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PROVINCIAL NOTICE

DRAFT FREE STATE NATURE CONSERVATION BILL, 2007

By virtue of section 4(3) of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), I, NH Masithela, Member of the Executive Council responsible for Tourism, Environmental and Economic Affairs in the Province, hereby publish the Free State Nature Conservation Bill, as contained in the schedule, for general comment.

All interested persons are invited to furnish any comments thereon or any representations which they may wish to make in regard thereto. Such comments or representations must be submitted in writing to the following person on or before **12 MAY 2008**:

Mr WJ Boing
Department of Tourism, Environmental and Economic Affairs
Compliance and Law Enforcement Directorate
Private Bag X 20801
BLOEMFONTEIN
9300

OR DELIVER YOUR COMMENTS BY HAND TO:

Old Agriculture Building (Compliance and Law Enforcement)
3rd Floor North Wing
98 Zastron Street
BLOEMFONTEIN

Tel: (051) 400 9535
Fax: (051) 400 9538
E-mail: boing@dteea.fs.gov.za

Please note that any comments or representations that are received after **12 MAY 2008** shall be disregarded.

BILL

To provide for the effective management, conservation and controlled utilization of biodiversity and other matters related thereto.

BE IT ENACTED by the Provincial Legislature of the Free State Province, as follows:

ARRANGEMENT OF SECTIONS

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CHAPTER 1

DEFINITIONS AND APPLICATION OF THE ACT

Definitions		5
1.	(1) In this Act, unless the context specifies otherwise –	
	“ accredited instructor ”, means a varmint hunter who has been accredited by the MEC and who can provide training to others regarding the management of damage causing animals;	10
	“ adequate game-proof fence ”, means any fence out of or through which any game species, as specified in a certificate of adequate fencing issued in terms of the provisions of the Game Theft Act, 1991 (Act No. 105 of 1991), cannot escape without breaking through it;	15
	“ alien species ”, means –	
	(a) a species that is not an indigenous species to the Province; or	20
	(b) an indigenous species translocated or intended to be translocated to a place outside its natural distribution range in nature, but not an indigenous species that has extended its natural distribution range by natural means of migration or dispersal without human intervention;	25
	“ angling ”, means the catching of fish in public waters by means of a line and hook, whether or not a rod is used, and includes the use of a landing-net or keep-net to land and keep fish caught by means of a line and fish-hook;	30
	“ aquatic flora ”, means any plant that naturally lives for its entire life span or for a part of its life span in water and includes the flower, seed, cone, fruit, bulb, stem and root thereof;	35
	“ biodiversity ”, means the variability among living organisms from all sources including, terrestrial and aquatic ecosystems and the ecological complexes of which they are part and also includes diversity within species, between species and of ecosystems;	40
	“ Biodiversity Act ”, means the National Environmental Management : Biodiversity Act, 2004 (Act No. 10 of 2004);	
	“ captivity ”, in relation to a wild animal or an alien species, means the confinement or mutilation of such animal to such an extent that it cannot maintain its natural way of living;	45

“capture”, in relation to a wild animal or alien species, includes the use of any means or method of taking (whether alive or dead), injuring, immobilizing or hunting a wild animal or alien species;

“catch”, in relation to fish, includes the use of any means or method of taking (whether alive or dead), injuring, immobilizing or killing fish; 5

“CITES” as referred to in section 40 (8) means the Convention on the International Trade of Endangered Species, 1975. 10

“certificate of adequate fencing”, means a certificate issued in terms of the provisions of the Game Theft Act, 1991 (Act No. 105 of 1991);

“competency certificate”, means a certificate issued by the MEC to a person who has successfully completed a prescribed course on the management of damage causing animals; 15

“animals causing damage”, means an animal that –

- (a) causes losses to live stock; 20
- (b) damage to cultivated trees or crops or other property;
- (c) presents a threat to human life; or
- (d) is present in such numbers that agricultural grazing is materially depleted. 25

“Department”, means the Department responsible for Environmental Affairs in the Province;

“domesticated species”, means a species of wild animal that is managed under intensive conditions for the production of meat or other products; 30

“export”, means the transport or removal by road, by air or over public waters of specimen or any identifiable derivative thereof, from the province to another province or country; 35

“falconer”, means a person who trains and uses a bird of prey for hunting purposes;

“fish”, means indigenous aquatic fauna in general, alive or dead, and all specimens thereof; 40

“fishing net”, means any fish trap, casting net, stretch net, gill net, drag net or funnel trap;

“fishing tackle”, means any fishing gear, apparatus or other device or any part thereof usually used for catching fish or attempting to catch fish; 45

“foreigner”, means any person who is not a citizen of South African or is not a permanent resident of South Africa;

- “**fork length**”, means in the case of fish, the distance between the tip of the snout to the end of the middle most tail fin ray;
- “**free-living**”, means a large predator that is not confined, is self-sustaining, can breed without human assistance and is able to elude a hunter without obstructions hampering the animal in any way; 5
- “**full-time employee**”, means any employee who is employed full-time and receives a salary or wage commensurate for the type of work performed; 10
- “**gin trap**”, means a device consisting of two jaws, which are activated under pressure or the tension of a spring, closing suddenly;
- “**hand-raised**”, means the feeding, caring and human-imprinting of any large predator and includes the keeping of such animals as pets; 15
- “**head of department**”, means the Head of Department responsible for Environmental Affairs in the Province;
- “**hunt**”, means - 20
- (a) to kill or capture or to attempt to kill or capture; in any manner whatsoever;
 - (b) to shoot at;
 - (c) to search for, follow or ambush with the intent to kill or capture; 25
 - (d) to willfully disturb; or
 - (e) to collect or try to collect or to destroy the eggs of a bird;
- “**hunting agent**”, means a person who is appointed in writing by a hunting outfitter, who acts in terms of section 29(1)(b) of this Act, to advertise, offer or market overseas the hunting of a wild animal or an alien species, whether for compensation or not; 30
- “**hunting client**”, means any person who is not a South African citizen and who pays or compensates any other person for or in respect of the hunting of a wild animal or alien species in terms of this Act; 35
- “**hunting license**”, means a license issued in terms of this Act for the hunting of ordinary game; 40
- “**hunting outfitter**”, means any person who offers, arranges or conducts the hunting of a wild animal or alien species for a hunting client in return for compensation;
- “**hunting school director**”, means the principal of a professional hunting school organizing or offering a prescribed course to candidate professional hunters and hunting outfitters; 45

