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GOVERNMENT NOTICE

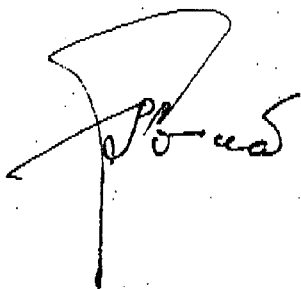
DEPARTMENT OF ENVIRONMENTAL AFFAIRS

No. R. 1175

11 December 2009

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS
ACT, 2003 (ACT NO. 57 OF 2003)
REGULATIONS FOR THE PROPER ADMINISTRATION OF THE KNYSNA
PROTECTED ENVIRONMENT**

I, Buyelwa Patience Sonjica, Minister of Water and Environmental Affairs, hereby publish the regulations pertaining to proper administration of the Knysna Protected Environment under section 86 of the National Environmental Management: Protected Areas Act, 2003 in the Schedule hereto.

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Chapter 1

General provisions

Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned and, unless the context otherwise indicates—

"authorised official" means an employee of the management authority or any other person authorised by the management authority to perform his or her functions in the protected environment and includes a life saver appointed by the management authority and a member of the South African Police Service;

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

"biodiversity control area" means the area comprising—

(a) the water area; and

(b) State land;

"bioprospecting" means bioprospecting as defined in section 1 of the Biodiversity Act, 2004;

"controlled event" means a controlled event as defined in the National Small Vessel Safety Regulations, 2007;

"development" means, within the development control area—

(a) the construction, erection, alteration, expansion, improvement, modification, upgrading or demolition or removal of a structure;

(b) the change of use of land;

(c) the subdivision or consolidation of land;

(d) the carrying out of any excavation works;

(e) the construction, or erection for display of signs;

(f) any change to the natural or existing condition or topography of land area; or

(g) any removal, clearing, destruction of trees or vegetation or the disturbance of topsoil;

"development control area" means the area comprising—

(a) the biodiversity control area; and

(b) land situated within fifty metres inland from the—

(i) water area; and

(ii) highest line to which any water occurring in the water area may rise at any time as a result of the action of the tides or otherwise, during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;

"environment" means the environment as defined in section 1 of the National Environmental Management Act, 1998;

"environmental impact assessment" means any process of collecting, organizing, analysing, interpreting, and communicating information that is

relevant to assess the impacts of activities on the environment of the protected environment;

"heritage resource" means heritage resource as defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

"kite-board" means a vessel propelled almost exclusively by the effect of the wind on the sails of a kite, designed to be steered or handled by a person in a standing position;

"listed activity" means an activity identified in terms of section 24(2)(a) and (d) of the National Environmental Management Act, 1998;

"management authority" means South African National Parks;

"National Environmental Management Act, 1998" means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"National Small Vessel Safety Regulations, 2007" means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, made under section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated by Government Notice No. R. 705 of 8 August 2007;

"National Water Act, 1998" means the National Water Act, 1998 (Act No. 36 of 1998);

"pollution" means pollution as defined in section 1 of the National Environmental Management Act, 1998;

"Promotion of Administrative Justice Act, 2000" means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);

"protected area notice" means a written notification issued by the management authority;

"protected environment" means the Knysna National Lake Area, initially proclaimed as a lake area in terms of the Lake Areas Development Act, 1975 (Act No. 39 of 1975) and subsequently declared a protected environment under the Act, and includes all proclaimed land and water areas as well as all further land and water areas which may be formally proclaimed by the Minister to form part of the Knysna Protected Environment;

"protected species" means any protected species or specimen of such species as defined in section 1 of the Biodiversity Act, 2004;

"restricted activity" means a restricted activity as defined in section 1 of the Biodiversity Act, 2004;

"sail" means the position of a vessel when it is not anchored or moored or on dry land;

"skipper" means a person who commands a vessel;

"species" means a species as defined in section 1 of the Biodiversity Act, 2004;

"specimen" means a specimen as defined in section 1 of the Biodiversity Act, 2004;

"strategic environmental assessment" means a process to assess the environmental implications of a proposed strategic decision, policy, plan, programme, piece of legislation or major plan;

"State land" means land situated within the protected environment which vests in the national, provincial or local government and which has been placed under the management or control of the management authority for any purpose contemplated by or associated with the Act or these Regulations;

"the Act" means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

"vehicle" means any vehicle in, on or with which goods or people can be transported on land and designed or adapted principally to travel on wheels or tracks;

