(xiv) translocation;

(g) any industry sector, including, but not limited to, the hunting industry, game farms, aquaria, zoos, captive breeding, or rehabilitation facilities;

(h) the collection of samples for genetic analyses or other purposes;

(i) the marking of specimens;

(j) prohibitions, restrictions, methods or measures relating to an activity involving any species, ecosystem or other component of biodiversity managed in terms of this Act;

(k) the requirements for or circumstances in which a risk assessment in respect of any species, ecosystem or other component of biodiversity managed in terms of this Act, may be required;

(l) the form, content, criteria, procedures and evaluation of any risk assessment;

(m) the form, content, requirements and implementation of programmes or plans for the prevention, control or eradication of invasive species;

(n) prohibitions, restrictions, or specific provisions for the captive keeping, breeding or use of alien species;

(o) biosecurity, including, but not limited to—

(i) vectors and pathways;

(ii) restrictions on trade;

(iii) sale of immovable property;

(iv) procedures, requirements and processes for notification, management,

(v) control, eradication or clearance certificates for invasive species; and

(vi) the establishment of intergovernmental and stakeholder committees to advise and make recommendations on any aspect of biosecurity;

(p) any matter concerning bioprospecting, access and benefit-sharing, including, but not limited to—

(i) an application to approve a prior informed consultation and consent process in terms of section 52;

(ii) an application to approve an access agreement in terms of section 52;

(iii) an application for a discovery-phase bioprospecting permit in terms of section 53;

(iv) an application to approve a benefit-sharing agreement in terms of section 54;

(v) an application for a commercial bioprospecting permit in terms of section 55;

(vi) the process to conclude and the content of, a biotrade agreement in terms of section 56;

(vii) the financial benefit payable in terms of a biotrade agreement to the person giving access in terms of section 56 read with section 59;

(x) an application for, and the form and content of, a non-commercial research permit in terms of section 58(2); and

(xi) funds payable from and the administration of, the suspense bank account referred to in section 59(1);

(q) the procedure to be followed for anything in terms of this Act, including—

(i) fees for the lodging and consideration of applications and issuance of permits, exemptions or registrations;

(ii) the conditions with which applicants must comply before or after the lodging of applications;

(iii) the powers of issuing authorities when considering and deciding applications;

(iv) the factors that must be taken into account when deciding applications;

(v) the form and content of permits, exemptions or registrations;

(vi) timeframes, measures, criteria, processes, geographical areas of application, categories and types of permits and exemptions, and any other matter relating to the issuing, renewal, amendment, revocation or suspension of permits, exemptions or registrations;

(vii) the period of validity of a permit, exemption or registration;

(viii) the circumstances in which applications must be refused or may be approved and general or compulsory conditions;

(ix) the giving of security in respect of any obligation that may arise from a permit or exemption and the form of that security;

(x) the transferability of a permit, exemption or a registration certificate;

(xi) the duties and reporting requirements of issuing authorities, permit holders, exemption holders and registration holders; or

(xii) the type and format of data to be submitted to the issuing authority or other organs of state for the purposes of monitoring and the implementation of this Act;

(r) incentives or disincentives to assist with biodiversity conservation;

(s) self-administration within the biodiversity sector;

(t) the national co-ordination of activities in terms of this Act or matters of national security which affect biodiversity or to ensure compliance with the Republic's international obligations in terms of this Act;

(u) any other matter that may be necessary to facilitate the implementation of this Act; and

(v) any matter that is necessary or expedient to achieve the objectives of the Act.

(2) The Minister may only prescribe fees by agreement with the Minister of Finance.

Offences

71. (1) A person is guilty of an offence if that person contravenes or fails to comply with a provision of section 45(1), 46(1), 49(4), 53(1)*(a)*, 53(1)*(b)*, 53(1)*(c)*, 53(3), 54(2), 55(1)*(a)*, 55(1)*(b)*, 55(1)*(c)*, 56(1), 57 or 58.

(2) A person who is the holder of a permit or exemption is guilty of an offence if that person contravenes or fails to comply with a condition or direction contained in that permit or exemption.