- “**hunting season**”, means the period during the year when hunting may or may not take place as determined by proclamation issued in terms of section 6 of this Act;
- “**import**”, means the transport or introduction by road, by air or across public waters of any specimen or any identifiable derivative thereof, from another province or another country to the Province; 5
- “**indigenous plant**”, means any species of a plant which is indigenous to the Province (whether it is or has been cultivated and whether it is no longer growing in the wild or has for some time not been growing in the wild) and includes also the flower, seed, fruit, bulb, tuber, stem, root or any other part of such plant but not a plant declared a weed under any law; 10
- “**inspector**”, means an officer appointed under section 38(1) of this Act and who is either- 15
- (a) A Nature Conservation or Environmental Affairs Officer in the employ of a provincial or national conservation or environmental affairs department in terms of the Public Service Act, 1994 (Proclamation No 103 of 1994); or 20
- (b) An Environmental Management Inspector appointed in accordance with section 29 of the Biodiversity Act; 25
- “**large predator**”, means a lion, leopard, cheetah, cape wild dog, brown hyaena and spotted hyaena;
- “**livestock**”, means any domesticated animal; 30
- “**MEC**”, means the Member of the Executive Council responsible for Environmental Affairs in the Province;
- “**natural bait**”, means any animal, fish or plant matter used in angling; 35
- “**night**”, means the period between half an hour after sunset to half an hour before sunrise;
- “**norms and standards**”, means any national or provincial norms and standards issued in terms of section 9 of the Biodiversity Act and section 39 of this Act; 40
- “**ordinary game**”, means the species as contemplated in section 5;
- “**organism**”, means a complex adaptive system of organs that influence each other in such a way that they function as a more or less stable whole and have properties of life; 45

“owner”, in relation to private land, means –

- (a) in the case of private land which is let to a person where such lessee is not prohibited by such owner from exercising the rights of an owner in terms of this Act, such lessee; 5
- (b) in the case where the owner is dead or has disposed of the private land, his or her successor in title before the registration of the transfer of the private land; 10
- (c) in the case of private land subject to a usufruct, the usufructuary thereof;
- (d) in the case where it is recorded in the Deeds Registry that the ownership of such private land vests in a particular person, such person; 15
- (e) in all other cases, the registered owner thereof, .

and also, in the case of private land which is not occupied by the owner thereof, the person who is in actual occupation, and exercises general control over such private land, provided he or she has been authorized in writing by the owner to act on his or her behalf: 20

Provided that – 25

- (i) when two or more persons are joint owners of private land, only the one who has been designated by the majority of such persons in writing for the purpose is deemed to be the owner of such private land; 30
- (ii) when a juristic person or an association of persons is the owner of private land, the person designated in writing by such juristic person or association for the purpose, is deemed to be the owner of such private land; 35
- (iii) no person is deemed to be the owner of private land merely by reason of his holding the hunting or angling rights in respect thereof. 40

“permit”, means a permit issued in terms of this Act or in terms of the Biodiversity Act; 40

“pick”, also means pick, gather, cut, chop off, uproot, damage or destroy; 45

“poison”, means any preparation or chemical substance used to catch, hunt, immobilize, sterilize or to physically harm any wild animal or fish;

- “**poison collar**”, means a collar with one or more sealed compartments containing any approved registered poison and which is put around the neck of livestock or a wild animal;
- “**poison-firing apparatus**”, means a device which ejects sodium cyanide or any other approved registered poison when a trigger mechanism is activated and or any other component thereof, which is able to kill or injure an animal; 5
- “**possession**”, means to take into, to have possession or control of any wild animal or alien species or any part or derivative thereof; 10
- “**prescribed or prescribe**”, means prescribed by regulation under this Act or the Biodiversity Act; 15
- “**private land**”, means land that is not in the possession of or under the control of the State;
- “**professional hunter**”, means any person who offers or agrees to guide a hunting client in any way or manner for compensation in order to enable such person to hunt a wild animal or alien animal; 20
- “**professional hunting register**”, means a register where all information regarding a hunt with a hunting client is lodged; 25
- “**protected species**” means the species as contemplated in section 3;
- “**Province**”, means the Free State Province as defined in section 103 of the Constitution of the Republic of South Africa, 1996; 30
- “**Provincial Gazette**”, means the *Provincial Gazette* printed and issued by the Free State Provincial Government;
- “**provincial protected species**” means the species referred to in section 3 of this Act and which are specified in Schedule 1 of this Act. 35
- “**public auction**”, means the buying, selling, exchange or trading of a wild animal on the open market to which the public has access;
- “**public road**”, means a road or section thereof to which the public has the right of access as defined in the Road Traffic Act, 1989 (Act No. 29 of 1989); 40
- “**public waters**”, means public water as defined in section 1 of the Water Act, 1956 (Act No. 54 of 1956); 45