"vessel" means any conveyance capable of floating on or in water or designed for navigation on or in water and includes any conveyance propelled by means of a propeller above the surface of water;

"waste" includes any solid or other material or any material that is suspended, dissolved or transported in water (including sediment), and which is spilled or deposited onto land or into any water resource in the protected environment in such volume, composition or manner as to cause, or to be reasonably likely to cause, the environment of the biodiversity control area to be polluted;

Waste Act, 2008 means the National Environmental Management: Waste Act (Act No. 59 of 2008)

"water area" means—

- (a) the water and the bed of the Knysna tidal lagoon;
- (b) the Knysna and Salt tidal rivers;
- (c) the Knysna, Salt, Bongani and Bigai rivers;

- (d) any wetland situated immediately adjacent to the Knysna tidal lagoon, the Knysna and Salt tidal river and the Knysna, Salt, Bongani and Bigai rivers;
- (e) the water and land comprising the sea;
- (f) the sea shore,

or any part thereof, situated within the protected environment, and includes the water and the land between the low water mark and high water mark of the sea, as well as the water and land between the lowest level and the highest level to which the water in the Knysna tidal lagoon, the Knysna and Salt tidal rivers or the Knysna, Salt, Bongani and Bigai rivers, or any wetland situated immediately adjacent to the Knysna tidal lagoon, the Knysna and Salt tidal rivers or the Knysna, Salt, Bongani and Bigai rivers, or any part thereof, may recede or rise to at any time, as a result of the action of the tides or otherwise, during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;

"wetland" means a wetland as defined in the National Water Act, 1998.

Purpose of Regulations

2. The purpose of the Regulations is—

- (a) to provide for—
 - (i) the management of the protected environment in accordance with the Act; and
 - (ii) the management and protection of the ecological integrity of the protected environment;
- (b) to ensure that—
 - (i) the use of natural and biological resources in the protected environment is undertaken in a sustainable manner;
 - (ii) the supply of environmental goods and services within the protected environment is undertaken in an equitable and sustainable manner and is consistent with the Act and the purpose for which the protected environment has been declared a protected environment; and

- (iii) all development as well as any other activity carried out in the protected environment is appropriate for the area and consistent with the Act, given the purpose for which the protected environment has been declared as such;
- (c) to control—
 - (i) change in the use of land situated within the protected environment;
 - (ii) the use of public amenities within the biodiversity control area.

Application of Regulations

3. These Regulations are applicable to the protected environment.

Exemptions

4. (1) An authorised official shall not be subject to these Regulations in the exercise of the functions conferred on him or her by the Regulations.

(2) These Regulations shall not be applicable to any vessel used by the management authority for the purposes of the Regulations or the performance of its functions under the Act: Provided that such vessel must be clearly identified as the property of the management authority and may not be used in a reckless or negligent manner.

Chapter 2

Protected environment

Powers of management authority in protected environment

5. (1) The management authority may reserve or set aside—

- (a) any State land; or
- (b) part of the water area,

and by means of a protected area notice designate it as a public open space area and may determine—

- (i) its purpose;
- (ii) the activities that may be conducted on it;
- (iii) the times of its use; and

- (iv) the conditions on which it may be used and the said activities may be conducted.
- (2) The management authority may by means of a protected area notice prohibit or restrict—
- (a) access to State land or part of the water area; and
 - (b) certain activities on State land or part of the water area,
- and no person may, without the permission of the management authority, enter into a prohibited area on State land or prohibited water area or engage in restricted or prohibited activities on such land.
- (3) The management authority may withdraw or amend any protected area notice made in terms of subregulations (1) and (2).
- (4) A public open space may not be used for any other purpose than that determined by the management authority by means of a protected area notice.
- (5) The management authority may in writing approve that—
- (a) any building or structure may be erected on State land;
 - (b) any building or structure on State land may be occupied or used;
 - (c) any agricultural activity, gardening or grazing of animals may take place on State land.
- (6) The management authority may determine the conditions under which the approval to engage in the activities contemplated in subregulation (5) may be granted.
- (7) The management authority may, subject to section 3 of the Promotion of Administrative Justice Act, 2000—
- (a) demolish or remove a building or structure from State land;
 - (b) impound any animal found on State land,
 - (c) recover the costs of the actions contemplated in paragraphs (a) and (b) from the person who erected the building or structure or is in charge of the animal,
- if the requirements of subregulation (5) have not been met or a condition imposed in terms of subregulation (6) have not been complied with.

