

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 987

21 SEPTEMBER 2018

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004
(ACT NO. 10 OF 2004)

DRAFT NOTICE PROHIBITING THE CARRYING OUT OF CERTAIN RESTRICTED ACTIVITIES INVOLVING
RHINOCEROS HORN

I, Bomo Edna Edith Molewa, Minister of Environmental Affairs, hereby under section 57(2), read with section 100 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) give notice of my intention to publish a notice prohibiting the carrying out of certain restricted activities involving rhinoceros horn, or a part, product or derivative of such rhinoceros horn, belonging to the species *Diceros bicornis bicornis*, *Diceros bicornis minor*, *Diceros bicornis michaeli* and *Ceratotherium simum simum*, in the Schedule hereto.

Draft prohibitions relating to the carrying out of certain restricted activities involving rhinoceros horn were published in the *Government Gazette*, No. 40601, Notice No. 77, on 08 February 2017, for public comments, for a period of 30 days. The provisions of paragraphs 2(3)(b) and 2(5)(b) in the Schedule below were not included in the aforementioned Government Notice.

Members of the public are therefore invited to submit written representations or objections on paragraphs 2(3)(b) and 2(5)(b), within 30 days after the publication of this notice in the *Gazette*, to the following addresses:

By post: The Director-General
Department of Environmental Affairs
Attention: Ms Magdel Boshoff
Deputy Director: Threatened or Protected Species Policy Development
Private Bag X447
PRETORIA
0001

By hand: Environmental House, 473 Steve Biko Street, Arcadia, Pretoria, 0083.
By email: rhinohornregulations@environment.gov.za

Any enquiries in connection with this notice can be directed to Ms Magdel Boshoff at 012 399 9604.

The provisions of this notice must be read alongside the provisions of the following draft notices, which are also published in the *Government Gazette* for public participation:

- a) draft regulations relating to domestic trade in rhinoceros horn; and
- b) amendment of the alien and invasive species list to remove Eastern black rhinoceros (*Diceros bicornis michaeli*), and amendment of the list of critically endangered, endangered, vulnerable and protected species to include Eastern black rhinoceros (*Diceros bicornis michaeli*) as a protected species.

Comments received after the closing date may be disregarded.


BOMO EDNA EDITH MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

1. Definitions

In this notice, a word or expression or any derivative or other grammatical form of such word or expression to which a meaning has been assigned in the Biodiversity Act or the TOPS Regulations, has the corresponding meaning, and unless the context indicates otherwise —

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

“genetic profiling” means the use of biotechnology to identify the unique characteristics of a rhinoceros horn for forensic or diagnostic purposes;

“person” includes a juristic person;

“registered” means registered in terms of the TOPS Regulations;

“rhinoceros horn” means the whole horn, or any part or cut piece of the horn, whether polished or unpolished, in any form whatsoever or howsoever changed from its original form, and includes rhinoceros horn in its powdered form or shavings of rhinoceros horn;

“scientific purposes” means for the primary purpose of practicing science or conducting research;

“TOPS Regulations” means the regulations pertaining to listed threatened or protected species and promulgated in terms of section 97 of this Act;

“Rhinoceros Norms and Standards” means the norms and standards pertaining to the marking of rhinoceros and rhinoceros horn, and the hunting of rhinoceros for trophy hunting purposes, promulgated in terms of section 9 of the Biodiversity Act.

Prohibitions

2. (1) A person may not—

(a) powder a rhinoceros horn or cause the powdering of a rhinoceros horn;

(b) form or create slivers, chips, drill bits or any similar derivative from rhinoceros horn, or cause such slivers, chips, drill bits or similar derivatives to be formed; or

- (c) remove parts or layers from a rhinoceros horn.
- (2) The prohibition contemplated in subparagraph (1) does not apply—
 - (a) when powder, slivers, chips, drill bits or any similar derivative is formed during the process of inserting a microchip into a rhinoceros horn;
 - (b) when powder, slivers, chips, drill bits or any similar derivative is formed during the process of dehorning a rhinoceros, or when a person removes part of a rhinoceros horn, as a management intervention or for security purposes;
 - (c) when a person collects a sample of rhinoceros horn for the purpose of genetic profiling in accordance with the Rhinoceros Norms and Standards; or
 - (d) to the forming of powder, slivers, chips, drill bits or any similar derivative, or the removal of parts or layers from rhinoceros horn, when the activity is carried out by—
 - (i) a registered scientific institution for scientific purposes;
 - (ii) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, performing or conducting the genetic profiling in accordance with the Rhinoceros Norms and Standards; or
 - (iii) the State.
- (3) A person may not sell, give, donate, buy, receive, accept as a gift or donation, or in any similar way dispose of or acquire, rhinoceros horn—
 - (a) contemplated in subparagraph (1), or
 - (b) that is less than 5 cm in length, irrespective of the weight of the rhinoceros horn.
- (4) Notwithstanding the prohibition contemplated in subparagraph (3) —
 - (a) the lawful owner of rhinoceros horn may give or donate the rhinoceros horn contemplated in subparagraph (1) or (3)(b) to the State or to a registered scientific institution;
 - (b) a registered scientific institution may—

- (i) give or donate rhinoceros horn contemplated in subparagraph (1) or (3)(b) to the State; or
 - (ii) receive or accept as a gift or donation such rhinoceros horn for scientific purposes;
- (c) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, may—
 - (i) give or donate rhinoceros horn contemplated in subparagraph (1) or (3)(b) to the State; or
 - (ii) receive or accept as a gift or donation such rhinoceros horn for the purpose of performing or conducting the genetic profiling, in accordance with the Rhinoceros Norms and Standards; or
- (d) the State may give, donate, receive or accept as a gift or donation rhinoceros horn contemplated in subparagraph (1) or (3)(b).
- (5) A person may not export or re-export from the Republic, rhinoceros horn—
 - (a) contemplated in subparagraph (1), or
 - (b) that is less than 5 cm in length, irrespective of the weight of such rhinoceros horn.
- (6) The prohibition of the carrying out of the activities contemplated in subparagraph (5) does not apply to—
 - (a) a registered scientific institution for scientific purposes;
 - (b) a registered scientific institution approved by the Director-General of the Department, or the Forensic Science Laboratory of the South African Police Service, for the purpose of genetic profiling, in accordance with the Rhinoceros Norms and Standards; or
 - (c) the State.
- (7) The prohibitions contemplated in subparagraphs (1), (3) and (5) are effective for a period of three years from the date of coming into operation of this notice, after which the Minister will assess and re-consider the prohibitions.

Short title and commencement date

3. This notice is called the notice prohibiting the carrying out of certain restricted activities involving rhinoceros horn, and comes into operation on a date determined by the Minister by notice in the *Gazette*.