- “purchase”, means an act whereby a person acquires or tries to acquire something as his property;
- “raptor”, means all birds of prey that are used for specific falconry purposes; 5
- “regulation”, means a regulation promulgated under this Act as well as the Biodiversity Act;
- “rehabilitation”, means the rearing and treatment of a wild animal for the sole purpose of releasing back into nature; 10
- “relative”, with regard to the owner of the land means the spouse, parent, step-parent, child, grandchild, stepchild, brother, sister, son-in-law or daughter-in-law; 15
- “SABS 0331”, means the South African Bureau of Standards publication no. 0331 entitled: “Translocation of certain species of wild herbivore”;
- “schedule”, means a schedule of this Act as well as the Biodiversity Act; 20
- “sell”, means an act whereby a person disposes of something by offering for sale by means of advertising or exhibiting, or by forfeiting or trying to forfeit property by receiving an amount of money from another person; 25
- “set gun”, means any device which, by means of a remote trigger system, is capable of discharging one or more cartridges and is set in any manner and left unattended with the intention of killing any animal;
- “set line”, means a line and fish-hook which, when used for catching fish, is not under the direct control of a person but is attached to an object, but does not include a line and fishing rod attached to a reel and rod lying loose on the ground; 30
- “snare”, means a noose of line or wire or any other material that is used or can be used to capture an animal or wild animal; 35
- “specimen”, means –
- (a) any living or dead animal or plant; 40
 - (b) a seed, egg, gamete or propagule or part of an organism capable of propagation or reproduction or in any way transferring genetic traits; 45
 - (c) any derivative of any organism;
- “this Act”, also includes any regulation, proclamation or notice promulgated in terms of this Act;

“trap”, means a device or apparatus that can be used to capture, attempt to capture, kill or injure a wild animal, alien species or fish;

“trap cage”, means a cage with a trapdoor and trap-plate mechanism used for capturing an animal;

“varmint hunter”, means a person authorized, after having been tested and found able in terms of this Act, to use certain specified means of control or devices to control animals causing damage or wild animals;

“waters”, includes water in a river, stream, lake, pan, marsh, dam, reservoir, ditch or pond;

“weapon”, means a firearm or any other weapon or instrument with which a projectile can be propelled in such manner that it can kill, injure or immobilize a wild or alien animal and includes ammunition for use in such firearm and any projectile for use in connection with such other weapon or instrument as well as any chemical substance or preparation for use in connection with such projectile;

“wild animal”, means any vertebrate (including a bird and reptile but not a fish) belonging to a non-domestic species whose natural habitat in any part of the Republic of South Africa is either temporary or permanent, and includes the carcass, egg, meat (fresh or cured), biltong and the unprocessed, partly or fully processed hide, skin, thong, tooth, bone, horn, shell, scale, claw, nail, hoof, paw, tail, hair, feather or any other identifiable derivative of such vertebrate;

“wildlife translocator”, means any person who operates as a game trader, game dealer or game capturer within the wildlife industry.

- (2) The definitions as set out in the Biodiversity Act apply, with the necessary changes, to similar words in this Act, unless the context indicates otherwise.

Application and interpretation

2. (1) This Act applies, together with all applicable national environmental legislation, to environmental issues in the Free State Province.

- (2) In the event of any conflicting provisions between this Act and the national legislation, the prevailing Act will be determined subject to section 146 of the Constitution of the Republic of South Africa, 1996.

CHAPTER 2

PROVINCIAL PROTECTED SPECIES

Protected Species		5
3.	The species specified in Schedules 1 of this Act are declared provincial protected species.	
Restricted Activities		10
4.	In addition to the restricted activities listed in the Biodiversity Act and except in terms of a permit issued by the MEC, no person may in relation to a specimen of any provincial protected species;	
	(i) hunt, catch, capture or kill any living specimen of a listed provincial protected species by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, luring, alluring, discharging a missile or injuring with intent to hunt, catch, capture or kill any such specimen;	15
	(ii) gather, collect or pluck any such specimen;	20
	(iii) pick parts of, or cut, chop off, uproot, damage or destroy any such specimen;	
	(iv) import into the province any such specimen;	
	(v) export from the province, including re-exporting from the province, any such specimen;	
	(vi) have in possession or exercising physical control over any such specimen;	25
	(vii) grow, breed or in any other way propagate any such specimen, or cause it to multiply;	
	(viii) convey, move or otherwise translocate any such specimen;	
	(ix) sell or otherwise trade in, buy, receive, give, donate or accept as a gift, or in any way acquire or dispose of any such specimen.	30

CHAPTER 3

ORDINARY GAME

Ordinary game		35
5.	The species specified in Schedule 2 of this Act are declared as ordinary game.	
Hunting Seasons		40
6.	The MEC may by proclamation in the <i>Provincial Gazette</i> declare that ordinary game, ordinary game of a specified species, a specified number of such game or species, may, during a specified period in the Province, in a specified area of the Province, or subject to a specific fencing prescription, be hunted by any person or persons of a specified category.	45

Restricted Activities

7. (1) Except in terms of a permit issued by the MEC, no person may in relation to ordinary game or any specimen thereof - 5
- (a) hunt ordinary game at night, whether or not a light is used. 5
- (b) hunt it in the Province unless –
- (i) the hunt is authorized by a proclamation issued in terms of section 6; 10
- (ii) such person is in possession of a hunting license issued in accordance with the provisions of this Act and which authorizes him or her to hunt ordinary game and has such hunting license with him while he hunts; 15
- (iii) the person is the owner of the property on which the hunt will take place, the person is under the direct supervision of the owner of the relevant property; or 20
- (iv) the person carries with him or her the original written letter of permission of the land owner, while he or she hunts on such land, if the owner of the land does not accompany him or her. 25
- (2) Unless in possession of a receipt or letter proving the origin of such, no person may buy, receive, give, donate or accept as a gift any specimen of ordinary game. 30

CHAPTER 4**GENERAL PROVISIONS IN RELATION TO WILD ANIMALS****Capturing Periods 35**

8. The MEC may determine periods when wild animals may be captured, provided that this provision shall not apply to ordinary game contemplated in Schedule 2 of this Act on property whose fence is registered by the Department as an adequate game-proof fence in terms of the Game Theft Act, 1991 (Act No. 105 of 1991). 40

Prohibition of making openings in certain fences

9. Where a fence is registered by the Department as an adequate game-proof fence in terms of the Game Theft Act, 1991 (Act No. 105 of 1991), no person may leave, make or cause to be made, an opening in such fence, unless he is the holder of a permit issued by the MEC. 45

Captivity of wild animals

10. (1) No person may exhibit a large predator on any property, building or environment, unless authorized to do so by a permit. 5
- (2) Except in terms of a permit issued by the MEC, no person may keep any wild animal in captivity.