Prohibitions

6. No persons may on State land in the protected environment—

- (a) light a fire that is not properly contained in a fireplace or container made available by the management authority; or
- (b) deposit or let out any refuse, rubbish, used containers, effluent, toilet waste or any objectionable matter.

Authorisations for protected environment

7. (1) No person may without prior authorisation in writing of the management authority, in the water area or on state land in the protected environment —

- (a) conduct commercial activities;
- (b) keep or use any vessel for the transport of passengers or goods for payment or reward;
- (c) hold any—
 - (i) organised water-sport event;
 - (ii) controlled event; or
 - (iii) other recreational event,or any display or entertainment in connection with such an event, for payment or reward;
- (d) discharge a fire-arm in connection with an event, display or entertainment contemplated in paragraph (c);

(2) The management authority may, subject to the provisions of section 78(1)(d) of the Act, on such conditions as it may deem expedient and the payment of such rentals or fees as it may decide authorise the activities contemplated in subregulation (1)(a): Provided that the said activities do not detract from the purpose for which the protected environment has been declared.

Chapter 3

Development control area

Authorisations for development control area

8. (1) No person may, without prior authorisation in writing of the management authority, in the development control area—

- (a) undertake development;

- (b) remove any sand, soil or rock;
 - (c) dredge or pump any sand, soil or rock;
 - (d) in any manner deposit, dump sand, soil or rock or other material of any kind;
 - (e) deposit, discharge or leave any waste or mining waste or industrial waste or by-product thereof;
 - (f) discard or discharge any toxic chemical or substance, pharmaceutical substance, including biocides, or any other pollutant or harmful substance;
 - (g) erect or in any way alter, extend or enlarge any french drain system or pit latrine, or replace it with another french drain system or pit latrine; or
 - (h) erect, establish, extend or enlarge a holiday resort, caravan park or camping or picnic site, or transform, extend or enlarge any existing holiday resort, caravan park or camping or picnic site which members of the public can utilise for payment of a fee.
- (2) The management authority must, subject to the provisions of section 78(1)(d) of the Act and the provisions of this Chapter, on such conditions as it may deem expedient and the payment of such fees as it may decide authorise the activities contemplated in subregulation (1) (a), (b), (c) and (d).

Strategic and environmental impact assessments in development control area

9. (1) The management authority may, subject to subregulation (3), upon receipt of an application to conduct an activity contemplated in regulation 8(1) indicate in writing—

- (a) that a strategic impact assessment must be undertaken; and
- (b) if the activity is not a listed activity, that an environmental impact assessment must be undertaken,

and indicate the nature and extent of a strategic or environmental impact assessment required for the activity concerned.

(2) The management authority may decide, when an activity contemplated in regulation 8(1)(a), (b), (c), (d), (e) and (f) is not a listed activity or if the applicant applied for—

- (a) an environmental authorisation under the National Environmental Management Act, 1998;
- (b) a waste management licence for the establishment of a waste disposal facility under the Waste Act, 2008; or
- (c) a water use licence under the National Water Act, 1998, not to require a strategic or environmental impact assessment.

Information to be submitted to management authority

10. (1) Duplicates of all documents submitted to a competent authority to obtain an environmental authorisation in accordance with the National Environmental Management Act, 1998, must accompany an application for authorisation in terms of regulation 8(1).

(2) Duplicates of all documents submitted in an application to—

- (a) the Minister for a waste management licence to establish a waste disposal facility under the Waste Act, 2008; or
- (b) a responsible authority for a water use licence under the National Water Act, 1998,

must accompany an application for authorisation in terms of regulation 8(1).

(3) Duplicates of all documents submitted in an application to a local authority to erect, establish, extend or enlarge a holiday resort, caravan park or camping or picnic site must accompany an application for authorisation in terms of regulation 8(1).

(4) An application to conduct an activity contemplated in regulation 8(1)(g) shall be accompanied by the site plan of the property on which the situation of the proposed french drain or pit latrine and the direct distance of the french drain or pit latrine from the nearest point of the biodiversity control area is indicated.

(5) The management authority may request additional information from an applicant who wants to conduct an activity contemplated in regulation 8(1)(a), (e), (f), (g) and (h) in order to consider the application for authorisation.

