

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NOTICE 731 OF 2016

NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT, 2003
(ACT NO. 57 OF 2003)NORMS AND STANDARDS FOR THE INCLUSION OF PRIVATE NATURE RESERVE IN
THE REGISTER OF PROTECTED AREAS OF SOUTH AFRICA

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to prescribe norms and standards for the inclusion of private nature reserves in the register of protected areas of South Africa, under section 11 of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), set out in the Schedule hereto.

Members of the public are invited to submit to the Minister, within 30(thirty) days after the publication of this notice in the *Gazette*, written representations or objections to the following addresses:

By post to: The Director-General
Department of Environmental Affairs
Attention: Dr G.I Cowan
Private Bag X447
Pretoria
0001

By hand at: Environmental House, 473 Steve Biko Street Arcadia, Pretoria.

By e-mail to: GCowan@environment.gov.za.

Any enquiries in connection with the draft norms and standards can be directed to Dr G.I Cowan at 012 399 9550.

Comments received after the closing date may not be considered.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

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CHAPTER 1

INTERPRETATION, PURPOSE AND APPLICATION

1. Definitions

Any word or expression to which a meaning has been assigned in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), has the meaning so assigned and, unless the context otherwise indicates

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

“Biodiversity Stewardship programme” means a programme that focuses on an approach to enter into agreements with private and communal landowners to protect and manage land in biodiversity priority areas, and led by conservation authorities.

“extensive wildlife system” means a system practiced on any piece of land which involves, and is large enough and suitable for, the management of self-sustaining wildlife populations in a natural environment with minimal human intervention;

“Income Tax Act” means the Income Tax Act, 1962 (Act No. 58 of 1962);

“Municipal Property Rates Act” means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

“private nature reserve” means an area—

- a) which is in communal ownership or privately owned by a single land owner or multiple land owners,
- b) that has been declared, or regarded as having been declared, in terms of section 12 and 23(5) of the Act as a nature reserve; and
- c) that is designated as a private nature reserve in terms of section 25 of the Act.

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

“the Register” means the Register of Protected Areas established in terms of section 10 of the Act.

2. Legislative framework

- (1) The Minister may, in terms of section 11 of the Act, prescribe norms and standards for the achievement of any of the objectives of the Act, including the management and

development of protected areas as well as indicators to measure compliance with those norms and standards.

- (2) The Minister is required, in terms of section 10 of the Act, to maintain the Register that—
 - (a) contains a list of all protected areas,
 - (b) indicate the kind of protected area in each case, and
 - (c) contains any other information determined by the Minister.
- (3) The MEC must, in terms of section 27 of the Act, promptly forward to the Minister, a copy of each notice of declaration published under section 23, 24 or 25 of the Act.
- (4) The Register is subject to the requirements of the South African Statistical Quality Assessment Framework.
- (5) The Department is registered as the custodian of the South African Protected Areas Database by the Committee for Spatial Information, mandated in terms of the Spatial Data Infrastructure Act, 2003 (Act No. 54 of 2003).
- (6) The Register is the only legally recognised database on protected areas for South Africa.
- (7) The inclusion of private nature reserve into this database is integral to the maintenance of the Register.
- (8) The inclusion of private nature reserve in the Register is in line with the objective of the Act, contemplated in section 2(d) of the Act, to provide for a diverse and representative network of protected areas on state land, private land, communal land and marine waters.

3. Guiding principles

- (1) The purposes of areas declared as protected areas are set out in section 17 of the Act. This provides the guiding principles for these norms and standards, namely –
 - (a) to protect ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes in a system of protected areas;
 - (b) to preserve the ecological integrity of those areas;
 - (c) to conserve biodiversity in those areas;
 - (d) to protect areas representative of all ecosystems, habitats and species naturally occurring in South Africa;