CHAPTER 5

10

ALIEN SPECIES**Alien species**

11. (1) The species specified in Schedule 3 of this Act are declared as alien species. 15
- (2) The MEC may, by notice in the *Provincial Gazette*, include, or exclude from, any species listed in Schedule 3.

Occurrence of Alien Species

20

12. The presence or occurrence of an alien species, as per schedule 3 of this Act, on any private land, property or premises, must be reported by the owner of such land, property or premises to the Department within one (1) month after the presence or occurrence became known. 25

Captivity of alien species

13. All species of animals, declared as such in schedule 3 of this Act, may only be kept in captivity under such conditions and in such prescribed cages or enclosures in accordance with the guidelines issued by the MEC for the keeping in captivity of such alien animals. 30

CHAPTER 6

35

FISH**Restricted Activities in relation to freshwater fish**

14. (1) In addition to the meaning of restricted activity in the Biodiversity Act, the following are also restricted activities in relation to protected species of fish - 40
- (a) place or cause to be placed or allowing to be placed in any waters an object of any kind which may obstruct the free movement or passage of fish in such waters; 45
- (b) place a marker, buoy, float or any similar device on or in any public waters to indicate an angling place or a feeding place for fish;

- (c) make a feeding place in public waters by placing any animal, plant, bait or other matter that attracts fish by its edibility, smell or taste, in such waters;
- (d) willfully injure, disturb or destroy – 5
 - (i) the eggs of any fish; or
 - (ii) any spawning area of any fish; 10
- (e) possess, sell or offer for sale a fishing net except a landing net or keep net designed for the purpose of landing or holding fish caught by a fishing method contemplated in section 16 of this Act;
- (f) once caught, release an alien species of fish in any waters not zoned for that species in the Province; 15
- (g) commercially produce or trade with live fish;
- (h) import into, export out of or transport within the Province any live fish; 20
 - (i) catch fish in any waters other than by angling.
- (2) Except in terms of a permit issued by the MEC, no person may undertake any restricted activity in relation to any protected species of fish. 25

Closed Season

- 15. The MEC may by proclamation, 30
 - (a) prohibit any person from catching fish or catching fish of a specified species during a specified period in waters or in a specified area of the Province.
 - (b) determine size limits and daily catch limits for any specified species of fish. 35

Fishing Methods

- 16. No person may – 40
 - (a) angle in any other manner than by using not more than two lines to each of which are attached -
 - (i) not more than two single hooks with natural bait; or
 - (ii) not more than two non-spinning artificial flies; or 45
 - (iii) not more than one artificial lure or spoon;

- (b) while angling employ any method calculated to hook a fish in any part of its body other than in the mouth;
- (c) catch or attempt to catch fish by means of a set line or fishing net;
- (d) use live fish as bait.

5

Possession of Fishing Nets

17. Unless authorized by a permit issued by the MEC, no person may be in possession of, sell, purchase, donate or receive as a gift any fishing net.

10

Fishing licenses

18. The MEC may, by notice in the *Provincial Gazette*, exempt certain persons from being in possession of a fishing license.

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CHAPTER 7

HUNTING OF WILD AND ALIEN SPECIES OF ANIMAL

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Entry upon land with weapon and hunting on public road

19. (1) No person may -
- (a) while he is in possession of a weapon, without lawful reason, enter upon or be on land, except a public road, on which a wild or alien species are likely to be found, unless he has with him the written permission of the owner of such land to do so; or
 - (b) hunt a wild animal or alien species on or from a public road or in the road reserve of a public road except under a permit issued by the MEC.
- (2) Subsection (1) (b) does not apply to the owner of land over whose property a public road traverses.

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The MEC may cause a wild or alien animals to be hunted

20. (1) Whenever, in the opinion of the MEC, a wild or alien animal is found that-
- (a) is detrimental to the preservation of any other wild animal or plant;
 - (b) is likely to be dangerous to human life;
 - (c) is wounded, diseased or injured; or

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(d) ought to be hunted in the interest of indigenous biodiversity,

the MEC may authorize any person to enter upon any land to hunt such animal thereon-

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Provided that, except in the case when a wild animal in the process of being hunted escapes and is immediately pursued on any land, such person must inform the owner of such land, if he is present on the land at the commencement of the hunt, of his intention to hunt on the land and must consult him in regard to the manner in which the hunt is to be conducted.

10

(2) No person may hunt an alien animal species on any land unless he or she is the owner of the land, or hunts under the direct supervision of such owner or, while he or she hunts, has with him or her, the written permission containing the prescribed particulars of such owner to hunt such animal.

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CHAPTER 8

PROFESSIONAL HUNTING

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Operating as a Professional Hunter, Hunting Outfitter and a Hunting School Director

21. (1) Subject to the provisions of this Act, a person may not act as a –

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- (a) professional hunter;
- (b) hunting outfitter; or
- (c) hunting school director,

unless -

30

the person is the holder of a permit issued by the MEC.

(2) A person referred to in subsection (1) must comply with requirements as determined by the MEC.

