

NATURE AND ENVIRONMENTAL CONSERVATION ORDINANCE

NO. 19 OF 1974

[PROMULGATED ON THE 21 FEBRUARY, 1975 –

English text signed by the State President.]

GENERAL NOTE

In terms of Proclamation No. 108 of 17 June, 1994, the administration of Ordinance No. 19 of 1974 has been assigned to this Province

ORDINANCE

To consolidate and amend the laws relating to nature and environmental conservation and to provide for matters incidental thereto.

BE IT ORDAINED by the Provincial Council of the Province of the Cape of Good Hope as follows:—

Division of Ordinance.—This ordinance is divided as follows:—

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|-------------|---|
| Chapter I | Definitions and Establishment of Department of Nature and Environmental Conservation and Advisory Committee (sections 2—5). |
| Chapter II | Nature Reserves (sections 6—15). |
| Chapter III | Miscellaneous Conservation Measures (sections 16—25). |
| Chapter IV | Protection of Wild Animals other than Fish (sections 25A-47). |
| Chapter IVA | Protection of Rhinoceroses (section 47A). (Item added by par. 1 Proc. 39 of 1991) |
| Chapter V | Protection of Fish in Inland Waters (sections 48—61A). (Substituted by s. 1 of Ord. 15 of 1983) |
| Chapter VI | Protection of Flora (sections 62—72). |
| Chapter VIA | Professional Hunters and Hunting Contractors (section 72A-72E). Item added by s 1 of Ord. 15 of 1983) |
| Chapter VII | General and Supplementary (sections 73—90). |
| Schedule 1 | Endangered Wild Animals. |
| Schedule 2 | Protected Wild Animals. |
| Schedule 3 | Endangered Flora. |
| Schedule 4 | Protected Flora. |
| Schedule 5 | Noxious Aquatic Growths. |
| Schedule 6 | Ordinances Repealed. |

[S. 1 amended by s. 1 of Ord. 15 of 1983 and by para. 1 of Proc. 39 of 1991.]

In terms of section 1 (1) of Ordinance No. 4 of 1978, the Nature Conservation Ordinance, 1974 (hereinafter referred to as the principal ordinance), is hereby amended by the substitution for the words “Nature Conservation” or “nature conservation”, wherever they occur and irrespective of whether or not any such words are used in combination with any other word, of the words “Nature and Environmental Conservation” or “nature and environmental conservation” respectively; and in terms of section 1 (2), where the words “Nature Conservation” or “nature conservation” are used in any other ordinance or in any proclamation, notice, regulation, certificate, licence, permit, permission, written authority or exemption issued, made, promulgated, granted or given in terms of the principal ordinance before or after the commencement of this ordinance and irrespective of whether or not any such words are used in combination with any other word, the words “Nature and Environmental Conservation” or “nature and environmental conservation”, as the case may be, are hereby deemed to have been substituted therefor.

CHAPTER I

DEFINITIONS AND ESTABLISHMENT OF DEPARTMENT OF NATURE CONSERVATION AND ADVISORY COMMITTEE

Definitions

2.(l) in this ordinance, unless inconsistent with the context

- (i) **“adequately enclosed”** in relation to land means enclosed by—
 - (a) any fence, wall or obstruction of any kind whatsoever forming an enclosure from which any wild animal of a species specified in a certificate of adequate enclosure issued in terms of section 35 (4) (b) is unable to escape without breaking it;
 - (b) any natural boundary through or over which any wild animal of a species so specified will under normal circumstances not pass, or
 - (c) any combination of fences, walls, obstructions or boundaries referred to in paragraphs (a) and (b) so that any wild animal of a species so specified cannot escape from such land; (lxvii)
- (ii) **“Administration”** means the Provincial Administration of the Province of the Cape of Good Hope; (i)
- (iii) **“angling”** means the catching of fish in inland waters by means of a line and hook, whether or not any rod, bait or lure is used, or by means of a set line, and “angle” has a corresponding meaning; (xxx)
- (iv) **“angling season”** means the period in any year determined by proclamation issued in terms of section 78 (b); (xxxii)
- (v) **“aquatic growth”** means any vegetation which grows or is able to grow in inland waters; (lxxi)
- (vi) **“artificial lure or spoon”** means a device which by its simulation of life or by its appearance or colour is designed or likely to delude, entice or attract a fish into seizing such device; (xli)

E 3

- (vii) “**biltong**” means the meat of any wild animal which has been or is being dried, smoked, salted, cured or treated in any other manner for the purpose of preservation; (vii)
- (viii) “**biltong sausage**” means sausage, whether dried or not, made wholly or partly of the meat of any wild animal; (viii)
- (ix) “**black bass**” means any fish of the genus *Micropterus*; (Ixiii)
- (x) “**bluegill sun-fish**” means any fish of the species *Lepomis macrochirus*; (x)
- (xi) “**buy**” includes barter or exchange; (xxxix)
- (xii) “**captivity**” in relation to any wild animal means the keeping within an enclosure by means of any fence, wall or obstruction of any kind whatsoever in such a way that such wild animal is unable to maintain itself by natural means; (xxvi)
- (xiii) “**capture**” in relation to any wild animal means by any means whatsoever to capture, catch or take or to attempt or to pursue with intent to capture, catch or take; (xxv)
- (xiv) “**carcass**” in relation to any wild animal means the whole or any part of the meat (whether dried, smoked, salted, cured or treated in any manner), the head, tooth, horns, shell, scale, tusks, bones, feathers, tail, claw, paw, hoof, skin, hide, hair, viscera or any part whatsoever of the carcass, and includes the egg; (xxxvii)
- (xv) “**carp**” means any fish of the carp family not indigenous to the Republic and includes carp (*Cyprinus carpio*), the atavistic or wild form of the gold-fish (*Carassius auratus*) and the crucian carp (*Carassius carassius*) but does not include domestic gold-fish; (xxxviii)
- (xvi) “**cash-net**” means a net (also known as an umbrella-net or throw-net) with or without weights on the perimeter thereof which is cast on water so that it opens and sinks in the water; (xxviii)
- (xvii) “**catch**” in relation to fish includes any means or method of taking (whether alive or dead), injuring, immobilizing or killing or attempting to take, injure, immobilize or kill, or to pursue or wilfully disturb; (I xv)
- (xviii) “**certificate**” means a certificate issued under this ordinance; (lvii)
- (xix) “**crab-net**” means a net (also known as a ring-net) made of wire or any other material of which the opening is attached to a frame, whether or not any bait or lure is placed in such net, but does not include a landing-net; (xl)
- (xixA) “**cultivate**” means the artificial reproduction of flora in any manner whatsoever; (xliA)
[Definition of “cultivate” inserted by s. 1 (b) of Ord. 26 of 1986.]
- (xx) “**daily bag limit**” means the number of any species of protected wild animal or of fish determined by proclamation issued in terms of section 79 (a); (xi)
- (xxi) “**Department**” means the Department of Nature and Environmental Conservation established by section 3; (xii)

E 4

- (xxii) **“Director”** means the Director of Nature and Environmental Conservation referred to in section 3; (xiii)
- (xxiii) **“division”** means the area under the jurisdiction of a divisional council; (ii)
- (xxiv) **“endangered flora”** means flora of any species which is in danger of extinction and is specified in Schedule 3 or Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973; provided that it shall not include flora of any species specified in such Appendix and Schedule 4; (iii)
[Definition of “endangered flora” substituted by s. 2 (a) of Ord. 15 of 1983.]
- (xxv) **“endangered wild animal”** means a wild animal of any species which is in danger of extinction and is specified in Schedule 1 or Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973; provided that it shall not include a wild animal of any species specified in such Appendix and Schedule 2; (iv)
[Definition of “endangered wild animal” substituted by s. 2 (b) of Ord. 15 of 1983.]
- (xxxvi) **“fauna”** means wild animal; (xvii)
[Definition of “fauna” substituted by s. 2 (c) of Ord. 15 of 1983.]
- (xxvii) **“fire-arm”** includes an air-gun having a barrel of a calibre of not less than five comma six millimetres; (lxix)
- (xxviii) **“flora”** means endangered flora, protected flora or indigenous unprotected flora and includes the whole or any part of the plant, whether dead or dried; (xviii)
- (xxviiiA) **“full-time employee”** means an employee who is employed full-time on a monthly basis and is in receipt of a salary or wage which is in accordance with local tariffs for the kind of work done by him; (lxviiA)
[Definition of “full-time employee” inserted by s. 2 (d) of Ord. 15 of 1983.]
- (xxix) **“fyke-net”** means a device made of rings or hoops over which a net, wire or any other material has been spread or which is made of wire only and which has one or more funnel-shaped openings and includes anything which, whether attached to such device or not, is used to guide fish to any funnel-shaped opening in such device; (xxi)
- (xxx) **“honorary nature and environmental conservation officer”** means an honorary nature and environmental conservation officer appointed in terms of section 22; (xv)
- (xxxi) **“hunt”** in relation to any wild animal means by any means whatsoever to hunt or search for, to kill, capture or attempt to kill or capture, or to pursue, follow or drive with intent to kill or capture, or to shoot at, poison, lie in wait for or wilfully disturb; (xxxv)
- (xxxii) **“hunting season”** means the period in any year determined by proclamation issued in terms of section 78 (a); (xxxvi)

- (xxxiii) “**indigenous flora**” means any flower, plant, shrub or tree or part thereof indigenous to the Republic or the territory of South West Africa, whether or not it is or has been cultivated and whether or not it is no longer growing in a free state of nature but does not include any plant, shrub or tree which is a noxious weed in terms of any law; (xxxiii)
- (xxxiv) “**indigenous unprotected flora**” means any species of indigenous flora not specified in Schedule 3 or 4; (xxxiv)
- (xxxv) “**inland waters**” means all waters which do not permanently or at any time during the year form part of the sea and includes any tidal river other than a tidal river in respect of which a notice issued under section 23 (1) (b) of the Sea Fisheries Act, 1973 (Act 58 of 1973), is in force; (ix)
- (xxxvi) “**landing net**” means a net attached to a frame in such manner as to leave an opening not exceeding six hundred and ten millimetres measured in a straight line between any two points on the perimeter of the frame and which is used only for lifting fish caught by angling out of the water; (lix)
- (xxxvii) “**licence**” means a licence issued under this ordinance; (xlii)
- (xxxviii) “**local authority**” means any institution or body contemplated by section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961); (li)
- (xxxix) “**local nature reserve**” means a local nature reserve established under section 7; (l)
- (xl) “**nature and environmental conservation**” means the preservation of fauna and flora; (xliii)
- (xli) “**nature and environmental conservation officer**” means a nature and environmental conservation officer appointed in terms of section 20; (xliv)
- (xlii) “**nature and environmental conservation ranger**” means a nature and environmental conservation ranger appointed in terms of section 23; (xlv)
- (xliii) “**net**” means a fyke-net, cast-net, crab-net, landing-net, staked net or trek-net; (xlvi)
- (xliv) “**non-spinning artificial fly**” means a hook with one point and one barb to which matter not edible by fish is attached and which is constructed so as not to rotate or spin round when attached to a line and drawn through the water and to which no appliance is affixed which is capable of rotating or spinning round; (xlvii)
- (xlv) “**noxious aquatic growth**” means any species of aquatic growth specified in Schedule 5; (lviii)
- (xlv) “**owner**” means—
- (a) in relation to land—
- (i) the person in whom is vested the legal title thereto;

- (ii) where the legal title thereto is vested in an association of persons, whether corporate or unincorporate, the person designated in writing as the owner thereof by such association;
 - (iii) in the case of land under the control or management of a local authority, the local authority concerned;
 - (iv) in the case of State land not under the control or management of a local authority, the Minister of the Department of State or the Administrator having control or management thereof or any officer designated by such Minister or Administrator for the purpose;
 - (v) in the case of land not occupied by the owner as contemplated by subparagraph (i), the person who is in actual occupation of the land, who exercises general control over such land and who has been authorised in writing by the owner as contemplated by the said subparagraph to exercise the rights conferred on an owner of land by this ordinance;
 - (vi) where the owner as contemplated by subparagraph (i), (ii) or (v) is dead or insolvent or has assigned his estate for the benefit of his creditors or has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such land is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, and
- (b) in relation to inland waters, the owner as contemplated by paragraph (a) of the land on which the waters concerned are situated or which abuts on such waters; (xiv)
- (xlvii) **“permit”** means a permit issued under this ordinance; (xlix)
- (xlviii) **“pick”** includes cut, chop off, take, gather, pluck, uproot, break, damage or destroy; (lii)
- (xlix) **“poison”** means any poison, preparation or chemical substance used to catch, immobilize, sterilize, kill or physically harm a wild animal; (xxvii)
- (l) **“prescribed”** means prescribed by regulation; (lxviii))
- (li) **“privately owned inland waters”** means any dam, reservoir, vlei or other inland waters completely surrounded by land owned by one owner; (liii)
- (liii) **“private nature reserve”** means a private nature reserve established in terms of section 12; (liv)
- (liii) **“problem wild animal”** means any animal declared to be a problem wild animal in terms of section 79 (d); (lv)
- (liv) **“protected flora”** means any species of flora specified in Schedule 4 or Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973; provided that it

shall not include any species of flora specified in such Appendix and Schedule 3; (v)

[Definition of “protected flora” substituted by s. 2 (e) of Ord. 15 of 1983.]

- (lv) **“protected wild animal”** means any species of wild animal specified in Schedule 2 or Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973; provided that it shall not include any species of wild animal specified in such Appendix and Schedule 1; (vi)

[Definition of “protected wild animal” substituted by s. 2 (f) of Ord. 15 of 1983.]