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- (e) to protect South Africa's threatened or rare species;
 - (f) to protect an area which is vulnerable or ecologically sensitive;
 - (g) to assist in ensuring the sustained supply of environmental goods and services;
 - (h) to provide for the sustainable use of natural and biological resources;
 - (i) to create or augment destinations for nature-based tourism;
 - (j) to manage the interrelationship between natural environmental biodiversity, human settlement and economic development;
 - (k) generally, to contribute to human, social, cultural, spiritual and economic development; or
 - (l) to rehabilitate and restore degraded ecosystems and promote the recovery of endangered and vulnerable species
- (2) The rights and obligations of landowner of private nature reserve includes—
- (a) the rights of private landowners to their property which is protected under section 25 of the Constitution of the Republic of South Africa;
 - (b) the right of landowners to the lawful use of existing private property; the right to a safe, undisturbed and quiet enjoyment of landowners property, which may not be restricted, deprived, unless such rights threaten the values under which the site was declared as a private nature reserve;
 - (c) the obligation to prevent any actions which would compromise the integrity of the private nature reserve;
 - (d) the obligation to ensure that reasonable measures are taken to prevent environmental degradation from occurring, continuing or recurring on their property;
 - (e) the obligation to ensure that any developmental activity be subject to the relevant legislative policies and regulations in accordance with the management plan;
 - (f) the responsibility landowners have for the maintenance of developmental activities on their property in the long term;
 - (g) the obligation landowners have to cooperate with the relevant organ of state in an open and transparent manner; and

- (h) all affected parties have an obligation to cooperate with each other in good faith and mutual understanding and seek consensus to ensure the private nature reserve is declared and is maintained accordingly;
- (3) The degradation or significant negative changes to the value or integrity of the area declared as a private nature reserve will lead to the withdrawal of a notice of declaration of the particular private nature reserve.
- (4) Where there is degradation, significant negative changes to the attributes of a protected area, or non-compliance with the purposes of the declaration of the protected area contemplated in section 17 of the Act, the Minister or the MEC may withdraw the status of the private nature reserve in terms of section 24(1) or (2) of the Act.

4. Purpose of the norms and standards

The purpose of these norms and standards is to –

- (a) verify the existence of private nature reserves in practices, not only in name;
- (b) provide for the recognition of the private nature reserves as bona fide protected areas in terms of the Act;
- (c) secure the continued integrity of private nature reserves as natural areas supporting South Africa's biological diversity and its landscapes through their management;
- (d) provide for norms for the recognition of private nature reserves into the National Protected Areas Register and into the Protected Areas Database; and
- (e) make the private nature reserves eligible for tax relief in terms of section 17 of the Municipal Property Rates Act and or section 18A of the Income Tax Act as determined in the Biodiversity Stewardship programme.

5. Application of these norms and standards

These norms and standards apply to–

- (a) land regarded as a nature reserve in terms of section 12 of the Act, or having been declared as such in terms of section 23(5); or
- (b) all private land declared as a nature reserve in terms of section 23(3) of the Act.

CHAPTER 2

THE PROCESS TO VERIFY THE EXISTENCE OF A PRIVATE NATURE RESERVE

6. The verification process

- (1) A nature reserve declared in terms of section 23 of the Act may be designated as a private nature reserve.
- (2) A nature reserve may be designated as a private nature reserve by the Minister or the MEC if—
 - (a) proof of declaration in terms of the Act is provided, and
 - (b) there is compliance with the provisions of the Act.

7. Proof of declaration

- (1) A copy of a notice of declaration of a nature reserve in respect of private land published in the *Gazette* by the MEC must be submitted to the Minister as contemplated in section 27 of the Act. This shall include—
 - (a) gazette number, and the date of publication;
 - (b) empowering provision of the Act, in terms of which the notice of declaration is published;
 - (c) name of the area;
 - (d) description of the area;
 - (e) survey diagramme; and
 - (f) endorsed title deed.

8. Compliance with the requirements of the Act

- (1) A copy of a written agreement between the private landowner and the Minister or the MEC, which is required in terms of section 23(3) of the Act, must be submitted to the Minister.
- (2) The Minister or the MEC has assigned the management authority for the management of private nature reserve, as contemplated in section 38(3) of the Act.

- (3) The management authority has submitted a management plan to the Minister or the MEC for approval, in terms of section 39 of the Act.

CHAPTER 3

DESIGNATION OF PRIVATE NATURE RESERVE

9. Minister to designate

The Minister may designate all nature reserve in private ownership as private nature reserve in terms of section 25 of the Act, for the purpose of inclusion into the Register, and the Protected Areas Database.

10. Norms for the designation of private nature reserve

- (1) A private nature reserve must comply with the requirements of section 23(2) of the Act.
- (2) The MEC must have declared the nature reserve and the process to verify its existence must be undertaken as set out in Chapter 2 of these norms and standards.