35

Hunting of a wild and an alien animal by a hunting client

22. (1) A hunting client may not hunt a wild animal or alien species unless -

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- (a) the hunt is organized by a hunting outfitter; and
- (b) the hunting client is accompanied by a professional hunter for the duration of the hunt.

- (2) A professional hunter must ensure that his or her hunting client hunts within the provisions of this Act.
- (3) A hunting client must obey any lawful direction or instruction in terms of subsection (2). 5
- (4) A professional hunter may, while accompanying a hunting client, and if it is deemed necessary, destroy any wild or alien animal that is wounded by his hunting client. 10

Hunting rights

23. Subject to the provisions of this Act, a hunting outfitter may not organize, arrange or present a hunt, 15
- unless -
- he or she can produce proof of a written agreement concluded with a landowner who makes a wild animal available to a hunting client for hunting: Provided that the provisions of this section do not apply to a landowner registered as a hunting outfitter who operates on his own registered property. 20

Prohibition of certain acts

24. (1) No person may advertise his or her willingness or the willingness of someone else to act as hunting outfitter, unless - 25
- (a) the hunting outfitter is the holder of -
- (i) a permit issued in terms of section 21 of this Act; 30
- (ii) the hunting rights in respect of the land on which he or she presents or arranges the hunt;
- (b) the species, number and gender of wild animals or alien species advertised for hunting purposes are found in their free and natural state. 35
- (2) A hunting outfitter may only use the services of a hunting agent if the hunting agent has been appointed in writing by the hunting outfitter. 40
- (3) A hunting agent may only use hunting brochures and other advertising material and methods made available by the hunting outfitter who appointed him or her. 45
- (4) It is prohibited for any person to present, arrange or conduct a hunt under false pretences.

CHAPTER 9

ANIMALS CAUSING DAMAGE

Prohibitions relating to animals causing damage 5

- 25. (1) Except in terms of a permit issued by the MEC, no person may -
 - (a) sell, acquire or use a poison-firing apparatus or similar apparatus to hunt an animal that causes damage; 10
 - (b) own a poison-firing apparatus or similar apparatus or any part thereof, except -
 - a person in possession of a competency certificate issued by the Department. 15
- (2) No person may manufacture, sell or offer for sale any poison-firing apparatus or similar apparatus or any component thereof, except the cartridge, without prior testing and approval by the Department. 20
- (3) No person may hang or cause to hang a dead animal that causes damage over a boundary fence and leave it there or exhibit it in public in any other manner. 25
- (4) A person referred to in sub-section (1), must comply with the requirements as determined by the MEC.

Varmint Hunter who hunts a damage causing animal 30

- 26. A varmint hunter may not enter any private land to hunt an animal that causes damage without having obtained the prior permission of the landowner:
 - Provided that - 35
 - the MEC may authorize a varmint hunter as well as an inspector to pursue an animal that causes damage across a boundary fence to another landowner's land from where he originally hunted, in order to hunt that animal.

Dogs 40

- 27. (1) A inspector, landowner and varmint hunter may destroy a dog found on private land, which without supervision, hunts or causes damage to livestock, without obtaining any further authorization to do so. 45
- (2) When using a dog to hunt an animal on private land, the varmint hunter hunting in terms of the authorization of this legislation is not exempt from any damages if such dog causes damage to livestock or animals other than animals that cause damage.

Operating as an accredited instructor

28. (1) Subject to the provisions of this Act, no person may operate as -
- (a) an accredited instructor, unless - 5
the person is in possession of a permit issued by the MEC.
- (b) A person referred to in sub-section (1), must comply with the requirements as determined by the MEC. 10

General powers in relation to damage causing animals

29. The MEC may grant authorization for an accredited instructor or institution to offer training in the control of animals causing damage 15

CHAPTER 10**SPECIALISED UTILISATION OF BIODIVERSITY****Rehabilitation of wild animals**

30. Except in terms of a permit issued by the MEC, no person may undertake the rehabilitation of a wild or alien animal species. 25

Falconers

31. Except in terms of a permit issued by the MEC, no person may keep, unnecessarily restrict or handle any raptor. 30

CHAPTER 11**VOLUNTARY CONSERVATION OF BIODIVERSITY ON PRIVATE LAND
AND VOLUNTARY COLLECTIVE MANAGEMENT OF THE
ENVIRONMENT**

32. (1) The MEC may facilitate a process to enable owners of private land to take collective action to conserve biodiversity on their land in a manner that contributes to the wellbeing of the people of the province and may render such support for the action as may be determined. 40

- (2) Identify elements of biodiversity or natural phenomenon, the conservation of which would contribute to the conservation of the natural heritage of the Province.
- (3) Negotiate measures for the conservation of biodiversity on identified private land not formally protected and render such support for the conservation activities as may be determined. 5
- (4) Facilitate a process to enable - 10
 - (a) inhabitants of an area, or
 - (b) industries in a demarcated area –

to take collective action to manage the environment. 15

CHAPTER 12

ENVIRONMENT CONSERVATION FUND

20

Environment Conservation Fund

- 33. The Environment Conservation Fund, established in the Nature Conservation Ordinance, 1969, is used to deposit - 25
 - (a) money of funds donated to the Department;
 - (b) any other item that can be turned into cash or is intended as a sponsorship for a purpose; and 30
 - (c) interest on investments made by the fund.

