

Biodiversity and Conservation

NATIONAL ENVIRONMENTAL MANAGEMENT LAWS AMENDMENT BILL (NEMLA Bill)

Discussion on well-being of wild animals

Portfolio Committee meeting
12 June 2018



environmental affairs
Departement
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



Mandates (I/IV)

- Minister of Environmental Affairs (EA):
 - The mandate is set out in Section 2 of NEMBA:
- 2. Objectives of Act.** — *The objectives of this Act are—*
- (a) *within the framework of the National Environmental Management Act, to provide for—*
 - (i) *the management and conservation of biological diversity within the Republic and of the components of such biological diversity;*
 - (iA) *the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;*
 - (ii) *the use of indigenous biological resources in a sustainable manner; and*
 - (iii) *the fair and equitable sharing among stakeholders of benefits arising from bioprospecting involving indigenous biological resources;*
 - (b) *to give effect to ratified international agreements relating to biodiversity which are binding on the Republic;*
 - (c) *to provide for cooperative governance in biodiversity management and conservation; and*
 - (d) *to provide for a South African National Biodiversity Institute to assist in achieving the objectives of this Act.*

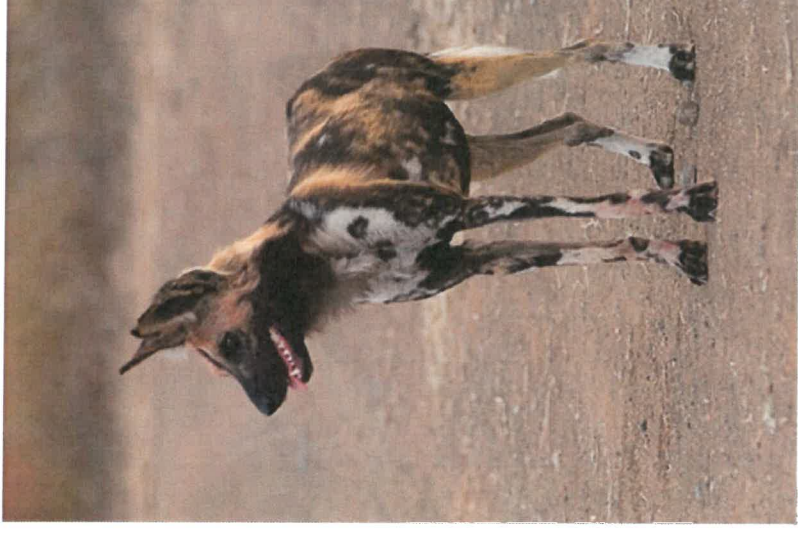
Mandates (III/IV)

- denying food or water to an animal, or abandoning an animal;
- animal fights;
- confinement and accommodation of animals, whether travelling or stationary
- Section 2(3) of the APA provides that the Minister may by notice in the *Gazette* prohibit the killing of an animal specified in the notice with the intention of using the skin or meat or any other part of such animal for commercial purposes. **The implication of this provision is that the Minister of AFF would be able to prohibit the killing of lions for the purpose of harvesting the bones, in terms of the APA.**
- Performing Animals Protection Act, 1935 (Act No. 24 of 1935) (PAPA)
 - the PAPA defines “Minister” to mean the Minister to whom the administration of the PAPA has been assigned, which is the Minister of Agriculture and Land Affairs in terms of Proclamation No. R.45 of 8 August 1997

Captive facilities under NEMBA (I/III)

- Captive breeding facility, defined as:
 - *“captive breeding operation” means a facility where specimens of a listed threatened or protected animal species are bred in a controlled environment for -*
 - (a) *conservation purposes; or*
 - (b) *commercial purposes;*

Wattled crane



African wild dog

Captive facilities under NEMBA (III/III)

- Sanctuaries, defined as:
“sanctuary” means a registered facility in which a permanent captive home is provided in a controlled environment for specimens of a listed threatened or protected species that would be unable to sustain themselves if released;
- Scientific institutions, defined as:
“scientific institution” means a museum, organ of state involved in research, registered research unit of a tertiary institution or herbarium where specimens of a listed threatened or protected species are kept or used for research, scientific, information or identification purposes.

The definition does not include privately operated research facilities.

Lion case judgment (I/III)

- In 2007 the then South African Predator Breeders' Association (SAPBA) initiated a court action against the then Minister of Environmental Affairs and Tourism, to request the setting aside of the implementation of the TOPS Regulations altogether, or alternatively the definition for “put and take animal” and the provisions of Regulation 24(1) and (2), which deal with prohibited activities involving listed large predators, white rhinoceros and black rhinoceros.

*“put and take animal” means a live specimen of a captive bred listed large predator, or a live specimen of a captive bred Ceratotherium simum (White rhinoceros) or Diceros bicornis (Black rhinoceros) that is released **[on a property irrespective of the size of the property]** for the purpose of hunting that animal within a period of twenty four months after its release from a captive environment.*

Lion case judgment (III/III)

- The decision of the Minister to ban the “put and take” hunting of listed large predators had no legislative basis, as:
 - Ethical issues could not be regulated in terms of legislation that is designed to conserve and protect biodiversity, especially in relation to captive-bred lions where there is no intention to release them in the wild
- Pending the outcome of the court case the definition for “listed large predator” was amended by the deletion of lion, in order for the prohibitions in Regulation 24 to still apply to the other listed large predator species and rhinoceros, but not to lion.

Regulatory provisions applicable to keeping facilities (I/II)

- Future provisions (revised draft TOPS Regulations)
 - Prohibit the introduction of specimens of critically endangered species or listed large predators (which includes lion) from the wild into captive breeding facilities, except where it is necessary for the conservation of the species; and



White rhinoceros

Regulatory provisions applicable to keeping facilities (II/II)

- Prohibit the breeding of listed large predators (which will include lion) and rhinoceros species, unless the applicant can demonstrate how the breeding in captivity of such specimens will contribute to the conservation of the particular species (phase-in period of 12 months provided)
- Appointment of organs of state as Environmental Management Inspectors (EMIs) in terms of NEMA
 - o organ of state in terms of section 239 of the Constitution of the RSA
 - o established in terms of an act of Parliament (SPCA Act) and performs a public function
- Compulsory membership of associations to enforce their Codes of Ethical conduct (can also apply this provision in the hunting sector)