(6) If an application—

- (a) for an environmental authorisation to engage in a listed activity in terms of the National Environmental Management Act, 1998;

- (b) for the establishment of a waste disposal facility waste management licence in terms of the Waste Act, 2008;
- (c) for a water use licence in terms of the National Water Act, 1998; or
- (d) to a local authority for authority to erect, establish, extend or enlarge a french drain system, pit latrine, holiday resort, caravan park or camping or picnic site,

in the development control area has been granted the applicant shall furnish the management authority respectively with a copy of the—

- (i) environmental authorisation;
- (ii) waste disposal facility permit;
- (iii) water use licence; or
- (iv) local authority authorisation.

Chapter 4

Biodiversity control area

Authorisation for use of biological resources in biodiversity control area

11. (1) No person may, without prior authorisation in writing of the management authority catch, collect or in any other way use biological resources occurring in the biodiversity control area.

(2) Any authorisation granted under subregulation (1) shall be subject to—

- (a) the approved management plan of the management authority; and
- (b) payment of the applicable application fee.

(3) Before granting an authorisation contemplated in subregulation (1) the management authority must ensure that—

- (a) if the activity is a restricted activity, a permit to conduct the said activity in a protected area has been granted in terms of the Biodiversity Act, 2004;
- (b) an area is demarcated, in the manner deemed appropriate by the management authority, within which the use of biological resources is authorised;
- (c) the biological resource use is not in conflict with the purpose for which the protected environment was established;

- (d) the biological resource use will not negatively impact on any ecosystem occurring in the biodiversity control area.
- (4) An authorisation granted by the management authority under this regulation must—
 - (a) indicate the period for which it is granted; and
 - (b) determine the limits to the use of the biological resources concerned in order to ensure sustainable use thereof.
- (5) The holder of an authorisation under this regulation may not allow or cause any environmental damage not normally associated with the sustainable use of the biological resource concerned.
- (6) The management authority may, subject to section 3 of the Promotion of Administrative Justice Act, 2000, cancel an authorisation issued under this regulation if—
 - (a) the holder of the authorisation fails to comply with—
 - (i) subregulation (5); or
 - (ii) the conditions of the authorisation; or
 - (b) the management authority deems it to be necessary for the protection of the biological resource concerned.

Monitoring of use of biological resources

- 12.** (1) The management authority must before 30 June of each year submit a return to the Minister with regard to the use of biological resources in the biodiversity control area in the preceding financial year.
- (2) The return contemplated in subregulation (1) shall set out—
 - (a) the number of authorisations granted in terms of regulation 11;
 - (b) a description of the biological resources used;
 - (c) the quantities of biological resources harvested;
 - (d) the income generated by the harvesting of biological resources; and
 - (e) the conservation status of the biological resources being used.

Authorisations to protect biological resources

- 13.** (1) No person may, without prior authorisation in writing of the management authority, in the biodiversity control area—

- (a) introduce any species or specimen or part thereof;
 - (b) intentionally or negligently disturb any protected species;
 - (c) intentionally disturb or damage any biological resource or ecosystem or component part of any biological resource or ecosystem which occurs in the biodiversity control area;
 - (d) feed any protected species;
 - (e) remove any wood, sea shell, guano or other material;
 - (f) cut, damage, remove or destroy or be in possession of any plant or any part thereof, including dry wood or firewood;
 - (g) harm or cause death to any individual or population of any protected species;
 - (h) lure or bait a specimen of a protected species; or
 - (i) take any egg or nest of any bird or any honey from a beehive or remove a beehive.
- (2) Duplicates of all documents submitted to an issuing authority to obtain a permit in terms of the Biodiversity Act, 2004, must accompany an application for authorisation in terms of subregulation (1).
- (3) The management authority may request additional information from an applicant in order to consider an application in terms of subregulation (1).
- (4) If an application for a permit in terms of the Biodiversity Act, 2004, to carry out a restricted activity in the biodiversity control area has been granted the applicant shall furnish the management authority with a copy of the permit.
- (5) An authorisation granted by the management authority under this regulation must—
- (a) Indicate the period for which it is granted; and
 - (b) determine the limits to the undertaking of the activity concerned in order to ensure sustainable use thereof.
- (6) The holder of an authorisation under this regulation may not allow or cause any environmental damage not normally associated with the undertaking of the activity concerned.

