

OFFICIAL GAZETTE EXTRAORDINARY OF SOUTH WEST AFRICA BUITENGEWONE



OFFISIELLE KOERANT VAN SUIDWES-AFRIKA

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DRAFT ORDINANCE

ONTWERPORDONNANSIE

The following Draft Ordinance is published for general information.

H. P. F. GOUS,
Secretary for South West Africa.

Administrator's Office,
Windhoek.

Die volgende Ontwerpordonnansie word vir algemene inligting gepubliseer.

H. P. F. GOUS,
Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

GENERAL EXPLANATORY NOTE:

— Words underlined with solid line indicate insertions proposed.

[] Words in square brackets indicate omissions proposed.

DRAFT ORDINANCE

To amend the Nature Conservation Ordinance, 1975, in regard to definitions; to regulate the possession of the skins of specially protected and protected game; to provide for the licensing of nurseries and to grant certain rights to the owners of licensed nurseries; to provide for the disposal of articles seized by nature conservators; to provide for the levying of certain royalties and monies; to extend the jurisdiction of magistrates' courts in respect of punishments; and to provide for matters incidental thereto.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President, in so far as such consent is necessary, previously obtained and communicated to the Assembly by message from the Administrator, as follows:-

Amendment of section
1 of Ordinance 4 of
1975.

1. Section 1 of the Nature Conservation Ordinance, 1975 (hereinafter referred to as the principal Ordinance), is hereby amended -

(a) by the substitution for paragraph (a) of the definition of "owner" of the following paragraph:

"(a) the person who is registered in a deeds [office] registry as the owner of such farm or land, and includes every director of a company registered in a deeds [office] registry as the owner of such farm or land; or"; and

(b) by the substitution for the definition of "adequate fence" of the following definition:

"[(i) "adequate fence" means a stockproof fence which is in good order and condition and which indicates the boundary line in all respects; otherwise it means a natural boundary through which or over which no game, except birds capable of flying, would, in the opinion of the Executive Committee, ordinarily pass; (xlix)]

ALGEMENE VERDUIDELIKENDE NOTA:

- Woorde met 'n volstreep daaronder dui aan invoegings voorgestel.
- [] Woorde tussen vierkantige hake dui aan skrapings voorgestel.
-

ONTWERPORDONNANSIE

Tot wysiging van die Ordonnansie op Natuurbewaring, 1975, betreffende woordbepalings; om die besit van velle van spesiaal beskermde en beskermde wild te reël; om voorsiening te maak vir die lisensiëring van kwekerye en sekere regte aan die eienaars van gelisensieerde kwekerye te verleen; om voorsiening te maak vir die beskikking oor voorwerpe deur natuurbewaarders in beslag geneem; om voorsiening te maak vir die heffing van sekere tantiemes en geld; om dieregsbevoegdheid van landdroshewe ten opsigte van strawwe uit te brei; en om voorsiening te maak vir aangeleenthede wat daar mee in verband staan.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Staatspresident dermate sodanige toestemming nodig is vooraf verkry en by boodskap van die Administrateur aan die Vergadering meegedeel. **VERORDEN SOOS VOLG:**

1. Artikel 1 van die Ordonnansie op Natuurbewaring, 1975 (hieronder die Hoofordonnansie genoem), word hierby gewysig -

Wysiging van artikel 1 van Ordonnansie 4 van 1975.

(a) deur paragraaf (a) van die woordbepaling van "eienaar" deur die volgende paragraaf te vervang:

"(a) die persoon wat in 'n [aktekantoor] kantoor vir die registrasie van aktes as die eienaar van sodanige plaas of grond geregistreer is en omvat elke direkteur van 'n maatskappy wat in 'n [aktekantoor] kantoor vir die registrasie van aktes as die eienaar van sodanige plaas of grond geregistreer is; of": en

(b) deur die woordbepaling van "voldoende omheining" deur die volgende woordbepaling te vervang:

"[(xlix) "voldoende omheining" 'n veekerende heining wat in orde is en in alle opsigte die grens aandui; andersins beteken dit 'n natuurlike grens waardeur of waaroor geen wild uitgesonderd voëls wat kan vlieg, na die mening van die Uitvoerende Komitee gewoonweg sou gaan nie; (i)]

(i) "adequate fence" means a boundary fence complying with the provisions of the Fencing Proclamation 1921 (Proclamation 57 of 1921), and in the case of a dividing line between two farms along which, in the opinion of the Executive Committee, it is impracticable or inexpedient to erect a fence, any indication of the boundary line between the said farms in respect of which the Director has, after agreement by the owners of the farms concerned, with the approval of the Executive Committee, certified that it indicates the boundary line in all respects; (xlix)".