- (lvi) **“provincial nature reserve”** means a provincial nature reserve established in terms of section 6 (i); (lvi)
- (lvii) **“public road”** means a public road as defined in section 1 of the Road Traffic Ordinance, 1966 (Ordinance 21 of 1966); (xlvi)
- (lvii) **“registered flora grower”** means a person who has been registered as a flora grower and holds a licence issued to him in terms of section 65; (xxii)
- (lix) **“registered flora seller”** means a person who has been registered as a flora seller and holds a licence issued to him in terms of section 65; (xiii)
- (lx) **“relative”** in relation to the owner of any land means the spouse, parent, step-parent, adoptive parent, son-in-law, child, step-child, adopted child, brother, sister or grandchild of such owner provided that in relation to an owner of land which is an unincorporate association of persons, “relative” means the relative as hereinbefore defined of every member of such association; (xvi)
- (lxi) **“sell”** includes hawk, peddle, barter or exchange or offer, advertise, expose or have in possession for the purpose of sale, hawking, peddling, bartering or exchanging; (lxvi)
- (lxii) **“set line”** means a line and hook with or without any bait or lure which, when used for catching fish, is not manipulated directly or indirectly by any person but does not include a line and hook attached to a reel and rod lying loose on or fixed into the ground; (lxi)
- (lxiii) **“snatching”** means the catching of fish by the jerking of a hook in water with the intention of impaling fish thereon; (xxix)
- (lxiv) **“staked net”** means a net (also known as a set net, gill-net or drift-net), with or without weights or floats, which is set upright in water with the intention of causing fish to become caught or entangled therein, whether or not such net drifts or is attached to anything; (lx)
- (lxv) **“this ordinance”** includes any regulation, proclamation or notice made or issued thereunder; (xxxii)
- (lxvi) **“tidal waters”** means that part of any inland waters which, owing to the influence of the sea, becomes saline at any time or the level of which rises at any time owing to the influence of the sea; (xxiv)

- (lxvii) **“trap”** means any trap, springtrap, snare, gin, cage, net, pitfall or birdlime and any other device or method whatsoever which can be used or adapted for the capture of wild animals; (lxii)
- (lxviii) **“trek-net”** means a net (also known as a seine, bait seine, drag-net or bait trek-net), with or without weights or floats, which is moved through water in an upright position with the intention of catching fish; (lxiv)
- (lxix) **“trout”** means any fish of the genus *Salmo* or the genus *Salvelinus*; (xix)
- (lxx) **“trout area”** [Definition of “trout area” deleted by s. 1 (a) of Ord. 26 of 1986.]
- (lxxi) **“waters”** includes any river, stream, creek, lake, vlei, pan, lagoon, dam, reservoir, furrow or pond, whether the water therein is fresh or saline, and includes the foreshore and bank thereof and any part of such waters;
- (lxxxii) **“weapon”** means—
- (a) a fire-arm having a barrel exceeding one hundred millimetres in length and includes ammunition for any such fire-arm, or
- (b) any other instrument which is capable of propelling a projectile or which can itself be propelled or used in such a way that a wild animal may be killed, injured or immobilized thereby,
- and includes a spear, assegai, bow-and-arrow, axe, bush-knife, knife or similar object and any narcotic whatsoever, and (lxx)
- (lxxxiii) **“wild animal”** means any live vertebrate or invertebrate animal (the egg or spawn of any such animal but excluding any ostrich used for farming purposes and the egg thereof) belonging to a non-domestic species and includes any such animal which is kept or has been born in captivity. (lxxxiii)
- [Definition of “wild animal” substituted by s. 2 (g) of Ord. 15 of 1983.]

Establishment of Department of Nature and Environmental Conservation.

- 3.(1) There shall be a department of the Administration to be known as the Department of Nature and Environmental Conservation which shall be under the control of an officer styled the Director of Nature and Environmental Conservation and who shall, subject to the laws governing the Public Service of the Republic, be appointed by the Administrator.
- (2) The Director shall as soon as possible after the end of each year prepare and submit to the Administrator a report on the activities of the Department during the previous year and may in such report make such comments or recommendations relating to the Department or the administration thereof or to nature and environmental conservation as he may consider necessary or desirable.
- (3) The Administrator shall lay every report submitted to him under subsection (2) on the table of the Provincial Council within fourteen days after the receipt thereof if the Council is then in session or, if the Council is not then in session, after the commencement of the next ensuing session.

Exercise and delegation of powers.

- 4.(1) Whenever a power or a duty is conferred or imposed on the Department by this ordinance, the Director may exercise such power or perform such duty.
 - (2) The Director may delegate any power or duty conferred or imposed on him by this ordinance to any office under his control.
- [S. 4 substituted by s. 3 of Ord. 15 of 1983.]

Establishment of Nature and Environmental Conservation Advisory Committee.

- 5.(1) The Administrator may establish a Nature and Environmental Conservation Advisory Committee (hereinafter in this section referred to as "the committee") consisting of so many members as he may from time to time determine.
- (2) The functions of the committee shall be to advise the Director or the Administrator, as the case may be, on such matters relating to nature and environmental conservation or the application of any provision of this ordinance as it considers necessary or desirable or as may be referred to it by the Director or the Administrator.
- (3) The chairman and other members of the committee shall be appointed and the terms and conditions of office of such chairman and members shall be determined by the Administrator.
- (4) Every member of the committee who is not an officer, official or employee in the public service or in the service of a provincial administration may, if the Administrator so decides, be paid such remuneration and allowances as the Administrator may determine out of moneys appropriated by the Provincial Council for the purpose.
- (5) The members of the committee shall hold office during the Administrator's pleasure.

CHAPTER II

NATURE RESERVES

PART I: PROVINCIAL NATURE RESERVES

Establishment of provincial nature reserves.

- 6.(1) The Administrator may by proclamation—
 - (a) establish a provincial nature reserve on any land under his control or management;
 - (b) define the boundaries of any such reserve, either by description or by reference to the boundaries indicated on a map or plan filed in a specified office, and from time to time alter and in the aforementioned manner redefine such boundaries;

[Para. (b) substituted by s. 2 (a) of Ord. 4 of 1978.]

- (c) assign a name to any such reserve and alter such name at any time, and
[Para. (c) substituted by s. 2 (b) of Ord. 4 of 1978.]
 - (d) after compliance mutatis mutandis with the provisions of section 7 (2) and due consideration of any objections lodged with him, abolish any such reserve.
- (1A) (a) The Administrator may, after consultation and the conclusion of an agreement with any State Department and in accordance with the terms and conditions of such agreement, by proclamation—
- (i) establish a provincial nature reserve on land which is under the control or management of such State Department;
 - (ii) define the boundaries of any such reserve, either by description or by reference to a map or plan filed in a specified office, and from time to time alter and in the aforementioned manner redefine such boundaries;
 - (iii) assign a name to any such reserve and alter such name at any time, and
 - (iv) abolish any such reserve.
- (b) An agreement contemplated by paragraph (a) shall provide for—
- (i) the currency of the agreement, the terms and conditions on which any of the parties thereto may withdraw and the terms and conditions on which the agreement may, during its currency, be terminated;
 - (ii) a definition, in the manner provided in paragraph (a) (ii), of the boundaries of the land involved in such agreement and the terms and conditions on which such boundaries may be altered;
 - (iii) the manner in which a name shall be assigned to such provincial nature reserve and the manner in which such name may be altered;
 - (iv) the terms and conditions on which such nature reserve may be abolished, subject to any provisions under subparagraph (i) in such agreement;
 - (v) the terms and conditions which are applicable to the establishment of such nature reserve on such land;
 - (vi) the manner in which such nature reserve shall be managed, controlled and developed;
 - (vii) the delegation by the contracting parties of any or all of their powers and duties to one of their number or to a joint committee appointed by them;
 - (viii) the apportionment between the contracting parties of any revenue, profits, assets, losses and liabilities arising as a result of such agreement;
 - (ix) the enforcement on such nature reserve of any regulations which are applicable to provincial nature reserves;
 - (x) the preparation and submission to the Administrator of reports on the management, control and development of such nature reserve, and

- (xi) any other matter in general which the contracting parties deem necessary to include in such agreement.

[Sub-s. (1A) inserted by s. 2 of Ord. 26 of 1986.]

- (2) The Administrator may
 - (a) by agreement or expropriation acquire any land which he considers necessary and suitable for the purpose of establishing a provincial nature reserve thereon, and
 - (b) subject to the law governing the Public Service or the Provincial Service appoint officers, officials or employees for carrying out the provisions of this section and for the enforcement of any regulations made under subsection (6) and in force in any provincial nature reserve.
- (3) The Director shall, subject to the directions of the Administrator, manage, control and develop every provincial nature reserve with a view to the propagation, protection and preservation of fauna and flora and may in or in connection with any reserve provide amenities, facilities and services for the recreation and enjoyment of the public.
- (4) In the exercise of the powers and functions conferred or imposed on him by subsection (3), the Director may in or in connection with a provincial nature reserve—
 - (a) build, construct and maintain roads, bridges, ferries, buildings, fences and such other works as he may deem necessary;
 - (b) take such steps as he may deem necessary or desirable for the propagation, protection or preservation of fauna and flora;
 - (c) set aside places or inland waters for the propagation and cultivation of fauna and flora;
 - (d) provide and maintain accommodation, camping areas, garages, entertainments, transport services or other undertakings for the amusement, recreation, enjoyment and general convenience of visitors;
 - (e) conduct businesses for the sale of necessities and the supply of services for the convenience of visitors;
 - (f) call for public tenders for the provision and maintenance of anything mentioned in paragraph (d) or the conducting of any business referred to in paragraph (e) and with the approval of and subject to such conditions as may be determined by the Administrator, grant permission to any person from whom a tender has been received, to provide such service or conduct such business and may for that purpose let land or buildings thereon;
 - (g) levy charges for entry into and remaining in any such reserve or any part thereof or for the use or enjoyment of anything provided therein, or
 - (h) perform any act or acquire any thing which he considers necessary for the better achievement of the objects and purposes of this section.
- (5) The provisions of the Shop Hours Ordinance, 1930 (Ordinance 14 of 1930), and the Licences Ordinance, 1981 (Ordinance 17 of 1981), shall not apply in respect of any business conducted in a provincial nature reserve in terms of subsection (4).

[Sub-s. (5) amended by s. 4 of Ord. 15 of 1983.]

- (6) The Administrator may in respect of any provincial nature reserve make regulations as to—
- (a) the regulation, restriction or prohibition of the entry of persons into such reserve or any part thereof, the conduct of persons in such reserve, the exclusion or ejection of persons of certain races, classes or groups of persons from such reserve or any part thereof, and the periods and times during which such reserve shall be open to visitors;
 - b) the regulation, restriction or prohibition of the introduction into or the possession within such reserve of any fauna, flora, poison, explosive material or any weapon, trap, net or other thing which could be used for the killing or catching of wild animals or fish;
 - (c) the regulation, restriction or prohibition of the removal of fauna or flora from such reserve;
 - (d) the protection and preservation of such reserve and the fauna, flora and any property therein;
 - (e) the regulation, restriction or prohibition of the making of fires or the commission or omission of any act which may cause a fire;
 - (f) the prohibition of the entry into or use in such reserve of certain classes of vehicles, the regulation and control of traffic in such reserve and the conveyance of passengers and the routes to be followed therein;
 - (g) the regulation, restriction or prohibition of the introduction into such reserve or the use on any waters in such reserve of boats or other craft or certain classes of boats or craft, the conveyance of passengers on boats or craft and the routes to be followed by such boats or craft;
 - (h) the seizure or destruction of any animal found in such reserve in contravention of any regulation in force therein;
 - (i) the handing over or seizure of anything brought into or removed from such reserve in contravention of any regulation in force therein or in possession of any person in such reserve in contravention of any such regulation;
 - (j) the powers and duties of officers, officials or employees appointed under subsection (2) (b), and
 - (k) any other matter in respect of which the Administrator deems it necessary or expedient to make regulations in order to achieve the objects of this section.
- (7) Regulations made under subsection (6) may be made to apply generally to all provincial nature reserves or to any specified provincial nature reserve and may prescribe in respect of any contravention thereof or failure to comply therewith a fine not exceeding one thousand five hundred rand or imprisonment for a period not exceeding six months.

[Sub-s. (7) amended by s. 1 of Ord. 11 of 1981.]

Establishment of Provincial Nature Reserves Land Acquisition Fund.

- 6A.(1) A fund to be known as the Provincial Nature Reserves Land Acquisition Fund (hereinafter referred to as the Fund) is hereby established.

- (2) The Fund shall consist of
 - (a) all moneys received by the Department by way of contributions, donations and bequests for the purchase of land for the purposes of a provincial nature reserve or part of a provincial nature reserve, and
 - (b) moneys appropriated by the Provincial Council—
 - (i) for the purposes of the Fund, and
 - (ii) in respect of the amount of interest received on the investment of money of the Fund which is not immediately required for the purposes of the Fund.
- (3) The Fund shall be managed and controlled by the Administrator and for this purpose the Administrator may delegate all or any of his powers in writing to a senior officer in the full-time employment of the Administration.
- (4) Money in the Fund shall be applied by the Administrator for the purchase of land for the purposes of provincial nature reserves.
- (5)
 - (a) The Administrator shall cause to be kept a full and correct account of all moneys received by the Fund and expended out of the Fund.
 - (b) The account contemplated by paragraph (a) shall be audited by the Provincial Auditor.
- (6) The Administrator shall annually as soon as possible after 31 March lay upon the Table of the Provincial Council a statement of the income and expenditure of the Fund.