(7) The management authority may, subject to section 3 of the Promotion of Administrative Justice Act, 2000, cancel any authorisation issued under this regulation if—

- (a) the holder of authorisation fails to comply with
 - (i) subregulation (6); or
 - (ii) the conditions of the authorisation; or
- (b) the management authority deems it necessary for the protection of the biological resource concerned.

Protection of heritage resources in biodiversity control area

14. (1) No person may, without prior authorisation in writing of the management authority—

- (a) touch, remove, alter or interfere with;
- (b) possess or exercise control over;
- (c) convey, move or otherwise translocate;
- (d) sell or otherwise trade in, buy, receive, give donate or accept as a gift, or in any other way acquire or dispose of or be in possession of;
- (e) conduct any research in respect of or attempt to or take steps to prospect for; or
- (f) engage in any other activity which involves,

any heritage resources found in or shown to emanate from the biodiversity control area, either within the biodiversity control area or at any place outside the biodiversity control area.

(2) Before granting an authorisation under subregulation (1), the management authority must ensure that, where necessary, a permit issued by the responsible heritage resources authority in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) has been obtained by the applicant.

Management of litter, waste and pollution in biodiversity control area

15. No person shall pollute the environment by disposing of any—

- (a) bottles, broken glass, china, pottery, plastic articles, seeds, fruit or vegetable matter;
- (b) noxious or foul smelling substance, matter or thing;
- (c) offal; or

- (d) domestic garbage.
in the biodiversity control area.

Activities that may be controlled by protected area notice in biodiversity control area

16. The management authority may by means of a protected area notice displayed at the appropriate place in the biodiversity control area—

- (a) set aside any place for—
- (i) the launching, landing, hauling out, keeping, letting or hiring of vessels; or
 - (ii) the sole use, operation or sailing of—
 - (aa) a specified type of vessel; or
 - (bb) vessels belonging to members of boating clubs;
- (b) restrict—
- (i) the launching, landing, hauling out, mooring, keeping, leasing or hiring of certain type of vessels to certain places subject to the conditions determined by the management authority; and
 - (ii) the maximum speed at which any vessel may travel;
- (c) prohibit or restrict to certain times or places—
- (i) the use, operation or sailing of certain types of vessels;
 - (ii) swimming;
 - (iii) diving with or without diving apparatus;
 - (iv) bait collecting;
 - (v) fishing;
 - (vi) water-skiing;
 - (vii) jet-skiing;
 - (viii) wind or kite-boarding; or
 - (ix) access to areas that may present a public danger or safety risk;
- and
- (d) make the use, operation or sailing of vessels or certain type of vessels subject to the written consent of the management authority who may impose such conditions as it deems expedient.

Chapter 5

Bioprospecting

Bioprospecting in the protected environment

17. (1) No person shall undertake any form of bioprospecting in the protected environment in respect of any indigenous biological resources without—

- (a) a permit granted in terms of section 87(c) of the Biodiversity Act, 2004; and
- (b) prior authorisation in writing of the management authority, and subject to such conditions and against the payment of a fee as determined by the management authority.

(2) If a permit contemplated in subregulation (1)(a) has not been obtained a copy of the application for a permit in terms of section 87(c) of the Biodiversity Act, 2004, must be submitted to the management authority and if such a permit has already been obtained a copy of the permit must be submitted to the management authority.

(3) The management authority may request additional information from an applicant who wants to undertake bioprospecting in order to consider the application for an authorisation.

Chapter 6

Water area

Part 1

Environmental issues

General prohibition

18. (1) No person may use the water area or any vessel, vehicle, facility, equipment or apparatus in the water area in a manner which causes or is likely to cause—

- (a) pollution;
- (b) nuisance to other persons; or
- (c) harm to—
 - (i) the environment; or

(ii) any biological resource.

(2) An authorised official may remove any person that acts in contravention of subregulation (1) from the water area or may remove the vessel, vehicle, equipment or apparatus that is used in contravention of the said subregulation from the water area.

Authorisations for water area

19. No person may, without prior authorisation in writing of the management authority, in the water area —

- (a) do any de-fouling work on any vessel;
- (b) paint any vessel or remove previous or existing coats of paint from any vessel; or
- (c) do any mechanical, electrical or other reparation work to any vessel, that will cause or is likely to cause pollution;

Part 2

Tourism issues

Management of aircraft in water area

20. No person may land or take off in an aircraft from the water area, except—

- (a) on or from a landing area designated by the management authority; and
- (b) with the permission of the management authority; or
- (c) in an emergency situation.