Insertion of section 50A
in Ordinance 4 of 1975.

2. The following section is hereby inserted in the principal Ordinance after section 50:

"Possession of skins of specially protected and protected game.

50A. No person shall be in possession of any raw skin of specially protected or protected game unless he is the lawful holder of -

- (a) a permit granted by the Executive Committee under section 26, 27 or 36 authorising him to hunt such specially protected or protected game; or
- (b) a permit granted by the Executive Committee authorising him to be in possession of such skin.".

Amendment of section 73 of Ordinance 4 of 1975.

3. Section 73 of the principal Ordinance is hereby amended by the substitution for the proviso to subsection (1) of the following proviso:

"Provided that -

(a) the owner of a nursery licensed under section 75 may without such permit pick and transport any protected plant cultivated on the premises of such nursery and cause any such protected plant to be picked and transported;

[(a)] (b) the owner or lessee of land may on that land without such permit pick the flower of a protected plant for use as a decoration in his home;

[(b)] (c) the owner or lessee of land may without such permit pick a protected plant on that portion of such land -

(xlix) "voldoende omheining" 'n grensheining wat voldoen aan die bepalings van die Omheinings Proklamatie 1921 (Proklamasie 57 van 1921), en in die geval van 'n skeiding tussen twee plase waarslangs dit na die mening van die Uitvoerende Komitee ondoenlik of ondienstig is om 'n heining op te rig, enige aanduiding van die grens tussen bedoelde plase ten opsigte waarvan die Direkteur, nadat die eienaars van die betrokke plase daaromtrent ooreengekom het, met die goedkeuring van die Uitvoerende Komitee gesertifiseer het dat dit bedoelde grens in alle opsigte aandui; (i)".

2. Die volgende artikel word hierby in die Hoofordonnansie na artikel 50 ingevoeg:

Invoeging van artikel 50A in Ordonnansie 4 van 1975.

"Besit van velle van spesiaal beskermde en beskermde wild."

50A. Niemand mag in besit van enige rou vel van spesiaal beskermde of beskermde wild wees nie, tensy hy die wetlike houer is van -

- (a) 'n permit deur die Uitvoerende Komitee verleen kragtens artikel 26, 27 of 36 waarby hy gemagtig word om sodanige spesiaal beskermde of beskermde wild te jag; of
- (b) 'n permit verleen deur die Uitvoerende Komitee waarby hy gemagtig word om in besit van sodanige vel te wees."

3. Artikel 73 van die Hoofordonnansie word hierby gewysig deur die voorbehoudsbepaling by subartikel (1) deur die volgende voorbehoudsbepaling te vervang:

Wysiging van artikel 73 van Ordonnansie 4 van 1975.

"Met dien verstande dat -

(a) die eienaar van 'n kwekery wat kragtens artikel 75 gelisensieer is enige beskermde plant wat op die perseel van sodanige kwekery gekweek is sonder sodanige permit mag pluk en vervoer en laat pluk en vervoer;

[(a)] (b) die eienaar of huurder van grond van 'n beskermde plant sonder sodanige permit op daardie grond mag pluk vir gebruik as versiering in sy woning;

[(b)] (c) die eienaar of huurder van grond 'n beskermde plant sonder sodanige permit mag pluk op daardie gedeelte van sodanige grond -

- (i) which he needs for cultivated lands, the erection of a building, the construction of a road or airfield or any other development which necessitates the removal of vegetation; or
- (ii) on which such protected plant has been specially cultivated.”.

Amendment of section
74 of Ordinance 4 of
1975.