[S. 6A inserted by s. 1 of Ord. 24 of 1986.]

PART II LOCAL NATURE RESERVES

Establishment of local nature reserves by local authority.

- 7.(1) Any local authority may with the approval of the Administrator and subject to such conditions as he may specify, establish a local nature reserve on land vested in it or under its control or management and may for that purpose acquire land by agreement or expropriation.
- (2) A local authority desiring to establish a local nature reserve in terms of subsection (1) shall once a week for two consecutive weeks with an interval of not less than seven days cause a notice in both official languages to be published in a newspaper circulating in its area of jurisdiction—
 - (a) stating its intention to establish such reserve on land of which the boundaries are defined in such notice, either by description thereof or by reference to the boundaries indicated on a map or plan filed in a specific office;
 - (b) stating the name which it desires to assign to such reserve, and
 - (c) calling on persons wishing to object to such establishment to lodge their objections in writing together with the reasons therefor with such local authority on or before a date specified in such notice being not less than thirty days after the last publication of such notice.

[Sub-s. (2) substituted by s. 2 (a) of Ord. 11 of 1981.]

- (3) When applying for the Administrator's approval in terms of subsection (1), the local authority concerned shall furnish the Administrator with a copy of the notice referred to in subsection (2) and the objections, if any, lodged with it in accordance with such subsection together with its comments thereon.
- (4) The Administrator may, in considering any application under this section, require the local authority to furnish him with such further information as he may deem necessary and shall thereupon, in his discretion, refuse the application or grant the application subject to such conditions as he may deem necessary or desirable.
- (5) Every decision by the Administrator under subsection (4) shall be notified in the Provincial Gazette and where an application has been granted the name assigned to the reserve concerned, the boundaries thereof, defined in accordance with subsection (2), and the conditions, if any, subject to which approval has been granted shall be stated in the relevant notice.

[Sub-s. (5) substituted by s. 2 (b) of Ord. 11 of 1981.]

- (6) Subject to any conditions imposed by the Administrator under subsection (4), the provisions of section 6 (2) (b) and 6 (3) to and including 6 (7) shall apply mutatis mutandis in respect of a local nature reserve and any reference in any such section to—
 - (a) the law governing the Public Service or the Provincial Service;
 - (b) the Administrator (except in section 6 (3)) or the Director;
 - (c) a provincial nature reserve, or
 - (d) regulations made by the Administrator,

shall be construed as a reference to, respectively,—

- (i) the law governing the appointment of employees of the local authority concerned;
 - (ii) the local authority concerned;
 - (iii) a local nature reserve, or
 - (iv) by-laws or regulations made by the local authority concerned.
- (7) A local authority which has established a local nature reserve may with the approval of the Administrator and, in the case of paragraph (b), after compliance mutatis mutandis with the provisions of subsections (2) and (3)
 - (a) at any time alter the boundaries or the name or the boundaries and the name thereof, or

[Para. (a) substituted by s. 2 (c) of Ord. 11 of 1981.]

- (b) abolish such reserve,

and any such alteration or abolition shall be notified in the Provincial Gazette.

Advisory boards for local nature reserves.

- 8.(1) As soon as a local nature reserve has been established the local authority concerned shall appoint an advisory board for the purpose of advising and making recommendations to it in connection with the management, control and development of such reserve.

- (2) (a) Such advisory board shall be constituted in accordance with by-laws or regulations made under section 9 and provision shall be made therein that the Administrator shall appoint at least one person to be a member but may in addition appoint up to five more persons to be members of such board.
- (b) Any by-laws or regulations made before the coming into operation of the Nature and Environmental Conservation Amendment Ordinance, 1986, by a local authority under section 9 in connection with the appointment of members of an advisory board of a local nature reserve by the Administrator shall be deemed to have been amended in accordance with the provisions of paragraph (a).
- [Sub-s. (2) substituted by s. 3 of Ord. 26 of 1986.]
- (3) No member of an advisory board shall be remunerated for his services as a member of such board but such member may be paid the reasonable expenses incurred by him in connection with his duties as such.

By-laws and regulations relating to advisory boards for local nature reserves.

- 9.(1) A local authority shall, in the manner provided by law for the making of by-laws or regulations by such local authority, make by-laws or regulations relating to—
- (a) the constitution of an advisory board referred to in section 8 (1);
- (b) the period of office and vacation of office of members of such board, and
- (c) the holding of meetings at intervals of not more than twelve months by and the proceedings at meetings of such board.
- [Sub-s. (1) amended by s. 4 (a) and (b) of Ord. 26 of 1986. Previous s. 9 renumbered to sub-s. (1).]
- (2) Any by-laws or regulations made before the coming into operation of the Nature and Environmental Conservation Amendment Ordinance, 1986, under subsection (1) (c) in connection with the intervals between meetings of an advisory board shall be deemed to have been amended in accordance with the provisions of subsection (1) (c).
- [Sub-s. (2) inserted by s. 4 (c) of Ord. 26 of 1986.]

Administrator's powers in respect of acts done by local authority in relation to local nature reserves.

- 10.(1) If the Administrator is of opinion that any action taken or anything done or proposed to be taken or done by a local authority in the course of or in connection with the management, control or development of a local nature reserve established by it is or will be detrimental to such reserve or to the purposes for which it was established, he may, after consultation with such local authority, by order in writing—
- (a) prohibit such action or the doing of such thing or the continuance thereof, or
- (b) permit such action to be taken or thing to be done or the continuance thereof subject to such conditions as he may determine.

[Previous s. 10 renumbered to sub-s. (1) by s. 2 of Ord. 24 of 1986.]

- (2) The Administrator may, if, after the expiration of a reasonable period of time, he is of the opinion that a local authority has not taken adequate steps to comply with an order issued in terms of subsection (1), by notice in the Provincial Gazette abolish the local nature reserve concerned; provided that, at least six weeks prior to such notice, he had given notice in writing by registered mail to such local authority of his intention to abolish such nature reserve after a date specified therein.

[Sub-s. (2) inserted by s. 2 of Ord. 24 of 1986.]

Payment of subsidy in respect of local nature reserve.

- 11.(1) There shall be paid from moneys appropriated by the Provincial Council for the purpose to every local authority which has established a local nature reserve, an annual subsidy equal to one-half, or such greater or smaller fraction as the Administrator may generally or specially determine, of the subsidisable expenditure incurred by such local authority in connection with such reserve as determined in terms of subsections (2) and (3).

[Sub-s. (1) amended by s. 5 of Ord. 26 of 1986.]

- (2) For the purpose of determining the subsidisable expenditure contemplated by subsection (1), a local authority shall, on or before such date in each year and in such manner as the Administrator may direct, submit to the Director an estimate of the expenditure it proposes to incur and of the revenue it expects to accrue to it during the following year in respect of the local nature reserve concerned.
- (3) On receipt of such estimate the Director shall approve the whole or part of the proposed expenditure and the difference between the proposed expenditure so approved and the estimated revenue contemplated by subsection (2) shall for the purposes of subsection (1) be the subsidisable expenditure contemplated by subsection (1).
- (4) Nothing in this section contained shall be construed so as to preclude a local authority from spending more than its subsidisable expenditure in connection with the reserve concerned but any expenditure in excess of the subsidisable expenditure shall not, except with the approval of the Administrator, rank for subsidy.
- (5) The Director may, at such intervals as he deems fit, make advances against the subsidy payable in terms of this section, subject to such adjustments as may be necessary when audited statements of actual expenditure and revenue become available.

PART III PRIVATE NATURE RESERVES

Establishment of private nature reserves.

- 12.(1) Any owner of land may, with the approval of the Administrator and subject to such conditions as he may specify, establish a private nature reserve on land of which he is the owner and assign a name to such reserve.

- (2) Any person desiring to establish a private nature reserve in terms of subsection (1), shall apply to the Administrator for his approval and furnish him with—
- (a) a definition, either by description thereof or by reference to the boundaries indicated on a map or plan filed in a specific office, of the boundaries of the land on which he desires to establish such reserve;
[Para. (a) substituted by s. 3 (a) of Ord. 11 of 1981.]
 - (b) proof of his ownership in such land;
 - (c) the name which he proposes to assign to such reserve, and
 - (d) such further information as the Administrator may require.
- (3) The Administrator may, in his discretion, refuse any application under subsection (2) or grant such application subject to such conditions as he may deem necessary or desirable.
- (4) If any application under subsection (2) is granted, the Administrator's approval shall be notified in the Provincial Gazette and the name assigned to the reserve concerned, the boundaries thereof, defined in accordance with subsection (2) (a), and the conditions, if any, subject to which approval has been granted shall be specified in the relevant notice.
[Sub-s. (4) substituted by s. 3 (b) of Ord. 11 of 1981.]
- (5) (a) Any person who has established a private nature reserve may at any time with the approval of the Administrator—
- (i) alter the boundaries or the name or the boundaries and the name of such reserve, or
[Sub-para. (i) substituted by s. 3 (c) of Ord. 11 of 1981.]
 - (ii) abolish such reserve.
- (b) Any such reserve may at any time be abolished by the Administrator on good cause shown and after consultation with the person who established it.
- (c) Any alteration or abolition as contemplated by this subsection shall be notified in the Provincial Gazette.

Rights and duties of owner of private nature reserve.

13. Subject to any conditions imposed by the Administrator under section 12 (3), any person who has established a private nature reserve shall manage, control and develop such reserve with a view to the propagation, protection and preservation of fauna and flora and such person or any other person authorised by him in writing may, notwithstanding anything to the contrary in this ordinance—
- (a) subject to the provisions of sections 26, 27, 35 and 62, at any time and by any means other than by the use of fire or poison, hunt any wild animal or pick any flora found in such reserve;
[Para. (a) substituted by s. 5 of Ord. 15 of 1983.]
 - (b) subject to the provisions of section 31 (2) and any regulations made under section 82 (1) (d) keep any such animal which has been captured in such reserve in captivity, or

- (c) sell any such animal which has been so captured or the carcass of any such animal.

PART IV: GENERAL

Prohibition on hunting of wild animals and picking of flora in provincial or local nature reserve.

- 14. No person shall—
 - (a) hunt any wild animal, or
 - (b) pick any flora,in a provincial or local nature reserve unless he is in possession of a permit authorising him to do so issued in any case contemplated—
 - (i) by paragraph (a), by the Director, or
 - (ii) by paragraph (b), by the Director or the local authority concerned, respectively.
- 15. [Assent to s. 15 withheld by the State President.]

CHAPTER III

MISCELLANEOUS NATURE AND ENVIRONMENTAL CONSERVATION MEASURES

Powers of Department.

- 16.(1) The Department shall in the interests of nature and environmental conservation—
 - (a) conduct experiments, undertake research, make surveys, and conduct investigations in connection with any fauna, flora, inland waters, fish in such waters or aquatic growths and may for any such purpose acquire such property, whether movable or immovable, as may be necessary or desirable for the purpose;
 - (b) publish or in any other manner disseminate information relating to nature and environmental conservation which it acquires in the course of its activities and which may serve to further the achievement of the objects and purposes of this ordinance;
 - (c) take such measures as may be necessary or desirable for—
 - (i) the acclimatization and quarantining of fish imported into the Province;
 - (ii) the control of fish and aquatic growths in inland waters, or
 - (iii) the protection, propagation or cultivation of fauna or flora;
 - (d) erect, re-erect, maintain and repair on any land or in any inland waters such beacons, buoys, notices, notice boards, signs or other marks as may

be necessary or desirable for the enforcement of any provision of this ordinance, and

- (e) generally take such steps as may be necessary or desirable for the achievement of the objects and purposes of this ordinance.
- (2) Any person generally or specially authorised thereto in writing by the Director may, for any purpose mentioned in subsection (1) (c) (ii) or (d)—
- (a) enter upon the land or waters in question with such employees, assistants, animals, vehicles, appliances and instruments as may be required;
 - (b) make use of any natural material, including water, found on such land or in such waters, and
 - (c) cut any vegetation growing wild in the vicinity of any such beacon, buoy, notice, notice board, sign or other mark.
- (3) Any person referred to in subsection (2) shall, prior to the exercise by him of any power mentioned in such subsection, give reasonable notice to the owner or occupier of the land or waters concerned of his intention to exercise such powers.
- (4) The powers specified in subsection (1), except paragraph (c) (i) thereof, may also be exercised in or in respect of any local or private nature reserve.

Measures to ensure survival of endangered wild animals or endangered flora.

- 17.(1) If the Director at any time considers it necessary or desirable that special measures should be taken to ensure the survival of any species of endangered wild animal or endangered flora, he may, with the approval of the Administrator and after consultation with the owner of any land on which any animal of such species or such flora is found—
- (a) cause such number of either or both sexes of such animal or such number or quantity of the plants, seeds or other parts of such flora as he may deem necessary to be captured, picked or gathered on such land and removed to a provincial nature reserve or such other place as he deems fit for the purpose of preserving or propagating such species or such flora, or
 - (b) take such measures as he may consider necessary for the preservation, cultivation and propagation on such land of such species or flora.
- (2) The Director shall give reasonable notice to the owner of the land referred to in subsection (1) of the time when, the place where and the manner in which it is proposed to capture, pick, gather, preserve, cultivate or propagate the animals or flora referred to in such subsection; provided that the provisions of this subsection shall not apply in respect of the owner of any land to which any such animal may flee while being pursued for the purpose of being captured in terms of this section.
- (3) The Director may, in the exercise of the powers conferred on him by subsection (1), in writing authorise such persons as he may deem necessary to enter upon the land in question and to capture, pick or gather the animals or flora or to take the required measures for the preservation, cultivation and propagation thereof as contemplated by that subsection and any such person may thereupon enter upon such land and capture, pick or gather such animals or flora or take such measures

thereon or on any other land to which any such animals may flee while being pursued.