(3) A person is guilty of an offence if that person—

(a) fraudulently alters any permit or exemption;

(b) fabricates or forges any document for the purpose of passing it as a permit or exemption;

(c) passes, uses, alters or has in their possession any altered or false document purporting to be a permit or exemption;

(d) knowingly makes a false statement or report for the purpose of obtaining a permit or exemption;

(e) fails to comply with a provision or restriction of an emergency intervention in terms of section 64(4);

(f) fails to comply with a norm or standard issued in terms of section 67(1)*(a)*;

(g) fails to comply with a regulation, notice or any other instrument issued in

terms of this Act; or

(h) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of subsections (1) or (2) or paragraphs *(a)*, *(b)*, *(c)*, *(d)*, *(e)*, *(f)*, or *(g)*.

Penalties

72. (1) A person convicted of an offence in terms of section 71(1), (2), or (3) is liable to a fine not exceeding R10 million, or imprisonment for a period not exceeding 10 years, or to both the fine and the imprisonment.

(2) If a person is convicted of an offence involving a specimen of a listed species, listed ecosystem, a species managed in terms of section 41(1) or 45(3), or an alien species or for undertaking the commercial exploitation of an indigenous biological resource or indigenous knowledge, a fine may be determined, either in terms of subsection (1) or equal to three times the commercial value of the specimen or activity in respect of which the offence was committed, whichever is the greater.

(3) If a person is convicted of an offence involving a specimen of a listed invasive or extra-limital species, a fine may be determined, either in terms of subsection (1) or equal to the estimated cost associated with the eradication or control of the specimen in respect of which the offence was committed or both.

(4) A person who is convicted of an offence in terms of section 71(1), (2) or (3)—

(a) as a member of a group of persons, a syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy, involving a specimen of a listed species;

(b) where the offence involves a priority species, priority specimen, or priority ecosystem; or

(c) who is an employee of the State,

is liable to—

(i) a fine not exceeding R20 million, or to a fine equal to six times the commercial value of the specimen or activity in respect of which the offence was committed, whichever is the greater;

(ii) imprisonment for a period not exceeding 20 years; or

(iii) to both the fine and the imprisonment.

Savings and transitional arrangements

73. (1) Anything done in terms of the Biodiversity Act, which may or must be done in terms of this Act, must be regarded as having been done in terms of this Act.

(2) Any plan, strategy, framework or programme adopted, approved or published in terms of the Biodiversity Act, must be regarded as one adopted, approved or published in terms of this Act, and in the case of any bioregional plan adopted in terms of that Act, it must be regarded as a spatial biodiversity plan in terms of this Act.

(3) The National Zoological Gardens known as the Pretoria Zoo is deemed to be a national zoological garden declared in terms of section 32(1)*(b)* of this Act.

(4) Any national botanical garden which has been declared as such in terms of the Biodiversity Act, and any other national botanical garden which existed prior to that Act, and which exists when this Act takes effect, must be

regarded as a national botanical garden declared as such in terms of this Act.

(5) Any regulation made, or notice published in terms of the Biodiversity Act, which exists when this Act takes effect, must be regarded as having been prescribed or published in terms of this Act and remains valid until it is repealed or amended in terms of this Act.

(6) Any permit, exemption, registration or other authorisation granted in terms of the Biodiversity Act, which was valid immediately before the commencement of this Act, remains valid and must be regarded as having been issued or done in terms of this Act, until it is revoked, cancelled or has expired.

(7) Any application for a permit, exemption, registration or other authorisation submitted in terms of the Biodiversity Act, which has not been finalised when this Act takes effect, must, despite the repeal of the Biodiversity Act by section 76 of this Act, be dispensed with in terms of the Biodiversity Act, and a decision taken in terms of that Act must be deemed as a decision taken in terms of this Act.

(8) The Board as constituted in terms of section 13 of the Biodiversity Act, and which exists at the time this Act comes into effect, continues to exist as the Board, as if constituted and appointed in terms of this Act.

Repeal of legislation

74. The National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), and the Sea Birds and Seals Protection Act, 1973 (Act No. 46 of 1973) are repealed by this Act.

Short title and commencement

75. This Act is called the National Environmental Management: Biodiversity Act, 2024 and takes effect on a date determined by the President by proclamation in the *Gazette*.

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