(3) Ownership

- (a) A private nature reserve must be privately owned, either by a single owner, a juristic person or jointly by a group of owners (such as a company or a community);
- (b) A private nature reserve may consist of a single property or several properties managed according to a single management plan;
- (c) In a case where a private nature reserve is an entity constituted from different properties with associated landowners a Constitution will be a requirement;
- (d) In the case of community owned land, a trust is to be established.

(4) Criteria for designation

A nature reserve may only be considered for designation as a private nature reserve if–

- (a) the area promotes and preserves specific ecological processes, natural systems, natural beauty, or indigenous wildlife species;
- (b) the area protects biological diversity in general;

- (c) the area is developed and managed in the interest of conservation, education and sustained resource utilization; or
 - (d) the area is considered an extensive wildlife system.
- (5) Size of a private nature reserve
 - (a) there is no prescribed minimum size for a private nature reserve, however, the size of the area should be in accordance with the purpose and objectives of the area.
 - (b) the area should be a contiguous and not fragmented into separate isolated areas.
- (6) Land claims
 - (a) No designation of a private nature reserve on land where a land claims has been *gazetted* will be considered until the land claim has been resolved.
 - (b) All nature reserve considered for designation as a private nature reserve must be forwarded to the Land Claims Commissioner for comment on any possible registered land claims.

CHAPTER 4

THE MANAGEMENT OF A PRIVATE NATURE RESERVE

11. Ecological integrity maintained

- (1) A private nature reserve must be managed for the purpose for which it was declared as required in terms of section 40(1) (a) of the Act.
- (2) Review to be done by remote sensing using the latest Land Cover Database or platforms such as Google earth to ensure that
 - (a) no wide scale removal or destruction of habitat has taken place;
 - (b) no crops have been planted replacing natural habitat; or
 - (c) housing and tourism based development is restricted to less than 0, 5% of the area of the reserve.

- (3) The provincial organ of state responsible for nature conservation shall conduct site visit to
- (a) verify the remote sensing assessment;
 - (b) verify the implementation of the management plan as submitted, particularly the programme to remove alien and invasive species, in terms of section 41 of the Act and section 76 of the Biodiversity Act;
 - (c) ensure that no extra species are introduced;
 - (d) ensure that the nature reserve is not used for stud breeding especially in feedlots or controlled camps of indigenous species and of colour variants of indigenous species; and
 - (e) ensure that there is minimal management interference, especially with regard to supplementary feeding that should be seen as the exception, not the norm.

12. Subdivision of land

The management authority must ensure that

- (a) no subdivision of land is permitted in a private nature reserve;
- (b) any area subdivided will be excised from the nature reserve; and
- (c) share-blocks are shown in the management plan and their development footprint is restricted.

13. Adequate control

(1) Access

Access to a private nature reserve will be controlled by the assigned management authority.

(2) Fencing

Suitable fences or other appropriate structures are erected to demarcate the boundaries of the area. The type of fencing used on the perimeter of the area or within the area must

- (a) be adequate to prevent a wild animal from escaping under normal circumstances; and

- (b) where required be adequate for the purpose and objectives of the area.
- (3) Indigenous species
 - (a) only species indigenous to the area may be introduced to a private nature reserve.
 - (b) strategies to eradicate alien and invasive species must be addressed in the management plan.
- (4) Utilization of wildlife

All consumptive and non-consumptive uses of biodiversity on a private nature reserve should be in line with scientifically based conservation management objectives and practices, as outlined in the management plan of the area.
- (5) Management responsibility
 - (a) the management authority of a private nature reserve is responsible for the management, control, and maintenance of the area.
 - (b) all the above responsibilities of the management in subparagraph (a), forms part of the management plan for a private nature reserve and is the responsibility of land owner working in cooperation with state and within the limits of the law.

CHAPTER 4

REPORTING

14. Management authorities

The management authority of a private nature reserve is responsible for the submission of all plans and reports required in terms of the Act and the Biodiversity Act.

15. Provincial nature conservation authorities

The provincial nature conservation authorities must submit a list of verified private nature reserve to the Minister one month after the end of each financial year.

16. Inclusion of private nature reserve into the Register

The Minister must include a list of all verified private nature reserve in the database of protected areas and the Register.

17. Non-compliance with the norms and standards

Any known private nature reserve that fails to comply with these norms and standards may be withdrawn by the MEC in terms of section 24(2), and will be removed from the Register but kept on the list of conservation areas maintained by the Department until otherwise determined.