- (4) Any person who resists, hinders or wilfully obstructs any person in possession of the written authority of the Director issued under subsection (3) in the exercise of his powers or functions under that subsection shall be guilty of an offence.
- (5) The Administrator shall on the application of the owner of any land referred to in subsection (1) pay to such owner such compensation in respect of the wild animals or flora removed from his land in terms of the said subsection or any other damage suffered by him in consequence of the exercise of the powers contemplated by this section as the Administrator may deem reasonable in the circumstances.

Director may cause certain wild animals to be hunted.

18.(1) If the Director is of opinion that any wild animal or any species of wild animal found on any land—

- (a) is detrimental to the preservation of fauna or flora;
- (b) is likely to be dangerous to human life;
- (c) is wounded, diseased or injured;
- (d) is causing damage to crops or other property, whether movable or immovable, of any person, or
- (e) should be hunted in the interests of nature and environmental conservation,

he may, with the approval of the Administrator, cause such animal, or such number of such species as he may determine, to be hunted on

such land or on any land to which such animal or, in the case of a species of wild animal, the number of such species determined by him may flee while being pursued for the purpose of being hunted in terms of this section.

- (2) The provisions of subsections (3) and (4) of section 17 shall apply mutatis mutandis in respect of the exercise of the powers conferred on the Director by subsection (1) of this section.
- (3) The ownership in the carcass of any wild animal killed during a hunt in terms of subsection (1) shall vest in the Administration.

Director may cause certain fish or aquatic growths to be destroyed.

19.(1) If the Director is of opinion that any fish or aquatic growth found in any inland waters is injurious to any other fish or aquatic growth or to the water in such inland waters, he may—

- (a) in writing order the owner of such inland waters to take such measures, including measures inconsistent with the provisions of this ordinance, as he may specify in such order, to catch or kill such fish or to destroy such growth, and
- (b) if requested thereto by such owner, render such assistance to such owner as the Director may deem necessary for the purpose of enabling such owner to comply with such order.

- (2) If an owner contemplated by subsection (1) refuses or, within a period of twelve months from the date of an order in terms of subsection (1), fails to comply with such order the Director may cause the fish or growth concerned to be caught, killed or destroyed, as the case may be, and recover the costs incurred in that regard from such owner.

Appointment of nature and environmental conservation officers.

20. The Administrator may, appoint—

- (a) subject to the law governing the Public Service or the Provincial Service, so many officers, officials or employees, and
- (b) so many other persons

as he may deem expedient as nature and environmental conservation officers for the carrying out of the provisions of this ordinance.

[S. 20 substituted by s. 3 of Ord. 24 of 1986.]

Powers of nature and environmental conservation officers.

21.(1) A nature and environmental conservation officer may, subject to any limitation imposed in terms of section 25 (2)—

- (a) demand from any person performing or whom he reasonably suspects of having performed any act for the performance of which a licence, permit, exemption, order or the written permission of the owner of land or of any other person is necessary under any provision of this ordinance the production of such licence, permit, exemption, order or permission;
- (b) where any person has performed or he reasonably suspects any person of having performed on any land any act which may only be performed on land in respect of which a certificate of adequate enclosure has been issued under section 35 (4) (b), demand from the owner of such land the production of such certificate;
- (c) demand from any person whom he reasonably suspects—
 - (i) of having committed an offence under this ordinance, or
 - (ii) will be able to furnish evidence in connection with an offence committed or alleged to have been committed under this ordinance, the name and address and any other information necessary for the identification of such person;
- (d) question any person who in his opinion may be able to furnish any information required by him in connection with the enforcement of any provision of this ordinance and for that purpose demand that any vehicle, vessel, boat, craft, float, aircraft or other means of conveyance be brought to a standstill;
- (e) demand from any person who is required under this ordinance to keep any book, statement or invoice the production of such book, statement or invoice;

- (f) conduct any investigation he considers necessary in order to ascertain whether any provision of this ordinance is being complied with by any person and may for such purpose without warrant and without permission enter upon any land, premises, vehicle, place, building, tent, vessel, boat, craft, float, aircraft or other means of conveyance and there carry out such inspection and investigation as may be necessary including an inspection or investigation of any container or other thing found thereon or therein;
 - (g) in the course of any inspection or investigation in the exercise of his powers and the performance of his functions under this ordinance, without warrant and without permission, demand that any vehicle, vessel, boat, craft, float, aircraft or other means of conveyance be brought to a standstill and be kept stationary until he has searched it;
 - (h) without warrant and without permission, enter upon any land, premises, vehicle, vessel, boat, craft, float, aircraft or other means of conveyance and there conduct a search if he reasonably suspects that there is thereon or therein anything which—
 - (i) is used or has been used in;
 - (ii) forms or has formed an element in, or
 - (iii) will afford evidence of,the commission of any offence under this ordinance;
 - (i) without warrant seize anything which—
 - (i) may, in his opinion, afford evidence of the commission of an offence under this ordinance, or
 - (ii) he reasonably suspects is being or has been used for the conveyance of any fauna or flora in respect of which an offence has been committed under this ordinance, or
 - (j) without warrant seize and confiscate any wild animal which is found in possession of or being kept in captivity by any person, if—
 - (i) such person fails on demand by such officer to produce a permit authorising such possession or keeping, or
 - (ii) such animal is in possession of or being kept in captivity by such person contrary to any condition specified in a permit produced by such person authorising such possession or keeping.
- (2) A nature and environmental conservation officer may in the exercise of his powers or the performance of his functions under this ordinance take with him an interpreter and one or more assistants who shall, while acting under the directions of such nature and environmental conservation officer, be deemed to be nature and environmental conservation officers.
- (3) Anything seized under subsection (1) (i) shall, if no prosecution for an offence under this ordinance is instituted in connection therewith, be returned to the person from whose possession it was taken.

Appointment and powers of honorary nature and environmental conservation officers.

- 22.(1) The Director may appoint any person he considers suitable as an honorary nature and environmental conservation officer for the carrying out of the provisions of this ordinance.
- (2) (a) Every honorary nature and environmental conservation officer shall have all the powers conferred on a nature and environmental conservation officer by subsections (1) (a) to and including (e) and subsection (2) of section 21.
- (b) When an honorary nature and environmental conservation officer takes with him an interpreter or assistant as contemplated by section 21 (2), such interpreter or assistant shall be deemed to be an honorary nature and environmental conservation officer.

Appointment and powers of nature and environmental conservation rangers.—

- 23.(1) Any local authority may, subject to the law governing the appointment of employees of such local authority, appoint so many persons as it may deem expedient as nature and environmental conservation rangers for the carrying out of the provisions of this ordinance within the area of jurisdiction of such local authority.
- (2) (a) Every nature and environmental conservation ranger shall have all the powers conferred by section 21 on a nature and environmental conservation officer and may exercise such powers within the area of jurisdiction of the local authority which appointed him.
- (b) When a nature and environmental conservation ranger takes with him an interpreter or assistant as contemplated by section 21 (2), such interpreter or assistant shall be deemed to be a nature and environmental conservation ranger.

Payment of subsidy in respect of remuneration of nature and environmental conservation rangers.

- 24 The Administrator may, subject to such conditions as he may deem necessary or desirable, pay from moneys appropriated by the Provincial Council for the purpose, to every local authority which has appointed nature and environmental conservation rangers an annual subsidy equal to one-half, or such greater fraction as he may generally or specially determine, of the expenditure incurred by such local authority in remunerating such rangers.

[S. 24 substituted by s. 6 of Ord. 15 of 1983.]

Certificate of appointment.—

- 25.(1) Every nature and environmental conservation officer, honorary nature and environmental conservation officer and nature and environmental conservation ranger shall be furnished by the Director with a certificate of appointment in the prescribed form and shall when exercising any power or performing any function under this ordinance and if so required, produce such certificate for inspection.

E 24

- (2) When furnishing a certificate of appointment contemplated by subsection (1), the Director may limit the exercise of the powers referred to in section 21 by the officer or ranger concerned to or in respect of—
- (a) such areas;
 - (b) such offences under this ordinance;
 - (c) persons of such race or class, or
 - (d) such fauna or flora,
- as he may generally or specially determine and specify in such certificate.
- (3) A certificate of appointment issued under subsection (1) shall remain valid, in the case of—
- (a) a nature and environmental conservation officer or nature and environmental conservation ranger, until he leaves the service of the Administration or the local authority concerned, as the case may be, or until withdrawn by the Director whichever is the shorter period, and
 - (b) an honorary nature and environmental conservation officer, for the period specified in the certificate.

CHAPTER IV

PROTECTION OF WILD ANIMALS OTHER THAN FISH

[Heading substituted by s. 7 of Ord. 15 of 1983.]

Application of Chapter IV.

25A For the purposes of this Chapter the term “wild animal” shall not include fish. [S. 25A inserted by s. 8 of Ord. 15 of 1983.]

Prohibition on hunting or possession of endangered wild animals.

26. No person shall without a permit hunt or be in possession of any endangered wild animal or the carcass of any such animal.

Hunting of protected wild animals.

27.(1) Subject to the provisions of subsections (2) and (3) no person shall hunt any protected wild animal—

- (a) during any hunting season, unless he is the holder of a permit or of a licence in the prescribed form issued to him by the Director, a receiver of revenue or any person authorised to do so by the Director on payment of the prescribed fee, or

[Para. (a) substituted by s. 6 of Ord. 26 of 1986.]

- (b) at any other time unless he is the holder of a permit to do so.

- (2) The provisions of subsection (1) (a) shall not apply to any owner of land, any relative of such owner or any full-time employee of such owner acting on the authority of such owner, in respect of any protected wild animal found on the land of such owner.
- (3) Subject to the provisions of any regulation made under section 82 (1) (c) the provisions of subsection (1) shall not apply to any person not in possession of a weapon, who—
 - (a) in the presence of the owner of any land on which any protected wild animal is being hunted by any other person as contemplated by such subsection, or
 - (b) in the absence but with the written permission of such owner, assists such other person during such hunt by acting as a beater.

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

28. No person authorised by any provision of this ordinance to hunt any wild animal shall at any time kill or capture a greater number of any species of protected wild animal than the daily bag limit determined in respect of such species by proclamation under section 79 (a).

Prohibited ways of hunting.

29. No person shall unless he is the holder of a permit authorising him to do so, hunt any wild animal—
- (a) by means of fire or poison;
 - (b) with the aid of artificial light;
 - (c) on or from a public road;
 - (d) by means of any trap;
 - (e) during the period one hour after sunset on any day and one hour before sunrise on the following day;
 - (f) by means of any weapon in a public place within the area of jurisdiction of a local authority;
 - (g) by means of a fire-arm which discharges a rim-fire cartridge of a calibre less than five comma six millimetres;
 - (h) by means of a fire-arm which discharges more than two shots without being manually reloaded;
 - (i) by means of a bow-and-arrow;
 - (j) by means of a set gun or any similar contrivance;
 - (k) by means of any device which injects an intoxicating or a narcotic agent or poison into such animal;
 - (l) by the use of a dog, except for the hunting of birds or for the purpose of following or searching for any such animal which has been wounded;

- (m) in the case of birds in or upon inland waters, by the use of a boat for the purpose of chasing or killing such birds;

provided that in respect of the hunting of—

- (i) rodents, the provisions of paragraphs (a), (b), (d), (e) and (l), or [Sub-para. (i) amended by s. 7 of Ord. 26 of 1986.]
- (ii) any bird or any other wild animal which is not an endangered or a protected wild animal, the provisions of paragraph (g), or
- (iii) any such wild animal by a registered veterinary surgeon in the practise of his profession, the provisions of paragraph (k),

shall not apply.

Prohibition on use of certain fire-arms to hunt certain wild animals.

30. No person shall use a fire-arm having a barrel of a calibre of six comma five millimetres or less to hunt any Buffalo, Eland, Kudu, Wildebeest, Oryx or Red Hartebeest.

Prohibition on keeping of wild animals in captivity.

- 31.(1) No person shall without a permit authorising him to do so, keep any wild animal in captivity; provided that in the case of a wild animal which is a bird, the provisions of this section shall only apply in respect of a bird which is an endangered or protected wild animal.
- (2) No person shall at any time, whether authorised by a permit issued under subsection (1) or not, restrain any wild animal by means of a rope, cord, chain or any similar contrivance.

31A. Prohibition on release of exotic wild animals.—No person shall without a permit authorising him to do so, release any exotic wild animal in the Province.

[S. 31A inserted by s. 8 of Ord. 26 of 1986.]

Prohibition on manipulation of boundary fences, etc.

31B No person shall—

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

[S. 31B inserted by s. 9 of Ord. 26 of 1986.]

Prohibition on laying of poison.

- 32.(1) Subject to the provisions of subsection (2), no person shall lay or cause or allow to be laid any poison at any place where it is likely to or in such manner that it may be assimilated or ingested by a wild animal.
- (2) The provisions of subsection (1) shall not preclude any person from laying any poison with due observance of such provisions, for the purpose of exterminating rodents, Redwinged Starlings, European Starlings, English Sparrows or Colies.