Appropriation of moneys or sponsorships as part of the fund

- 34. The MEC may - 35
 - (a) invest money, funds or sponsorship items in the fund in the Department's trade account; or
 - (b) appropriate money, funds or sponsorship items in the fund to meet any expenditure authorized by the Head of Department for environmental conservation purposes of the area. 40

CHAPTER 13

ENFORCEMENT

	Appointment of officers and honorary officers and their powers	5
35.	(1) The MEC may appoint any person in the service of the Department as an inspector and any other person as an honorary officer.	
	(2) Every inspector or honorary officer must be issued with a certificate of appointment which must produced for inspection on request when exercising a power in terms of this Act.	10
	(3) An inspector may -	15
	(a) if there is a reasonable suspicion that the provisions of this Act have been contravened, enter any private land, premises, place, building, tent, vehicle, vessel, float or aircraft and inspect it and also any container or other thing found thereon or therein;	20
	(b) if it is suspected that there is on any vehicle, vessel, float or aircraft anything, which may furnish proof of a contravention of a provision of this Act, order the driver or pilot to stop such vehicle, vessel or aircraft and to keep it stationary until it has been searched;	25
	(c) attach anything which may furnish proof of a contravention of a provision of this Act;	30
	(d) remove any snare, set gun, gin trap, trap cage, net, birdlime, fishing net, set line, snare, holding pen, poison, poison collar, poison-firing apparatus or any other similar substance or contrivance which is suspected of being used to unlawfully hunt or catch any wild animal or fish, remove from the place where it was found or, if such removal is impossible, destroy or render it harmless;	35
	(e) destroy any dog which is pursuing or in search of any wild animal or alien species on any property or private land and which is not under the direct control of the owner of such dog;	40
	(f) demand the name and address (f any other particulars necessary for identification from any person whom is suspected –	45
	(i) of having contravened a provision of this Act; or	
	(ii) of being able to furnish information in connection with a contravention of a provision of this Act;	

- (g) at any time question any person whom is suspected of having information in connection with a contravention of a provision of this Act;
- (h) demand from any person performing or whom is suspected as having performed, any act in respect of which such person is required to be the holder, or be in possession of a permit, license, exemption, permission or other documents in terms of this Act. 5
- (4) An honorary officer has the same power, excluding those mentioned in paragraphs (a), (b) and (f) of subsection (3), which is granted, designated or imposed on an authorized officer in terms of that subsection. 10
- (5) An inspector may, in the exercise of a power in terms of this Act, be accompanied by a person to assist any manner and such person, while acting under the direction of such inspector, is deemed to be an inspector. 15
- (6) An owner of private land has the same powers as an inspector in terms of subsection (3) (a), (c), (d), (e), (f) and (h) while on his own private land. 20

Offences and penalties

- 36. (1) Any person who -
 - (a) contravenes or fails to comply with a provision of this Act; 25
 - (b) is without a permit engaged in a restricted activity in terms of this Act;
 - (c) hinders or obstructs a person in the exercise of any power in terms of section 35 or an competent officer or an owner of private land in the exercise of any power in terms of section 35 or refuses or fails to answer to the best of his ability any question lawfully put to him or her by such officer or owner; 30
 - (d) falsely pretends that he or she is a competent officer; 35
 - (e) falsely pretends that a certain act may be performed on such land; or 40
 - (f) makes a false statement in an application for a permit, license or exemption in terms of this Act, is guilty of an offence and liable upon conviction -
 - (i) in the case of an offence referred to in subsection 1(a), to a fine not exceeding R150 000 or to imprisonment for a period not exceeding 15 years or to both such fine and such imprisonment; and 45

- (ii) in the case of any other such offence, to a fine not exceeding R50 000 or to imprisonment for a period not exceeding 5 years or to both such fine and such imprisonment.

Forfeitures

37. (1) (a) Whenever any person is convicted of an offence in terms of this Act, the court must -
- (i) declare any wild animal or alien species, fish, invertebrate, indigenous or alien plant or aquatic growth; 10
- (ii) any weapon, firearm, lamp, battery, fishing tackle, net, fishing net, trap, trap cage, gin trap, device or article - 15
- in respect of which the offence was committed, forfeited to the state;
- (iii) if such person is the holder of a permit, license or exemption issued in terms of this Act, cancel such permit, license or exemption for a period not exceeding 10 years. 20
- (b) The holder of a permit, license or exemption cancelled in terms of paragraph (a)(i) and (ii), must, immediately after it has been cancelled, return the original document to the Department. 25
- (2) Whenever any person has been convicted of any offence in terms of this Act, the court may declare any vehicle, vessel, float or aircraft used in connection with the perpetration of such offence or for the transportation of anything in respect of which such offence was committed, or the right of such person to such vehicle, vessel, float or aircraft, forfeited to the Department: Providing that such a declaration of forfeiture is not made if the court is satisfied that the vehicle, vessel, float or aircraft does not belong to the person convicted of such offence and that the owner thereof was unable to prevent it from being so used by such person. 30
- 35

CHAPTER 14

GENERAL

Powers of the MEC

38. (1) The MEC may -
- (a) introduce measures to cause transformation in the game industry; 45

- (b) by notice in the *Provincial Gazette*, issue norms and standards for the:
- (i) management and conservation of biodiversity within the Province; 5
 - (ii) restriction of activities which has an impact on biodiversity and its components;
 - (iii) set of indicators to measure compliance with these norms and standards. 10

Delegation of powers

39. The MEC may, subject to the conditions he or she sets, delegate his or her powers, except the power to make regulations or to issue a notice, to an employee of the Department. 15

Permits

40. (1) A permit in terms of this Act may be issued by the MEC on such conditions as may be prescribed or determined by the MEC and may at any time be revoked by the MEC. 20
- (2) A license in terms of this Act shall be issued by the MEC and is subject to such conditions as prescribed and may at any time be revoked by the MEC. 25
- (3) When the MEC intends to revoke a permit or license, he or she must cause the holder of such permit or license to be notified in writing of the intention and such holder must be requested to submit representations for his or her consideration. 30
- (4) When the MEC revokes a permit or license the holder must return the permit or license within 30 days.
- (5) When a permit or license issued to a person has been revoked, no permit or exemption, within such period after such cancellation as the MEC may determine, and no license, without the prior permission of the MEC, may be issued to such person in terms of this Act, and such person may not, within such period or without such permission, obtain such permit, license or exemption. 40
- (6) A permit, license or exemption issued contrary to the provisions of this Act is null and void and the holder thereof must immediately return such permit, license or exemption to the Department. 45
- (7) A permit is valid for a period determined by the MEC.