4. Section 74 of the principal Ordinance is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) [Subject to the provisions of section 75,] No person other than the lawful holder of a permit granted by the Executive Committee shall sell, donate or export or remove from the Territory, any protected plant: Provided that the owner of a nursery licensed under section 75 may without such permit sell or donate and export and remove from the Territory any protected plant cultivated on the premises of such nursery.”.

Substitution of section
75 of Ordinance 4 of
1975.

5. The following section is hereby substituted for section 75 of the principal Ordinance:

[Exemption to owner
of nursery.]

75. The Executive Committee may, on application, grant exemption from any or all of the provisions of this Chapter relating to the sale, donation, transport or export of protected plants to the owner of a nursery in respect of protected plants cultivated on the premises of such nursery.]

Nursery licences.

75. (1) Any person desiring to obtain a nursery licence shall apply therefor in writing to the Executive Committee.

(2) A nursery licence -

(a) shall be valid for the period from the first day of April in any year or, if it is issued after that day, from the day of issue, up to and including the thirty-first day of March following that day;

(b) may be renewed annually by applying to the Director in writing for such renewal not less than six months before the expiry of the period of validity of the licence concerned; and

- (i) wat hy benodig vir landerye, die oprigting van 'n gebou, die konstruksie van 'n pad of vliegveld of enige ander ontwikkeling wat die verwydering van plantegroei noodsaak; of
- (ii) waarop hy sodanige beskermde plant spesiaal kweek.”.

4. Artikel 74 van die Hoofordonnansie word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) [Behoudens die bepalings van artikel 75 mag Niemand behalwe die wettige houer van 'n permit verleen deur die Uitvoerende Komitee mag enige beskermde plant verkoop, skenk of uit die Gebied uitvoer of wegneem nie: Met dien verstande dat die eienaar van 'n kwekery wat kragtens artikel 75 gelisensieer is enige beskermde plant wat op die perseel van sodanige kwekery gekweek is sonder sodanige permit mag verkoop of skenk en uit die Gebied mag uitvoer en wegneem.”.

5. Artikel 75 van die Hoofordonnansie word hierby deur die volgende artikel vervang:

[“Vrystelling aan eienaar van Kwekery.

75. Die Uitvoerende Komitee kan, op aansoek, aan die eienaar van 'n kwekery vrystelling van enige of al die bepalings van hierdie Hoofstuk wat op die verkoop, skenking, vervoer of uitvoer van beskermde plante betrekking het, verleen ten opsigte van beskermde plante wat op die perseel van sodanige kwekery gekweek is.]

Kwekerylisensies.

75. (1) Iemand wat 'n kwekerylensijs wil verkry moet skriftelik by die Uitvoerende Komitee daarom aansoek doen.

(2) 'n Kwekerylensijs -

- (a) is geldig vir die tydperk vanaf die eerste dag van April in enige jaar, of indien dit na daardie dag uitgereik word vanaf die dag van uitreiking, tot en met die een-en-dertigste dag van Maart daaropvolgend;
- (b) kan jaarliks hernieu word deur minstens ses maande voor die versstryking van die geldigheidsduur van die betrokke lensijs skriftelik by die Direkteur om sodanige hernuwing aansoek te doen; en

Wysiging van artikel 74 van Ordonnansie 4 van 1975.

Vervanging van artikel 75 van Ordonnansie 4 van 1975.

(c) shall not be transferable.

(3) An amount of fifty rand shall be payable at the issue and every renewal of a nursery licence.”.

Insertion of section 81A
in Ordinance 4 of 1975.

6. The following section is hereby inserted in the principal Ordinance after section 81:

“Disposal of article seized in terms of this Ordinance. 81A. (1) A nature conservator who seizes anything (hereinafter referred to as an article) under this Ordinance -

- (a) may, if the article is a perishable, with due regard to the interests of the persons concerned, dispose of the article in such manner as the circumstances may require; or
- (b) shall, if the article is not disposed of in terms of the provisions of paragraph (a), give it a distinctive identification mark and deliver it to a policeman, who shall retain it in police custody or make such other arrangements with regard to the custody thereof as the circumstances may require, whereupon the provisions of sections 50D, 50E, 50F and 50G of the Criminal Procedure Ordinance, 1963 (Ordinance 34 of 1963), shall apply *mutatis mutandis* with reference to any such article and such article shall for the purposes of the said sections be deemed to be an article referred to in section 50C(c) of the said Ordinance: Provided that any such article which may be forfeited in terms of any of the said sections, shall be forfeited to the Administration.