Prohibition on use of motor vehicles or aircraft for the purpose of hunting wild animals or of filming or photographing a hunt, etc., of such animals.

- 33.(1) Subject to the provisions of subsection (2), no person shall without a permit use any motor vehicle or aircraft to hunt any wild animal or to hunt, disturb, drive or stampede any wild animal or animals for the purpose of filming or photographing such hunt, disturbance, drive or stampede or for any other purpose whatsoever.
- (2) The provisions of subsection (1) shall not preclude the use of a motor vehicle for the hunting in accordance with the provisions of this ordinance of any wild animal by the owner of any land on such land.
34. [S. 34 repealed by s. 1 of Ord. 29 of 1980.]

Certificate of adequate enclosure.

- 35(1) Any owner of land on which any species of protected wild animal is found may in the prescribed manner and form and in relation to any such species, apply to the Director for a certificate of adequate enclosure as contemplated by subsection (4) in respect of the whole or any portion of such land.
- (2) Any application under subsection (1) shall—
- (a) include a full description of the land in respect of which application is made, its boundaries and size and the vegetation thereon;
 - (b) state the species of protected wild animal to which the application relates, the estimated number of such species in a free state of nature and the number of such species in captivity, on the land referred to in paragraph (a);
 - (c) set forth the grounds on which the land in question is considered to be adequately enclosed, and
 - (d) reflect such further information as may be prescribed.
- (3) For the purpose of deciding upon any such application the Director may require the applicant to furnish him with such further information as he may consider necessary or desirable.
- (4) If the Director—
- (a) having regard to the size of the land in respect of which application has been made under subsection (1), the number of the species of protected wild animal to which such application relates which is normally found on such land and such other circumstances as he may consider relevant, is of

opinion that the animals in question are in effect being kept in captivity, he shall refuse the application, or

- (b) is satisfied that such land is adequately enclosed in relation to such species, he may in his discretion grant the application subject to such conditions as he may consider necessary or desirable and issue to the applicant a certificate of adequate enclosure in respect of such land and shall in such certificate specify the conditions, if any, subject to which it is issued, define the boundaries of the land concerned and specify the species of protected wild animal to which it relates.
- (5) (a) A certificate of adequate enclosure issued in terms of subsection (4) shall, subject to the provisions of paragraph (b), be valid for the period specified therein. [Para. (a) amended by Proc. 46 of 1992.]
- (b) A certificate of adequate enclosure may at any time during the period of validity thereof be withdrawn by the Director summarily and without prior notice to or consultation with the holder thereof; provided that such withdrawal may be set aside by the Director if, after consultation with such holder, he is of the opinion that such setting aside is necessary or desirable.
- [Sub-s. (5) substituted by s. 3 of Ord. 4 of 1978.]
- (6) Any certificate issued under section 22 of the Nature and Environmental Conservation Ordinance, 1965 (Ordinance 26 of 1965) prior to the repeal of that ordinance by section 89 of this ordinance shall be deemed to be a certificate of adequate enclosure issued in terms of subsection (4) of this section, and any such certificate shall remain valid for the period stated therein unless it is withdrawn in terms of subsection (5) prior to the expiration of such period.

Rights of holder of certificate of adequate enclosure and certain other persons.

36. Any owner of land to whom a certificate of adequate enclosure has been issued in terms of section 35 (4) (b), any relative of such owner, any full-time employee of such owner acting under the authority of such owner and any other person in possession of a permit or of a licence referred to in section 27 (1) (a) and acting with the permission of such owner may, notwithstanding anything to the contrary contained in this ordinance but subject to any conditions specified in such certificate—
- (a) at any time by any means other than by the use of fire or poison and on the land in respect of which such certificate was issued hunt any number of the species of protected wild animal specified in such certificate;
 - (b) subject to the provisions of section 31 (2) and any regulations made under section 82 (1) (d) keep any animal of such species which has been captured on such land in captivity on such land, and
[Para. (b) substituted by s. 9 of Ord. 15 of 1983.]
 - (c) sell or donate any animal of such species which has been so captured or the carcass of any such animal.

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

37. Any certificate of adequate enclosure issued in terms of section 35 (4) (b) shall lapse upon the transfer or lease of the land in respect of which it was issued or of any portion of such land.

Transfer of hunting and other rights.

38(1) The Director may in writing authorise—

- (a) any owner of land to whom a certificate of adequate enclosure has been issued in terms of section 35 (4) (b), or
- (b) any other owner of land,

to transfer, whether temporarily or permanently, to a person approved by him and subject to such conditions as he may impose—

- (i) in the case of an owner referred to in paragraph (a), the rights conferred on such owner by section 36, and
- (ii) in the case of an owner referred to in paragraph (b), the rights of any such owner under this ordinance.

- (2) In the application of the provisions of this ordinance, any person to whom any rights have been transferred as contemplated by subsection (1), shall as from the date of such transfer and, in the case of a temporary transfer, for the duration of the period concerned, be deemed to be the owner of the land in question.

Owner of land may permit other persons to hunt wild animals on his land.

39.(1) Subject to the provisions of this ordinance, any owner of land may permit any other person to hunt in accordance with such provisions any wild animal on the land of such owner and to remove any such animal or the carcass of any such animal from such land.

- (2) Subject to the provisions of subsection (3) no permission granted in terms of subsection (1) shall be valid unless it is reduced to writing and reflects—

- (a) the full names and address of the owner concerned and of the person to whom it is granted, and
- (b) the number and the species of wild animal, the date or dates and the land in respect of which it is granted,

and is signed and dated by such owner.

- (3) The provisions of subsection (2) shall not apply in respect of permission granted in terms of subsection (1) to any relative or full-time employee of any owner of land.

Hunting of wild animals on land belonging to another person.

40. No person shall on land of which he is not the owner hunt any wild animal or remove any such animal or the carcass of such animal from such land without the permission of the owner of such land granted in terms of section 39.

Donation or sale of wild animal or carcass thereof.

41. No person shall donate or sell any wild animal or the carcass of any such animal to any other person unless, when he delivers such animal or carcass to such other person, he furnishes such other person with a written document signed by him reflecting—
- (a) the full names and address of such firstmentioned person;
 - (b) the full names and address of such other person;
 - (c) the number and species of wild animals or carcasses so donated or sold;
 - (d) the date on which such animal or carcass was so donated or sold, and
 - (e) a statement by him that he has donated or sold such animal or carcass to such other person.

[S. 41 amended by s. 10 of Ord. 26 of 1986.]

Possession of wild animal or carcass thereof.

- 42.(1) Any person found in possession of any wild animal or the carcass of any such animal shall be guilty of an offence unless, in the event of—
- (a) the animal having been hunted by him on the land of any other person, he is in possession of the written permission contemplated by section 39, or
 - (b) his having acquired such animal or carcass from any other person, he is in possession of a written document contemplated by section 41.
- (2) The provisions of subsection (1) shall not apply in any case where a relative or full-time employee of any owner of land is found in possession of a wild animal or the carcass of any such animal which such relative or
- which such owner has sold or donated to such relative or employee.

Documents relating to permission to hunt or to the donation of wild animals or the carcasses thereof to be retained for certain period.

43. Every document referred to in sections 39 and 41 shall be retained by the person to whom it was furnished for a period of at least two months from the date on which it was so furnished or while such person is in possession of the wild animal or carcass to which it relates, whichever is the longer period.

Miscellaneous offences in relation to certain wild animals.

- 44.(1) Subject to the provisions of this ordinance, no person shall without a permit authorising him to do so—
- (a) import into, export from or transport in or through the Province any wild animal;
 - (b) (i) import into the Province from any place outside the Republic the carcass of any wild animal, or
 - (ii) export from the Province the carcass of any endangered wild animal or any protected wild animal specified in Appendix II of the

Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973;

[Para. (b) substituted by s. 10 (a) of Ord. 15 of 1983.]

- (c) sell, buy, donate or receive as a donation the carcass or anything manufactured from the carcass of any endangered wild animal;

[Para. (c) substituted by s. 10 (b) of Ord. 15 of 1983.]

- (d) process, prepare, cure, tan or in any manner whatsoever treat the carcass of any endangered wild animal for the purpose of—

- (i) manufacturing any article therefrom;
- (ii) exhibiting such carcass or any article manufactured therefrom, or
- (iii) mounting such carcass, or

- (e) sell, buy, donate, receive as a donation or be in possession of any live endangered or protected wild animal.

- (2) The provisions of subsection (1) (a) shall not be construed so as to preclude the export from or the transport in or through the Province without a permit, of any bird which is not an endangered or protected wild animal.

Sale and purchase of biltong and biltong sausage.

45(1) No person shall sell biltong or biltong sausage unless—

- (a) the meat of which it was made is the meat of a wild animal hunted in accordance with the provisions of this ordinance or any other law;

[Para. (a) substituted by s. 11 of Ord. 15 of 1983.]

- (b) it has been packed by the producer thereof in a securely sealed and unbroken container and such seal and container is intact, and

- (c) the names and address of the producer appear in clearly legible letters and figures on such container.

- (2) No person shall buy any biltong or biltong sausage which does not comply with the provisions of subsection (1) (b) and (c).

Sale of carcasses of wild animals.

46 No carcass of any wild animal shall be sold by any person other than—

- (a) the owner of any land on which the animal concerned was hunted in accordance with the provisions of this ordinance;

- (b) a market master at a public or municipal market, or

- (c) a person authorised by a permit issued under this ordinance or a licence issued under the Licences Ordinance, 1981 (Ordinance 17 of 1981), to sell such carcass.

[Para. (c) substituted by s. 12 of Ord. 15 of 1983.]

Local authority may permit owner of land to hunt certain wild animals.—

- 47.(1) If, on application in the prescribed form by an owner of land within its area of jurisdiction a local authority is satisfied that damage is being done to crops or other property of such owner, by—
- (a) any species of protected wild animal other than African Elephant, African Lion, Bontebok, Red Hartebeest, Eland, Oryx, Black Wildebeest, Oribi, Blue Duiker, Klipspringer or Ant-bear, or
 - (b) birds which are not endangered or protected wild animals,
- it may, notwithstanding anything to the contrary in this ordinance contained, issue a permit in the prescribed form authorising such owner or a person nominated by him to hunt such species or birds on the land of such owner at the place where such damage is being done and may in a case referred to in paragraph (b), notwithstanding the provisions of section 29 (a), (d) or (e), specify in any such permit that any birds referred to in such paragraph may be hunted by means of poison or a trap and at any time of the day or night.
- (2) A permit issued in terms of subsection (1) shall be valid for a period specified therein not exceeding one month from the date of issue thereof.

CHAPTER IVA

[Chapter IVA inserted by para. 2 of Proc. 39 of 1991.]

PROTECTION OF RHINOCEROSES

Protection of and penalties for offences with regard to rhinoceroses, etc.

- 47A(1) Notwithstanding anything to the contrary contained in this ordinance, no person shall, without a permit authorising him to do so—
- (a) hunt, capture, possess, import into, export from or transport through the Province, buy, sell, receive as a donation or donate any rhinoceros, or
 - (b) possess, import into, export from or transport through the Province, buy, sell, receive as a donation or donate the carcass (whether untreated, processed, prepared, cured, tanned or treated in any other manner whatsoever) of any rhinoceros.
- (2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding one hundred thousand rands or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any rhinoceros or the carcass (whether untreated, processed, prepared, cured, tanned or treated in any other manner whatsoever) of any rhinoceros in respect of which the offence was committed.
- (3) (a) The court convicting any person of an offence contemplated by subsection (2), read with subsection (1)—
- (i) shall, without notice to any person and in addition to the penalty which it may impose in terms of subsection (2), declare any rhinoceros or the carcass (whether untreated, processed, prepared,

cured, tanned or treated in any other manner whatsoever) of any rhinoceros in respect of which the offence was committed to be forfeited to the Administration, and

- (ii) may, without notice to any person and in addition to the penalty and forfeiture contemplated by subparagraph (i), declare any vehicle, vessel, boat, craft, float, aircraft or other means of conveyance and any weapon, instrument, receptacle or other thing which was used for or in connection with the commission of the offence and which was produced to the court to be forfeited to the Administration.
 - (b) The Administrator or any person authorised thereto by him, may cause to be destroyed or sold or may direct what may otherwise be done with anything declared to be forfeited in terms of paragraph (a).
 - (c) Any rights which any person other than the convicted person may have in any rhinoceros or any carcass (whether untreated, processed, prepared, cured, tanned or treated in any other manner whatsoever) of a rhinoceros or any other thing forfeited in terms of paragraph (a) shall not be affected by such forfeiture if such person proves that he was not aware of the commission of the offence or that he took all reasonable steps to prevent the commission of the offence or that he could not prevent the commission of the offence and that he may lawfully possess whatever has been forfeited.
 - (d) The provisions of section 35 (4) of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall, subject to the provisions of paragraph (c), apply mutatis mutandis in respect of any forfeiture in terms of this subsection.
- (4) Where in any prosecution under subsection (1) read with subsection (2) any person is shown to have performed any act contemplated by subsection (1), it shall, until the contrary is proved, be presumed that the performance of such act was unlawful.
- (5) The Director-General: Provincial Administration of the Cape of Good Hope may, from money appropriated by Parliament for that purpose and with the concurrence of the Minister of Finance, pay a cash amount, which in his opinion is fair and reasonable in the circumstances, to any person, except a person in the employ of the State, who provided him with any information or evidence with regard to an offence contemplated by subsection (2), irrespective of whether such information or such evidence leads to a prosecution and conviction in a competent court.