- (8) All permits, issued in terms of the stipulations of the Convention on the International Trade of Endangered Species (CITES), in the province will be issued by the department.

Regulations

5

41. (1) The MEC may make regulations in terms of this Act as to -
- (a) the conditions subject to which a permit, license or exemption is issued; 10
 - (b) the particulars which a permission or document issued, must contain;
 - (c) the research, hunting, possession, breeding, transportation, importation, exportation, handling, release or disposal of protected species, wild animals, invertebrates and alien species; 15
 - (d) the catching, possession, breeding, transportation, importation, exportation, handling or disposal of fish or aquatic growth other than fish; 20
 - (e) the picking, possession, cultivation, transportation, importation, exportation, planting, disposal or destruction of any protected or indigenous plant; 25
 - (f) the measurements, number, weight, size or species of any animal, wild animal or alien species which may be hunted or caught;
 - (g) the protection of any wild animal, protected or indigenous plant or natural surroundings against any activity or condition which, in his opinion, may be harmful to such animal, plant or surroundings; 30
 - (h) the measurements, number, weight or size of fish which may be caught and retained; 35
 - (i) the nature, measurements, form and construction of fishing tackle;
 - (j) the control and regulation of freshwater fish in specified waters; 40
 - (k) all restricted activities relating to protected species, wild animals, fish and alien species;
 - (l) the control, importation, cultivation or eradication of any plant or organism which, in his opinion, could be harmful to or create less favorable conditions for any wild animal, fish or indigenous plant; 45

- (m) the rehabilitation of wild animals;
 - (n) the use and handling of raptors;
 - (o) the registration requirements for adequate game-proof fencing; 5
 - (p) the regulation of the professional hunting industry;
 - (q) the control and regulation of damage causing animals; 10
 - (r) any matter which is required by this Act to be prescribed;
 - (s) generally, without such generality being limited by any of the preceding provisions, any matter which he considers necessary or expedient to regulate, in order that the purposes of this Act may be achieved. 15
- (2) The power to make any regulation in terms of subsection (1) includes the power to restrict or prohibit any matter, thing or act in connection with the matter in question. 20
- (3) Different regulations may be made in terms of subsection (1) in regard to different species of protected species, wild animals, fish, plants, invertebrates or alien species in different areas of the Province or different classes of persons. 25

Repeal of Acts and Ordinances

42. (1) The Ordinances and Acts specified in Schedule 4 to this Act are hereby repealed to the extent set out in the third column thereof. 30
- (2) Anything done or deemed to have been done in terms of a provision of a law repealed by subsection (1) and which may or shall be done in terms of this Act or applicable national legislation dealing with environmental law shall be deemed to have been done in terms of the corresponding provision of this Act or applicable national legislation. 35

Short title and commencement

43. This Act is called the Free State Nature Conservation Act, 2008. 40

SCHEDULE 1
PROVINCIAL PROTECTED SPECIES
SECTION 3

Common name	Scientific name
Aardvark	<i>Orycteropus afer</i>
Aardwolf	<i>Proteles cristatus</i>
African elephant	<i>Loxodonta Africana</i>
African rock python	<i>Python sebae natalensis</i>
African wildcat	<i>Felis libyca</i>
All species of house snake	Genus <i>Lamprophis</i>
All species of otter	Family <i>Mustelidae</i>
All species of terrestrial tortoise	Family <i>Testudinidae</i>
All species of girdled lizard	Family <i>Cordylidae</i>
All species of chameleon	Family <i>Chamaeleonidae</i>
All species of monitor	Family <i>Varanidae</i>
Bat-eared fox	<i>Otocyon megalotis</i>
Black-footed cat	<i>Felis nigripes</i>
Black rhinoceros	<i>Diceros bicornis</i>
Breyer's plated-lizard	<i>Tetradactylus breyeri</i>
Brown hyaena	<i>Hyaena brunnea</i>
Cape hunting dog	<i>Lycaon pictus</i>
Cheetah	<i>Acinonyx jubatus</i>
Civet	<i>Civettictis civetta</i>
Hedgehog	<i>Erinaceus frontalis</i>
Hippopotamus	<i>Hippopotamus amphibius</i>
Honey badger	<i>Mellivora capensis</i>
Karoo flat gecko	Genus <i>Afroedura</i>
Klipspringer	<i>Oreotragus oreotragus</i>
Leopard	<i>Panthera pardus</i>
Lion	<i>Panthera leo</i>
Mountain flat gecko	<i>Afroedura nivaria</i>
Oribi	<i>Ourebia ourebi</i>
Roan antelope	<i>Hippotragus equinus</i>
Sable antelope	<i>Hippotragus niger</i>
Scaly anteater	<i>Manis temminckii</i>
Serval	<i>Felis serval</i>
Smith's red rock rabbit	<i>Pronolagus rupestris</i>
Striped harlequin snake	<i>Homoroselaps dorsalis</i>
Suricate	<i>Suricata suricata</i>
Tsessebe	<i>Damaliscus lunatus</i>
Vaal rhebok	<i>Pelea capreolus</i>
White rhinoceros	<i>Ceratotherium simum</i>
Largemouth yellowfish	<i>Barbus kimberleyensis</i>
Rock catfish	<i>Austroglanis sclateri</i>
All species of tree fern	Genus: <i>Cyathea capensis</i> and <i>Cyathea dreigei</i>
All species of cycad or bread palm	Genus: <i>Encephalartos</i> and <i>Stangeria</i>
All species of yellowwood tree	<i>Podocarpus</i> spp.
All species of arum lily	<i>Zantedeschia</i> spp.
All species of red-hot poker	<i>Kniphofia</i> spp.
All species of aloe	<i>Aloe</i> spp.
All species of agapanthus	<i>Agapanthus</i> spp.
All species of berg lily	<i>Galtonia</i> spp.
All species of blue squill	<i>Scilla</i> spp.
All species of pineapple lily	<i>Eucomis</i> spp.
All species of blood flower	<i>Haemanthus</i> spp.
All species of tumbleweed	<i>Boophane</i> spp.
All species of candelabra flower	<i>Brunsvigia</i> spp.