Conduct of bathers

21. No person may bathe in an area that has been designated as a prohibited bathing area by means of a protected area notice or clearly visible and intelligible signs put in place by the management authority or a life-saver.

Fire-arms and pyrotechnics

22. (1) No person may discharge a fire-arm or set of a pyrotechnic device in the water area, except —

- (a) a person in the service of the management authority; or

(b) to give a distress signal.

(2) The management authority may authorise a person in writing to discharge a fire arm or set of a pyrotechnic device in connection with the collection of specimens of aquatic life or birds or animals for scientific purposes.

Permits for vessels

23. (1) No person may keep or operate any vessel in the water area without—

(a) a vessel permit issued by the management authority or delegated agent;

(b) payment of the necessary fees; and

(c) where necessary, being in possession of a—

(i) certificate of competence; and

(ii) certificate of fitness,

issued in terms of the National Small Vessel Safety Regulations, 2007.

(2) The management authority may refuse to issue a vessel permit to an applicant if—

(a) the skipper of the vessel must have a certificate contemplated in subregulation (1)(c)(i); or

(b) the vessel concerned must have a certificate contemplated in subregulation (1)(c)(ii),

and does not have such certificate or certificates.

(3) (a) The management authority may, when issuing a vessel permit, impose conditions regarding the—

(i) handling of the vessel;

(ii) area where the vessel may be used;

(iii) modifications that must be made to the vessel in the interest of safety or to comply with the Regulations; or

(iv) the period for which the permit is valid.

(b) The management authority may in addition to the conditions contemplated in paragraph (a) impose the conditions that it may deem fit in the circumstances of each application for a vessel permit.

- (4) The management authority may, when issuing a vessel permit, limit the use of or the conduct of an activity by a specific category or type of vessel if it has reason to believe that such use or conduct of an activity—
- (a) may—
 - (i) be a source of pollution; or
 - (ii) cause a detrimental ecological or environmental impact, in the water area; or
 - (b) will—
 - (i) be a nuisance;
 - (ii) pose a danger to—
 - (aa) persons using it; or
 - (bb) the public or sections of the public;
 - (iii) increase the number of vessels in the water area above the number of vessels deemed appropriate by the management authority.
- (5) An applicant for a vessel permit must, if required, make his or her vessel available to the management authority for inspection, at the date, time and place stipulated by the management authority.
- (6) A vessel permit registration form must contain the—
- (a) name of the permit holder;
 - (b) maximum number of passengers that may be carried;
 - (c) type of vessel;
 - (d) overall length of the vessel;
 - (e) maximum power of the engine (where necessary);
 - (f) identification number of the vessel;
 - (g) information regarding the area where the vessel may be used;
 - (h) conditions and limitations under which the permit is issued; and
 - (i) the period for which the permit is valid.
- (7) The management authority may limit the number of vessel permits issued to an applicant.
- (8) The holder of a vessel permit must display the permit number on the vessel in accordance with the requirements determined by the management authority.

Withdrawal of vessel permit

24. (1) (a) The management authority may, subject to section 3 of the Promotion of Administrative Justice Act, 2000, withdraw a vessel permit if the vessel—

- (i) is no longer safe or seaworthy;
- (ii) is a source of pollution in the water area;
- (iii) is handled in a way that causes a nuisance or danger to—
 - (aa) other vessels; or
 - (bb) the public or sections of the public;
- (iv) no longer qualifies for a vessel permit; or
- (iv) does not comply with the conditions of the vessel permit.

(b) The management authority may withdraw a vessel permit if a vessel is modified or altered to a type of vessel that is not allowed in the water area.

(c) The management authority may withdraw a vessel permit if the permit holder—

- (i) disposes of the vessel in any way;
- (ii) is found guilty of an offence with regard to the handling or control of the vessel under the Regulations or the National Small Vessel Safety Regulations, 2007;
- (iii) is unable to, within a reasonable time, produce the certificates contemplated in regulation 23(1)(c).

(d) In the case of a withdrawal of a vessel permit in terms of paragraph the permit holder must—

- (i) be informed in writing of the intention to withdraw the permit;
- (ii) be given the opportunity to make representations with regard to the certificates concerned; and
- (iii) be informed of the withdrawal of his or her permit if the representations are unsuccessful.

(2) A vessel of which the vessel permit has been withdrawn must be removed from the water area within 30 days from the date on which notice of the withdrawal of the vessel permit is received by him or her.