CHAPTER V

PROTECTION OF FISH IN INLAND WATERS

Pollution of inland waters.

48. No person shall deposit or cause or allow to be deposited—
- (a) in any inland waters, or

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

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

Obstruction of fish in inland waters.

49. No person shall place or cause or allow to be placed in any inland waters any article or thing, other than a net of which the use in inland waters is authorised by any provision of this ordinance, which will or is likely to prevent the free passage of fish in such waters.

Placing of fish etc. in inland waters.

50. No person shall without a permit place in or in any manner introduce into or cause or allow to be placed or introduced into any inland waters any live fish or any aquatic growth; provided that the provisions of this section shall not apply in respect of live fish which is replaced into any inland waters immediately after it has been caught in such waters.

Killing of fish.

51. Subject to the provisions of section 61, no person shall by any means whatsoever kill or injure any fish or wilfully disturb or destroy the spawn of any fish in any inland waters; provided that the provisions of this section shall not apply in respect of any fish which is killed or injured while being caught in and taken from such waters in accordance with the provisions of this ordinance.

Prohibition on catching of certain species of fish and catching of fish outside angling season.

52. Subject to the provisions of section 61 no person shall without a permit—
- (a) catch any fish which is an endangered wild animal or have in his possession any such fish or the carcass or spawn thereof, or
 - (b) at any time outside the angling season for any species of fish catch any fish of such species in any inland waters.

[S. 52 substituted by s. 13 of Ord. 15 of 1983.]

Angling licence.

53. Subject to the provisions of sections 52 and 61, no person shall angle in any inland waters without a licence issued by the Director, a receiver of revenue or any person authorised to do so by the Director in the prescribed form on payment of the prescribed fee.

[S. 53 substituted by s. 14 of Ord. 15 of 1983 and by s. 11 of Ord. 26 of 1986.]

Netting licence.

- 54.(1) Subject to the provisions of section 61, no person shall for any purpose whatsoever use any fyke-net, crab-net, staked net or trek-net in any inland waters without a licence in the prescribed form issued to him by the Director on payment of the prescribed fee.
- (2) Subject to the provisions of sections 52 and 61, no person shall for any purpose whatsoever use any cast-net in any inland waters without a licence in the prescribed form issued to him by the Director, a receiver of revenue or any person authorised to do so by the Director on payment of the prescribed fee.
- [S. 54 amended by s. 15 of Ord. 15 of 1983 and substituted by s. 12 of Ord. 26 of 1986.]

Prohibition on catching of more fish than number determined as bag limit and of undersized fish.

- 55(1) Subject to the provisions of section 61, no person shall without a permit at any time in any inland waters—
- (a) catch a greater number of any species of fish than the daily bag limit determined in respect of such species by proclamation under section 79 (a), or
 - (b) catch any fish which is of a [length] size or mass less than the [length] size or mass determined by regulation made under section 82 (1) (h) in respect of the species of such fish.
- (2) Notwithstanding anything to the contrary in this ordinance, the Director may for the purposes of this section authorise any person to whom a permit has been issued for the purposes of subsection (1) to use any net in any inland waters.
- [S. 55 substituted by s. 16 of Ord. 15 of 1983.]

Prohibited ways of catching fish.

56. Subject to the provisions of section 61, no person shall in any inland waters catch fish—
- (a) by snatching or spearing;
 - (b) by means of a staked net, trek-net or fyke-net which, in each case, extends over a distance of more than half the width of such inland waters at the place where such net is so used;
 - (c) by means of a fyke-net if any device used to guide fish to an opening in such net is more than six metres in length;
 - (d) by placing a staked net or fyke-net or by using a trek-net within a distance of thirty metres from the extremities of any other such net being used in such waters and for the purposes of this paragraph the extremities of a fyke-net shall be deemed to be the extremities of the devices, if any, used to guide fish to an opening in such net;
 - (e) by angling by means of—
 - (i) more than two lines;

- (ii) more than two single hooks attached to any line, or
- (iii) a set line with more than two hooks attached thereto.

[Para. (e) substituted by s. 13 (a) of Ord. 26 of 1986.]

- (f) [Para. (f) deleted by s. 13 (b) of Ord. 26 of 1986.]

Sale etc. of certain species of fish.

57 No person shall without a permit—

- (a) sell or buy fish which is an endangered wild animal or the carcass or spawn of such fish;

[Para (a) substituted by s. 17 (a) of Ord. 15 of 1983.]

- (b) sell, buy or transport any live carp, bluegill sunfish, trout, black bass, banded tilapia or exotic invertebrate freshwater fauna;

[Para. (b) substituted by s. 14 (a) of Ord. 26 of 1986.]

- (c) sell or buy any fish the catching of which is prohibited by section 55 (1) (b).

[Para (c) substituted by s. 17 (b) of Ord. 15 of 1983 and amended by s. 14 (b) of Ord. 26 of 1986.]

Importation and export of fish.

58. No person shall without a permit—

- (a) import any live fish or the spawn of any fish into the Province;
- (b) import into or export from or transport in or through the Province any fish which is an endangered wild animal or the carcass or spawn of any such fish, or

[Para. (b) amended by s. 15 of Ord. 26 of 1986.]

- (c) import into or export from the Province any fish which is a protected wild animal and is specified in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973, or the carcass or spawn of any such fish.

[S. 58 substituted by s. 18 of Ord. 15 of 1983.]

Removal etc. of bait caught in inland waters.

59. No crab, prawn, pencil bait, shell bait or worm, whether alive or not, which has been caught in any inland waters shall, except under the authority of a permit—

- (a) [Para (a) deleted by s. 19 of Ord. 15 of 1983.]
- (b) [Para (b) deleted by s. 19 of Ord. 15 of 1983.]
- (c) be sold to any person, or
- (d) be bought by any person except from a person authorised by any provision of this ordinance to sell it.

Noxious aquatic growths.

60 No person shall cultivate, possess, transport, sell, donate, buy or otherwise acquire or import into the Province any noxious aquatic growth.

Privately owned inland waters.

61 The provisions of sections 51, 52, 53, 54, 55 and 56 shall, in respect of any privately owned inland waters, not apply to—

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

[S. 61 amended by s. 20 of Ord. 15 of 1983.]

Exemption from provisions for scientific purposes.

61A. The Director may in his discretion and subject to such conditions as he may deem necessary or desirable grant exemption in writing from any provision of this Chapter to any person doing research on fish or fish food.

[S. 61A inserted by s. 21 of Ord. 15 of 1983.]

**CHAPTER VI
PROTECTION OF FLORA**

Possession etc. of endangered flora.

62(1) Subject to the provisions of this ordinance, no person shall without a permit, be in possession of, sell, buy, donate, receive as a donation, pick, or import into, export from or transport in or through the Province, any endangered flora.

(2) The provisions of subsection (1) shall not be construed so as to preclude the possession without a permit by an owner of land, of any endangered flora growing in a natural state on such land.

(3) Any person desiring to sell endangered flora which he has cultivated on any fixed premises shall apply to the Director in the prescribed form for registration as a grower of endangered flora and a permit to sell endangered flora which has been cultivated and furnish him with the prescribed information and such further information as he may require.

[Sub-s. (3) inserted by s. 16 of Ord. 26 of 1986.]

(4) Upon receipt of any such application, the Director may cause such inspection of the premises concerned as he may deem necessary to be made and if he is satisfied that the granting of such application will

further the objectives of this Chapter he may, subject to the conditions which he deems fit, in the prescribed form issue to the applicant a certificate of registration as a grower of endangered flora and a permit to sell endangered flora which has been cultivated.

[Sub-s. (4) inserted by s. 16 of Ord. 26 of 1986.]

- (5) The holder of a permit issued under subsection (4) shall not be exempt from compliance with any provision of the Licences Ordinance, 1981 (Ordinance 17 of 1981), in connection with the sale of any flora.

[Sub-s. (5) inserted by s. 16 of Ord. 26 of 1986.]

- (6) A certificate and a permit issued under subsection (4) shall be valid—
- (a) in the firstmentioned case, until it is cancelled by the Director, and
 - (b) in the lastmentioned case, for a period of twelve months from the date of issue thereof.

[Sub-s. (6) inserted by s. 16 of Ord. 26 of 1986.]

- (7) The holder of a permit issued under subsection (4) shall not sell or donate any endangered flora to any person unless, when he sells or donates such flora to such person, he furnishes such person with a written and dated document signed by him and reflecting—
- (a) his full name and address;
 - (b) the full name and address of such person;
 - (c) the number and date of such permit, and
 - (d) the name of each species and the number of each species of such flora which has been sold or donated.

[Sub-s. (7) inserted by s. 16 of Ord. 26 of 1986.]

- (8) Notwithstanding any provision to the contrary contained in this section, no permit shall be required for the purchase, receipt as a donation, transport or possession of any endangered flora which has been sold or donated by the holder of a permit issued under subsection (4) and in which such flora is specified; provided that any person who has bought or received as a donation or is in possession of such flora, is in possession of a document contemplated by subsection (7).

[Sub-s. (8) inserted by s. 16 of Ord. 26 of 1986.]

Prohibition on picking of certain flora.

63.(1) No person shall—

- (a) uproot the plant in the process of picking the flower of any flora;

Para. (a) substituted by s. 17 of Ord. 26 of 1986.]

- (b) without a permit—

- (i) pick any endangered or protected flora, or

- (ii) pick any flora on a public road or on the land on either side of such road within a distance of ninety metres from the centre of such road,
or

- (c) pick any protected or indigenous unprotected flora on land of which he is not the owner, without the permission of the owner of such land or of any person authorised by such owner to grant such permission.
- (2) No permission granted in terms of subsection (1) (c) shall be valid unless it is reduced to writing and reflects—
- (a) the full names and address of the owner of the land concerned or of the person authorised to grant such permission;
 - (b) the full names and address of the person to whom permission is granted, and
 - (c) the number and species of flora, the date or dates on which such flora may be picked and the land in respect of which permission is granted,
- and is signed and dated by such owner or the person authorised by him.
- (3) The provisions of subsection (1) (b) shall not apply to the owner of any land, any relative of such owner and any full-time employee of such owner acting on the instructions or with the consent of such owner, in respect of any protected or indigenous unprotected flora on such land.
- (4) The provisions of subsection (1) (b) (i) shall not apply to any person authorised in writing by the owner of any land to pick any protected flora on such land for the purpose of gathering and propagating the seed of such flora.

Sale and purchase of protected flora.

64. No person shall—
- (a) sell or buy any protected flora at any place other than on the premises of a registered flora grower or registered flora seller, and
 - (b) sell any protected flora without a licence issued under section 65 (2).
- [Para. (b) amended by s. 18 of Ord. 26 of 1986.]
[S. 64 substituted by s. 22 of Ord. 15 of 1983.]

Registration and licensing of flora growers and flora sellers.

- 65.(1) Any person desiring to be registered and licensed in respect of any fixed premises as a flora grower or flora seller, as the case may be, shall apply to the Director in the prescribed manner and form for registration in terms of this section and furnish him with the prescribed information and such further information as he may require.
- (2) Upon receipt of any such application, the Director may cause such inspection of the premises concerned as he may deem necessary to be made and if, after consultation with the local authority in whose area of jurisdiction such premises are situate and regard being had to any other information at his disposal, he is satisfied that the granting of such application will not be contrary to the objectives of this Chapter, he may, in his discretion and subject to the conditions which he deems fit, in the prescribed form issue to any such applicant—
- (a) in respect of the premises concerned, a certificate of registration as a flora grower or flora seller, as the case may be, and

- (b) on payment of the prescribed fee, a licence to sell on the premises concerned the protected flora specified by him in such licence;

provided that no fee shall be payable in respect of a licence to sell protected flora which has been cultivated.

[Sub-s. (2) substituted by s. 19 of Ord. 26 of 1986.]

- (3) The holder of a licence issued under subsection (2) shall not be exempt from compliance with any provision of the Licences Ordinance, 1981 (Ordinance 17 of 1981), in connection with the sale of any flora.

[Sub-s. (3) substituted by s. 19 of Ord. 26 of 1986.]

- (4) (a) A licence issued to—
 - (i) a flora grower shall be valid for a period of twelve months from the date of issue thereof, and
 - (ii) a flora seller shall be valid for a period of three years from the date of issue thereof.
- (b) A certificate of registration as a flora grower or flora seller shall be valid until it is cancelled by the Director or, in the case where the Director does not receive an application for a new licence from a flora grower or flora seller, as the case may be, within thirty days of the expiry of the periods contemplated by paragraph (a) for the periods contemplated by paragraph (a) and for thirty days thereafter.

[Sub-s. (4) substituted by s. 19 of Ord. 26 of 1986.]

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

66. No person shall sell any protected flora on the premises of—
- (a) a registered flora grower unless such flora was propagated or cultivated or occurred in a natural state on such premises;
 - (b) a registered flora seller unless such flora has been obtained from any other registered flora seller or registered flora grower, or
 - (c) a registered flora seller if such flora was propagated or cultivated or occurred in a natural state on any premises of any registered flora seller who is not registered as a flora grower in respect of such premises.

[S. 66 substituted by s. 20 of Ord. 26 of 1986.]

Sale of protected flora for charitable and other approved purposes.

67. Notwithstanding anything to the contrary contained in this ordinance, the Director may subject to such conditions and restrictions as he may deem necessary issue a permit to any person authorising such person to sell protected flora for charitable or such other purposes as the Director may approve, at a time and place specified in such permit.