All species of kukumakranka	Gethyllis spp.
All species of fire lily	Cyrtanthus spp.
All species of crinum	Crinum spp.
All species of yam	Dioscorea spp.
All species of harebell	Dierama spp.
All species of kalkoentjie	Tritonia spp.
All species of wild sword-lily	Gladiolus spp.
All species of watsonia	Watsonia spp.
All species of freesia	Freesia spp.
All species of orchid	Family Orchidaceae
All species of stone plant	Lithops spp.
All species of living rock	Pleiospilos spp.
All species of love-plant	Anacampseros spp.
All species of sundew	Drosera spp.
All species of euphorbia	Euphorbia spp.
All species of cabbage tree	Cussonia spp.
All species of heath	Erica spp.
All species of halfmens	Pachypodium spp.
All species of carrion flower	Family Asclepiadaceae
All species of everlasting	Helichrysum spp.
All species of nerine	Nerina spp.
All species of begonia	Begonia spp.
All species of iris	Dietes spp.
Camel thorn	Acacia erioloba
Free State protea and sugarbush species	Protea roupelliae, Protea caffra and Protea subvestita
Ploughbreaker	Erythrina zeyheri
Ground lily	Ammocharis coranica
River lily	Schizostylis coccinea
Wild olive	Olea europaea subsp. africana
Baboon spider	Family Theraphosidae
Trapdoor spider	Family Ctenizidae, Nemesiidae and Cyrtantheniidae

All birds except those listed under Schedules 2 and 3 of this Act.

SCHEDULE 2
ORDINARY GAME
SECTION 5

Common name	Scientific name
All bulbuls	Family Pycnonotidae
All crows	Family Corvidae
All mousebirds	Family Colidae
Black wildebeest	Connochaetes gnou
Blesbok	Damaliscus pygargus phillipsii
Blue wildebeest	Connochaetes taurinus
Buffalo	Syncerus caffer
Burchell's zebra	Equus burchelli
Bushbuck	Tragelaphus scriptus
Cape fox	Vulpes chama
Cape hare	Lepus capensis
Cape Turtle Dove	Streptopelia capicola
Chacma baboon	Papio ramadryas ursinus
Common duiker	Sylvicapra grimmia
Common reedbuck	Redunca arundinum
Common Quail	Coturnix coturnix
Eland	Tragelaphus oryx
Egyptian Goose	Alopochen aegyptiacus
Gemsbok	Oryx gazella
Giraffe	Giraffa camelopardalis
Grey-winged Francolin	Scleroptila africanus
Ground squirrel	Xerus inauris
Helmeted Guinea-fowl	Numida meleagris
Impala	Aepyceros melampus
Kudu	Tragelaphus strepsiceros
Laughing Dove	Streptopelia senegalensis
Mountain reedbuck	Redunca fulvorufula
Orange River Francolin	Scleroptila levaillantoides
Red hartebeest	Alcelaphus buselaphus
Red-knobbed Coot	Fulica cristata
Red-billed Teal	Anas erythrorhyncha
Red-eyed Dove	Streptopelia semitorquata
Red-winged Francolin	Francolinus levaillanti
Red-winged Starling	Onychognathus morio
Reed Cormorant	Phalacrocorax africanus
Rock Pigeon	Columba guinea
Scrub hare	Lepus saxatilis
South African Shelduck	Tadorna cana
Springbok	Antidorcas marsupialis
Springhare	Pedetes capensis
Spur-winged Goose	Plectropterus gambensis
Steenbok	Raphicerus campestris
Swainson's Spurfowl	Pternistis swainsonii
Vervet monkey	Cercopithecus aethiops
Warthog	Phacochoerus aethiopicus
Waterbuck	Kobus ellipsiprymnus
White-breasted Cormorant	Phalacrocorax lucidus
White-faced Duck	Dendrocygna viduata
Yellow-billed Duck	Anas undulata

SCHEDULE 3**ALIEN SPECIES
SECTION 13**

Common name	Scientific name
Blue Duiker	<i>Philantomba monticola</i>
Bontebok	<i>Damaliscus dorcas</i>
Cape Grysbok	<i>Raphicerus melanotis</i>
Cape Mountain Zebra	<i>Equus zebra zebra</i>
Hartmann's Mountain Zebra	<i>Equus zebra hartmannae</i>
Indian Mynah	<i>Acridotheres tristis</i>
Red Duiker	<i>Cephalophus natalensis</i>
Suni	<i>Neotragus mochatatus</i>
Sharp's Grysbok	<i>Raphicerus sharpei</i>
Lechwe	<i>Kobus leche</i>
Deer	<i>Cervus sp.</i>

SCHEDULE 4**STATUTES AND ORDINANCES REPEALED**

No. and year of legislation	Short title of Ordinance of Act	To what extent repealed
Ord. 8 of 1969.	Orange Free State Nature Conservation Ordinance	In totality
Ord. 8 of 1976.	Prohibition of the Dumping of Rubbish Ordinance	In totality
Proclamation R6 of 1978	Proclamation of Nature Conservation in Bantu Areas	In totality
Act No. 5 of 1976	Qwa-Qwa Nature Conservation Act, 1976	In totality
Act No. 3 of 1973	Bophuthatswana Nature Conservation Act, 1973	In totality