(c) is nie oordraagbaar nie.

(3) 'n Bedrag van vyftig rand is betaalbaar by die uitreiking en elke hernuwing van 'n kwekerylisensie.”

6. Die volgende artikel word hierby in die Hoofordonnansie na artikel 81 ingevoeg:

Invoeging van artikel 81A in Ordonnansie 4 van 1975.

"Besikking oor voorwerp ingevolge hierdie Ordonnansie in beslag geneem.

81A. (1) 'n Natuurbewaarder wat enigiets (hieronder 'n voorwerp genoem) kragtens hierdie Ordonnansie in beslag neem -

(a) kan, indien die voorwerp bederbaar is, met behoorlike inagneming van die belang van die betrokke persone, oor die voorwerp besik op die wyse wat die omstandighede vereis; of

(b) moet, indien die voorwerp nie ingevolge die bepalings van paragraaf (a) oor besik word nie, 'n onderskeidende uitkenningssteken daarop aanbring en dit aan 'n polisiebeampte oorhandig, wat dit in polisiebewaring moet hou of sodanige ander reellings met betrekking tot die bewaring daarvan moet tref as wat die omstandighede vereis, waarop die bepalings van artikels 50D, 50E, 50F en 50G van die Strafprosesordonnansie 1963 (Ordonnansie 34 van 1963), *mutatis mutandis* met betrekking tot sodanige voorwerp van toepassing is en sodanige voorwerp by die toepassing van bedoelde bepalings geag word 'n artikel 50C (c) van genoemde Ordonnansie bedoelde voorwerp te wees: Met dien verstande dat enige sodanige voorwerp wat ingevolge enige van die genoemde bepalings verbeur word, aan die Administrasie verbeur word.

and proceedings in (2) Any article so forfeited to
the Administration may be disposed of by the Executive Committee and the
proceeds obtained therefrom shall be paid
thereby to into the Territory Revenue Fund.".

Amendment of section
84 of Ordinance 4 of
1975.

7. Section 84 of the principal Ordinance is hereby amended by the substitution for paragraph (f) of subsection (1) of the following paragraph:

"(f) the removal, disturbance or destruction of the eggs of any species of bird which is a wild animal or of any product or offal derived or obtained from any species of bird which is a wild animal and the levying of any royalties and monies in connection therewith;".

Insertion of section 89A
in Ordinance 4 of 1975.

8. The following section is hereby inserted in the principal Ordinance after section 89:

"Jurisdiction of magistrates' courts in respect of punishments.
89A. Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any punishment prescribed by this Ordinance.".

Short title.

9. This Ordinance shall be called the Nature Conservation Amendment Ordinance, 1977.

(2) Enige voorwerp aldus aan die Administrasie verbeur kan deur die Uitvoerende Komitee van die hand gesit word en die inkomste daaruit verkry word in die Gebiedsinkomstefonds gestort.”.

7. Artikel 84 van die Hoofordonnansie word hierby gewysig deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:

Wysiging van artikel 84 van Ordonnansie 4 van 1975.

“(f) die verwydering, verstoring of vernietiging van die eiers van enige soort voël wat 'n wilde dier is of van enige produk of afval verkry of afkomstig van enige soort voël wat 'n wilde dier is, en die heffing van enige tantieme of gelde in verband daarmee;”.

8. Die volgende artikel word hierby in die Hoofordonnansie na artikel 89 ingevoeg:

Invoeging van artikel 89A in Ordonnansie 4 van 1975.

“Regsbevoegdheid van landdroshoewe ten opsigte van strawwe.

89A. Ondanks andersluidende wetsbepalings is 'n landdroshof regsbevoeg tot die oplegging van enige straf deur hierdie Ordonnansie voorgeskryf.”.

9. Hierdie Ordonnansie heet die Wysigingsordonnansie op Natuurbewaring, 1977.

Kort titel.