Places for sale of indigenous unprotected flora.

- 68.(1) A local authority may in respect of the sale of indigenous unprotected flora within its area of jurisdiction set aside such places as it may deem suitable for the sale of

such flora, erect such shelters or other structures as it may deem necessary thereon and notwithstanding anything to the contrary contained in the Licences Ordinance, 1981 (Ordinance 17 of 1981), when issuing a licence contemplated by Item 32 of the First Schedule to such ordinance authorising the holder of such licence to carry on the business of selling, bartering or exchanging flowers or offering or exposing flowers for sale, barter or exchange, restrict the carrying on of such business in respect of indigenous unprotected flora to any place so set aside.

[Sub-s. (1) amended by s. 23 of Ord. 15 of 1983.]

- (2) No person shall sell any indigenous unprotected flora at any place other than a place set aside in terms of subsection (1) or on the premises of a registered flora seller or registered flora grower.

Sale of indigenous unprotected flora by owner of land.

69. Notwithstanding the provisions of section 68 (2), an owner of land on which indigenous unprotected flora is being propagated or cultivated or on which such flora occurs in a natural state may sell such flora which has been so propagated or cultivated or which so occurs to any person—

- (a) on such land;
- (b) at a place set aside in terms of section 68 (1), or
- (c) carrying on business under a licence issued to him under section 65 (2).

[Para. (c) amended by s. 21 of Ord. 26 of 1986.]

Export and importation of flora.

70. No person shall without a permit—

- (a) export any flora from the Province; provided that the provisions of this paragraph shall not apply to the export by any person of any flora, except endangered flora and protected flora referred to in Appendix II of the Convention on International Trade in

Endangered Species of Wild Fauna and Flora, Washington, 1973, which he legally obtained from any registered flora grower or registered flora seller who is the holder of a permit to export such flora contemplated by this paragraph; provided further that such person, while he is exporting such flora, shall be in possession, in addition to any document contemplated by sections 71 and 72, of a document in which the number and date of such export permit of such flora grower or flora seller are reflected, or

[Para. (a) substituted by s. 21 of Ord. 26 of 1986.]

- (b) import into the Province any protected flora specified in appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973.

[S. 70 substituted by s. 24 of Ord. 15 of 1983.]

Donation of flora.

71. The provisions of sections 41 and 43 shall apply mutatis mutandis in respect of the donation of any flora by any person to any other person.

Possession of flora.

72 The provisions of sections 42 and 43 shall apply mutatis mutandis in respect of any person found in possession of any flora.

**CHAPTER VIA
PROFESSIONAL HUNTERS AND HUNTING CONTRACTORS**

[Chapter VIA inserted by s. 25 of Ord. 15 of 1983.]

Definitions.

72A For the purposes of this Chapter—

- (a) “**professional hunter**” means a person who, for reward, offers to escort some other person not normally resident in the Republic, the Territory of South West Africa or a territory which formerly formed part of the Republic, in order to enable such other person to hunt a wild animal, and
- (b) “**hunting contractor**” means a person who, for reward, offers or organises the hunting of a wild animal to or for some other person not normally resident in the Republic, the Territory of South West Africa or a territory which formerly formed part of the Republic.

Permit to act as professional hunter or hunting contractor.

72B Subject to the provisions of any regulations made under section 72C (a), no person shall act as a professional hunter or hunting contractor without a permit.

Regulations.

72C The Administrator may make regulations—

- (a) relating to the group or class of professional hunters or hunting contractors exempted from the provisions of section 72B;
- (b) controlling a professional hunter or a hunting contractor and controlling and regulating his services and facilities, and
- (c) controlling and regulating the hunting of wild animals.

Penalty.

72D Subject to the provisions of section 86 (2) every person who contravenes the provisions of section 72B shall be guilty of an offence and shall be liable on conviction in accordance with the provisions of section 86 (1) (b).

Date of commencement.

72E This Chapter shall come into operation on a date determined by the Administrator by proclamation.

**CHAPTER VII
GENERAL AND SUPPLEMENTARY**

Permits etc. to be issued by Director.

73. Whenever any permit, certificate, written authority, exemption or order is by any provision of this ordinance required for the lawful performance of any act, such permit, certificate, written authority, exemption or order may, unless specific provision is made for the issue thereof by any other authority, on application in the prescribed form, in his discretion be issued by the Director subject to such conditions as he may, either generally or specially, consider necessary or desirable in regard thereto.

Period of validity of permits etc.

74. Unless otherwise provided in this ordinance, any permit, certificate, written authority, licence or exemption issued thereunder shall be valid for the period specified therein.

[S. 74 amended by Proc. 46 of 1992.]

Cancellation of permits etc. and alteration of conditions relating thereto.

75.(1) The Director or a local authority may at any time if in his or its opinion it is necessary or desirable in the interests of nature and environmental conservation—

(a) cancel any permit, certificate, written authority, licence, exemption or order (hereinafter in this section referred to as “document”) issued by him or it in terms of any provisions of this ordinance or the issue of which was so authorised by him or it, or

[Para. (a) substituted by s. 26 of Ord. 15 of 1983.]

(b) consistently with the provisions of this ordinance, amend the conditions, if any, subject to which a document was issued by the deletion or substitution of any condition or the addition of any other condition.

(2) For the purpose of exercising any powers contemplated by subsection (1), the Director or the local authority concerned shall notify the holder of such document of his or its decision to exercise such power, either—

(a) in writing delivered to him personally or posted by registered mail properly stamped and addressed, to his last known business or residential address, or

- (b) orally through a nature and environmental conservation officer or ranger under his or its control.
- (3) The holder of such document shall return such document to the Director or local authority, as the case may be, by registered mail within fourteen days after receipt of a notification in terms of subsection (2) (a) or by handing such document to the officer or ranger informing him of such decision as contemplated by subsection (2) (b).
- (4) Any cancellation or amendment in terms of subsection (1) of the conditions specified in any document, shall take effect as soon as the holder of the document is in terms of subsection (2) apprised of the decision concerned.
- (5) In any case contemplated by subsection (1) (b) the Director or the local authority concerned may, after receipt of the document in question in terms of subsection (3), issue to the holder of such document a copy of the original thereof incorporating the conditions as amended in terms of subsection (1) by the Director or local authority, as the case may be.
- (6) When any document is cancelled in terms of subsection (1) (a), the holder thereof shall not be entitled to a refund of any fee or portion thereof paid by him in respect of such document.

No reasons need be given for decisions taken in exercise of powers under ordinance.

76. No person authorised by any provision of this ordinance to issue or cancel, or to impose or amend conditions relating to any permit, certificate, written authority, exemption, licence or order shall be obliged to furnish to any other person his reasons for any decision taken by him in the exercise of any such power.

Amendment of Schedules by Administrator.

- 77.(1) The Administrator may at any time by proclamation and with effect from a date specified in such proclamation, substitute or amend any Schedule to this ordinance other than Schedule 6 by the deletion of any species of fauna or flora specified in any such Schedule or the addition of any other species of fauna or flora.
- (2) Any amendment in terms of subsection (1) may be made to apply in respect of the Province or any area therein specified in the relevant proclamation and either indefinitely or for a period so specified.
 - (3) A copy of any proclamation issued in terms of subsection (1) shall be laid upon the table of the Provincial Council within seven days of the promulgation of such proclamation if the Provincial Council is then in session, or, if the Provincial Council is not then in session, within seven days after the commencement of its next ensuing session.

Hunting and angling seasons.

78. The Administrator may by proclamation in respect of the Province or any area therein specified in such proclamation—

- (a) each year determine the period in such year during which any species of protected wild animal specified in such proclamation may be hunted under the authority of a permit or licence referred to in section 27 (1) (a), or
- (b) determine either indefinitely or for a specified period, the period in each year during which any species of fish specified in such proclamation may be caught by angling under the authority of a licence referred to in section 53.

Miscellaneous powers of Administrator.

79. The Administrator may by proclamation, in respect of the Province or any area therein specified in such proclamation and either indefinitely or for a specified period—

- (a) determine the number of any species of protected wild animal or of fish specified in such proclamation which may subject to the provisions of this ordinance be killed, captured or caught—
 - (i) in the case of protected wild animals, during the period commencing one hour before sunrise and ending one hour after sunset, and
 - (ii) in the case of fish, during the period of twenty-four hours commencing at midnight,on any one day;
- (b) if in his opinion it is necessary or desirable in the interests of nature and environmental conservation and subject to such conditions as he may deem fit suspend the operation of any provision of section 29 or of any other provision of this ordinance in so far as such provision relates to any species of fauna or flora specified in such proclamation;
- (c) notwithstanding anything to the contrary contained in this ordinance, prohibit, control or restrict the hunting of wild animals or any species of wild animal or the catching of fish or any species of fish;
- (d) declare any species of wild animal which in his opinion is, by reason of its prevalence in any area or its mode of living or other characteristics, detrimental to any other species of wild animal or any property, to be a problem wild animal and suspend the operation of any provision of section 29 in so far as it relates to such animal in any area specified in such proclamation;
- (e) prohibit, restrict or regulate the capture, injuring, destruction, export, sale or acquisition in any manner of any species of invertebrate animal specified in such proclamation;
- (f) prohibit, restrict or regulate the transport of any wild animal specified in such proclamation;
[Para. (f) substituted by s. 23 (a) of Ord. 26 of 1986.]
- (g) prohibit or regulate the use either generally or specially—
 - (i) on any inland waters, of any boat or craft designed or intended for propulsion by any means other than human power, or

- (ii) on the shores below the high water mark of any inland waters, of any motor vehicle as defined in section 1 of the Road Traffic Ordinance, 1966 (Ordinance 21 of 1966);
- (h) notwithstanding anything to the contrary contained in any regulation made under section 82—
 - (i) prohibit the use of any tool, instrument or device for the digging for, or the gathering, catching or collecting of any kind of crab, prawn, pencil bait, shell bait or worm or specify any tool, instrument or device which may be used for such purpose;
 - (ii) prohibit or regulate the use of any equipment for the catching of fish or any species of fish in any inland waters, or
[Sub-para. (ii) amended by s. 23 (b) of Ord. 26 of 1986.]
 - (iii) prohibit, control or regulate the removal of any kind of crab, prawn, pencil bait, shell bait or worm, whether alive or not, caught in any inland waters, to other inland waters or the sea, or
[Sub-para. (iii) inserted by s. 27 of Ord. 15 of 1983.]
- (i) prohibit, control or regulate the picking of flora or any species of flora in any manner or by any means specified in such proclamation.

Exemptions.

80. The Administrator may, if in his opinion it is necessary or desirable in the public interest or in the interests of nature and environmental conservation, in writing and subject to such conditions and for such period as he may determine, exempt any person from any provision of this ordinance in so far as such provision relates to any specified species of fauna or flora.

Disposal of articles confiscated or forfeited under ordinance.

81. Whenever any article, animal or thing has been confiscated or forfeited to the Administration under any provision of this ordinance—
- (a) the owner thereof may, within three months from the date of such confiscation or forfeiture or, where proceedings in a Superior Court involving such confiscation or forfeiture have been instituted within such period, within three months after judgement in such proceedings, as the case may be, apply to the Administrator for the return of such article, animal or thing, and
 - (b) the Administrator may—
 - (i) in the event of an application contemplated by paragraph (a) being made within the relevant period contemplated by the said paragraph return such article, animal or thing to the owner thereof;
 - (ii) after expiration of the relevant period contemplated by paragraph (a), deal in any manner he may deem fit (including the alienation or disposal thereof) with any such article, animal or thing, and

- (iii) if such article, animal or thing has been alienated or disposed of in terms of subparagraph (ii), pay the proceeds of such alienation or disposal to the owner of the article, animal or thing concerned.

[S. 81 substituted by s. 4 of Ord. 4 of 1978 and amended by s. 24 of Ord. 26 of 1986.]

Regulations.

82.(1) The Administrator may make regulations—

- (a) relating to the surrender of licences, permits and exemptions at the expiration thereof or when cancelled by a court;
- (b) regulating or restricting the use of dogs in the hunting of any wild animal in any area in respect of which the operation of section 29 (1) has been suspended by proclamation under section 79 (b);
- (c) regulating or restricting the use of persons as beaters at a hunt of wild animals as contemplated by section 27 (3);
- (d) regulating or restricting the number or the species of wild animals which may be kept in captivity or held in possession and prescribing the conditions under and the manner in which any such wild animal or species shall be so kept or held;
- (e) specifying measures relating to the control, restriction or prevention of the breeding of wild animals kept in captivity or held in possession;
- (f) requiring the keeping of books, statements or invoices and the retention thereof by persons who—
 - (i) carry on business by buying or selling flora, fish caught in inland waters or wild animals, or
 - (ii) keep wild animals in captivity or are in possession thereof, and specifying the particulars to be entered in such books, statements and invoices;
- (g) providing for and regulating the putting and keeping in quarantine of any wild animal or fish imported into the Province;
- (h) determining for the purposes of section 55 (b), a size or mass in respect of any species of fish and specifying the methods to be employed in determining the size of fish;
[Para. (h) substituted by s. 28 of Ord. 15 of 1983.]
- (i) providing for the protection, preservation and propagation of any fish food in inland waters;
- (j) regulating, restricting or prohibiting the sale of fish caught or of any kind of crab, prawn, pencil bait, shell bait or worm gathered in any inland waters;
- (k) providing for or prohibiting the use in any inland waters of any type of tool, instrument or device for the digging for or the gathering, catching or collecting of any kind of crab, prawn, pencil bait, shell bait or worm;

- (l) providing for and regulating the replacement of soil and plant life removed in the process of collecting any kind of crab, prawn, pencil bait, shell bait or worm;
- (m) providing for the protection of beacons, buoys, notices, notice boards, signs or other marks erected, used or required for the purposes of this ordinance;
- (n) providing for or regulating the killing by means of poison of rodents, insects or any bird referred to in section 47 (1) (b);
- (o) prescribing the fees payable in respect of the issue of licences, permits, certificates, written authorities or exemptions under this ordinance;
- (p) relating to the forms of licences, permits, certificates or other documents to be issued or used for the purposes of this ordinance;
- (q) relating to any matters which are required or permitted to be prescribed by regulation,

and, generally, in regard to any matter which the Administrator considers necessary or expedient to prescribe or regulate in order to further or achieve the objects of this ordinance, the generality of this provision not being limited by the preceding paragraphs of this subsection.

- (2) Regulations made under subsection (1) may be made applicable throughout the Province or to or in respect of different areas, inland waters or species of fauna or flora and may prescribe, in respect of any contravention thereof or failure to comply therewith, a penalty of a fine not exceeding one thousand five hundred rand or imprisonment for a period not exceeding six months.

[Sub-s. (2) amended by s. 4 of Ord. 11 of 1981.]

Restriction of liability.

- 83. No person, including the Administration and a local authority, shall be liable for any damage suffered by any other person in consequence of anything done in good faith in the exercise or performance of any power, duty or function conferred or imposed by or under this ordinance.

Presumptions.

84.(1) In any prosecution under this ordinance—

- (a) any wild animal, the carcass of any such animal or any fire-arm having a barrel exceeding one hundred millimetres in length, found or proved to have been in or on any vehicle, vessel, boat, craft, float, aircraft or other means of conveyance, shall, unless the contrary is proved, be presumed to have been in possession of the person in charge of such vehicle, vessel, boat, craft, float, aircraft or other means of conveyance at the relevant time;
- (b) any person found or proved to have been in possession of any flora shall unless the contrary is proved, be presumed to have picked such flora in contravention of the provisions of this ordinance or to have bought it from a person not authorised by this ordinance to sell it;

E 49

- (c) any person found or proved to have been in possession of any wild animal shall, unless the contrary is proved, be presumed to have kept such animal in captivity at the relevant time;
- (d) any person found removing or proved to have removed any wild animal or the carcass of any such animal from any trap, snare, pitfall, net, birdlime or other similar device, shall, unless the contrary is proved, be deemed to have laid or prepared such trap, snare, pitfall, net, birdlime or other device and to have captured the animal concerned;
- (d) any person who is found trespassing, while in control of a dog, on any land on which wild animals are normally found or who is proved to have so trespassed on such land shall, unless the contrary is proved, be presumed to have hunted the wild animals normally found on such land by the use of such dog.

(2) Whenever—

- (a) a vehicle, vessel, boat, craft, float, aircraft or other means of conveyance is being or has been used for the purpose of or in connection with the commission of an offence under this ordinance;
- (b) any wild animal, the carcass of such animal or fish in respect of which an offence is being or has been committed under this ordinance is found or has been in or on a vehicle, vessel, boat, craft, float, aircraft or other means of conveyance, or
- (c) a weapon, line, poison, net or any other object which would be used for the hunting of wild animals or the catching of fish and which is being or was used or forms or formed an element in the commission of an offence under this ordinance, is found or has been in or on a vehicle, vessel, boat, craft, float, aircraft or other means of conveyance,

the owner of such vehicle, vessel, boat, craft, float, aircraft or other means of conveyance as well as the person in charge thereof at the time of the commission of the offence or at the time when the wild animal, carcass, fish or any object contemplated by paragraph (c) is found or was in or on such vehicle, vessel, boat, craft, float, aircraft or other means of conveyance shall be presumed to have committed the offence concerned and be liable to be convicted and sentenced in respect

thereof unless it is proved that he did not commit such offence and was unable to prevent the commission thereof.

Offences.

85 Any person who—

- (a) contravenes or fails to comply with any provision of this ordinance or any regulation made or instruction given or demand made thereunder;
- (b) alters, fabricates or forges any document issued or required for the lawful performance of any act in terms of this ordinance;
- (c) passes, uses, utters or has in his possession any altered, fabricated or forged document contemplated by paragraph (b);

- (d) under a false name obtains any document contemplated by paragraph (b);
 - (e) while prohibited by an order of court from obtaining any document in terms of this ordinance, obtains or applies for such document;
 - (f) being the holder of any document issued under this ordinance authorising or directing him to perform any act or to perform any act in a specified manner, performs such act without having such document in his possession or in a manner other than that so specified;
 - (g) fails to comply with any term or condition subject to which any document was issued to him under this ordinance;
 - (h) falsely holds himself out to be a nature and environmental conservation officer, nature and environmental conservation ranger or an honorary nature and environmental conservation officer;
 - (i) hinders, obstructs or interferes with any officer referred to in paragraph (h) in the exercise of his powers or the performance of his functions under this ordinance or without good cause refuses or fails on demand to furnish any such officer with his name and address or with any information or document required by such officer for the purposes of this ordinance or furnishes any such officer with a false name and address;
 - (j) while in possession of a fire-arm having a barrel exceeding one hundred millimetres in length or of any trap, net, gin, snare, birdlime, cage or other contrivance intended to be used or which could be used for the hunting of wild animals, trespasses on land on which there is or is likely to be any wild animal;
 - (k) is found in possession of any wild animal or the carcass of any such animal or of any bait referred to in section 59 and is unable to give a satisfactory account of such possession, or
 - (l) knowingly makes a false statement in any application made or in any other document furnished by him in terms of any provision of this ordinance,
- shall be guilty of an offence.

Penalties.

- 86.(1) Any person convicted of an offence under this ordinance shall, subject to the provisions of subsection (2), be liable, in the case of—
- (a) a contravention of section 29 or 44 (1) involving an endangered wild animal, 63 (1) involving endangered flora, 14, 26, 32 (1), 48, 50, 52 (a), 57 (a), 58 (b), 60, 62 (1), 72B or 85 (i), to a fine not exceeding one hundred thousand rands or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any endangered wild animal or the carcass thereof or any endangered flora in respect of which the offence was committed;
 - (b) a contravention of section 27 (1), 29, 31, 40, 41, 42 (1), 44 (1) (a), (b) or (e) or 46 involving an African elephant, to a fine not exceeding one hundred thousand rands or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment, and to a fine not

exceeding three times the commercial value of any African elephant or the carcass thereof in respect of which the offence was committed;

- (c) a contravention of section 27 (1), 29, 31, 40, 41, 42 (1), 44 (1) (a), (b) or (e) or 46 or 58 (c) involving any protected wild animal other than an African elephant, 63 (1) involving protected or indigenous unprotected flora, 64, 66 or 70, to a fine not exceeding ten thousand rands or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any wild animal or the carcass thereof or any such flora in respect of which the offence was committed; and
- (d) any other offence in terms of this ordinance or any contravention of any other provision of this ordinance in respect of which no specific penalty is prescribed, to a fine not exceeding five thousand rands or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of any wild animal or the carcass thereof or any such flora in respect of which the offence was committed.

[Sub-s. (1) substituted by s. 5 of Ord. 11 of 1981, amended by s. 25 of Ord. 26 of 1986 and substituted by Proc. 46 of 1992.]

- (2) Where a penalty is specifically prescribed by regulation for a contravention of or failure to comply with any regulation, a person convicted of any such contravention or failure shall be liable only to the penalty so prescribed.

Cancellation of certificates etc. and forfeiture of certain articles.

87.(1) The court convicting any person of an offence under this ordinance—

- (a) may issue an order that any certificate, licence, permit, written authority or exemption issued to such person under this ordinance be cancelled if in its opinion the rights conferred by such certificate, licence, permit, written authority or exemption were abused by such person in the commission of such offence;

[Para. (a) amended by s. 6 (a) of Ord. 11 of 1981.]

- (b) may issue an order disqualifying such person from obtaining for a specified period not exceeding three years, any specified certificate, licence, permit, written authority or exemption under this ordinance, and
- (c) (i) may declare any animal, vehicle, vessel, boat, craft, float, aircraft or other means of conveyance (hereafter referred to as “means of conveyance”) and any weapon, instrument, receptacle or other thing (hereafter referred to as “article”) which was used for the purpose of or in connection with the commission of the offence and was produced to the court, to be forfeited to the Administrator; provided that no declaration shall be made in terms of this subparagraph in respect of any means of conveyance or article referred to in this subparagraph if the court is satisfied that the convicted person at the time of the commission of the offence was not the owner thereof and that the owner thereof was unable to prevent the use thereof by the convicted person, and

- (ii) shall declare any wild animal or the carcass thereof or any flora in respect of which the offence was committed to be forfeited to the Administration.

[Para. (c) substituted by s. 6 (b) of Ord. 11 of 1981, amended by s. 26 of Ord. 26 of 1986 and substituted by Proc. 46 of 1992.]

- (2) The registrar or clerk of any court which has—
 - (a) issued an order under subsection (1) (a) or (b), shall advise the person or authority who or which issued or, in the case of an order under subsection (1) (b), is authorised to issue the certificate, licence, permit, written authority or exemption in question, of such order and of the sentence imposed on the convicted person, or
 - (b) made a declaration under subsection (1) (c), shall advise the Director of such order and of the sentence imposed on the convicted person and shall also forward the article or thing to which the declaration relates to the Director for disposal in terms of section 81.

Disposal of licence fees, fines and proceeds of sale of articles declared forfeited.

- 88.(1) Subject to the provisions of subsection (2), all fees paid in respect of licences, permits, certificates, written authorities or exemptions issued, all fines imposed in respect of offences and the proceeds of the sale of anything declared to be forfeited to the Administration under this ordinance shall be paid into the Provincial Revenue Fund.
- (2) All fees paid in respect of permits issued under by-laws made by a local authority and all fines paid in respect of contraventions of such by-laws shall be paid into the revenue fund of the local authority concerned.

Savings in respect of Walvis Bay.

- 88A.(1) Any authority, permit (other than a permit for the importing or exporting of wild animals, fish or flora), licence, order, registration, approval, permission, exemption or document effected, given, granted or issued in relation to wild animals, fish or flora in Walvis Bay in terms of or under any law in force in Walvis Bay immediately prior to the first day of April, 1978, and which would, but for the repeal of such law, still have been of force in Walvis Bay on such first day, shall remain of force in Walvis Bay on and after such first day until the date on which the currency thereof would, in terms of such law, have expired or until the thirtieth day of September, 1978, whichever is the earlier and shall, while it so remains of force, be deemed to have been effected, given, granted or issued in terms of this ordinance.
- (2) Any person who, immediately prior to the first day of April, 1978, performed any act or did any thing in relation to wild animals, fish or flora in Walvis Bay for which any authority, permit, licence, order, registration, approval, permission, exemption or document—
 - (a) was not required in terms of or under the law in force in Walvis Bay immediately prior to such first day, and
 - (b) is required on or after such first day in terms of this ordinance,

may, during the period expiring on the thirtieth day of September, 1978, and notwithstanding the provisions of this ordinance, continue to perform such act or do such thing without obtaining or holding the authority, permit, licence, order, registration, approval, permission, exemption or document contemplated by paragraph (b).

[S. 88A inserted by of Proc. 87 of 1978.]

Repeal of laws.

- 89.(1) Subject to the provisions of subsection (2), the laws specified in Schedule 6 are hereby repealed.
- (2) Unless otherwise provided in this ordinance, any proclamation, notice, regulation, certificate, licence, permit, permission, written authority or exemption issued, made, promulgated, granted, or given and any other thing done under a law repealed by subsection (1) shall be deemed to have been issued, made, promulgated, granted, given or done under the corresponding provision of this ordinance; provided that—
- (i) no permit or other authority issued or granted to any person under a law repealed by subsection (1) authorising such person to keep any wild animal in captivity, shall remain valid for a period longer than three months from the commencement of this ordinance, and
 - (ii) any regulations made by a local authority under a law repealed by subsection (1), relating to the constitution of an advisory board appointed in respect of a nature reserve established by such local authority, shall be deemed to have been amended in accordance with the provisions of section 8 (2).

Short title and commencement.

90. This ordinance shall be called the Nature and Environmental Conservation Ordinance, 1974, and shall come into operation on the first day of September, 1975.

[DATE OF COMMENCEMENT: 1 SEPTEMBER, 1975]

as amended by

Proclamation No. 59 of 1976

Nature and Environmental Conservation Amendment Ordinance, No. 4 of 1978

Proclamation No. 87 of 1978

Nature and Environmental Conservation Amendment Ordinance, No. 29 of 1980

Nature and Environmental Conservation Amendment Ordinance, No. 11 of 1981

Nature and Environmental Conservation Amendment Ordinance, No. 15 of 1983

Proclamation No. 29 of 1984

Proclamation No. 208 of 1984

Proclamation No. 57 of 1985

Proclamation No. 16 of 1986

Nature and Environmental Conservation Second Amendment Ordinance, No. 24 of 1986

Nature and Environmental Conservation Amendment Ordinance, No. 26 of 1986

Proclamation No. 39 of 1991

Proclamation No. 24 of 1992

Proclamation No. 46 of 1992

Proclamation No. 10 of 1994

Proclamation No. 8 of 1998