(3) A person who fails to remove a vessel from the water area within the period contemplated in subregulation (2) is guilty of an offence and such a

vessel may be removed from the water area by the management authority and the costs pursuant to such removal may be charged to such person.

Removal of vessels

25. (1) A person who operates a vessel in the water area without a vessel permit may be ordered to remove the vessel from the water area.

(2) A person who fails to comply with such an order is guilty of an offence.

(3) The management authority may remove such a vessel from the water area and the costs pursuant to such removal may be charged to a person contemplated in subregulation (2).

Rules for operating vessels in water area

26. (1) No person shall leave a vessel unattended unless it has been properly anchored, moored or removed to dry land.

(2) No vessel shall be moored or launched at any place other than a place indicated or approved by the management authority, and an authorised official may transfer any vessel or moor it any other place without the consent of the owner if such authorised official deems it in the public interest.

(3) No vessel shall be moored to another vessel or to a marker, buoy or other navigational aid.

(4) The skipper of a vessel must ensure that full control is exercised over the vessel at all times while it is under way.

(5) The skipper of a vessel which is towing a line, cable or rope for any purpose whatsoever must ensure that no other person is endangered or inconvenienced thereby.

(6) No person shall handle a vessel or allow it to be handled in a manner that endangers or creates a nuisance to any other vessel or the occupants thereof or to other persons or property or installations in the water or at the water's edge.

(7) The skipper of a vessel shall maintain a safe and cautious speed in a area where —

- (a) vessels are moored;
- (b) fishing takes place;
- (c) buoys are placed.

(8) No vessel which is propelled by a propeller above the surface of the water shall be used in the water area.

(9) A vessel which is hired out, or which is used in the water area for profit, must carry a clearly displayed notice on which any person boarding or leaving the vessel may read the number of persons it can carry or its loading capacity according to its construction.

Enforcement of regulations in water area

27. (1) An authorised official may order that a vessel be removed from the water area if—

- (a) the owner or skipper of a vessel is unable to furnish him or her with the necessary information with regard to the vessel;
- (b) there is a reasonable suspicion that these Regulations are being contravened; or
- (c) it appears that a vessel is unnavigable or unseaworthy.

(2) A vessel that has been removed from the water area in terms of subregulation (1) shall not be returned to the water area before the necessary information has been furnished to an authorised officer or the provisions of these Regulations have been complied with.

(3) An authorised official may, in order to identify the skipper or owner of a vessel, request—

- (a) his or her name and address from him or her; or
- (b) any other person on the vessel to furnish the name and address of the skipper and owner of the vessel.

(4) An authorised official may request the skipper or owner of the vessel to submit the vessel to an inspection in order to determine whether the vessel complies with the requirements of these Regulations.

(5) If an authorised official has reasonable grounds to believe that the skipper of a vessel is not physically able to be in control of the vessel or is not of sound mental health he or she may prohibit the skipper to continue steering the vessel and may take appropriate steps to return the vessel to its mooring.

(6) An authorised official may prohibit a vessel from leaving its mooring if the vessel is overloaded or is carrying more passengers than it is authorised to carry.

Chapter 7

Instruction notices, offences and penalties, short title and commencement

Instruction notices

28. (1) The management authority may issue an instruction notice to any person who conducts an activity in the protected environment—

- (a) without the necessary authorisation in writing; or
- (b) in a manner which disregards the conditions attached to an authorisation in writing issued to him or her.

(2) An instruction notice issued under subregulation (1) shall be issued after consultation with the person concerned and shall direct such a person to terminate such an activity and to rehabilitate any detrimental environmental impact caused by the said activity.

(3) An authorised official may issue an instruction notice requesting any person who acts or is reasonably suspected of acting in contravention of the Act and these Regulations in the biodiversity control area to cease the said action.

(4) If a person fails to comply with an instruction notice issued under this regulation, the management authority may, subject to section 3 of the Promotion of Administrative Justice Act, 2000, take the necessary steps to—

- (a) remove a structure, vessel, vehicle or other object used in an unauthorised or unlawful activity;
- (b) rehabilitate any detrimental environmental impact caused by the said activity,

and may recover the costs of such removal or rehabilitation from the person concerned.

Offences and penalties

29. (1) Any person who—

- (a) contravenes or fails to comply with these Regulations;

- (b) fails to comply with any protected area notice or any other notice or sign displayed in the protected area;
- (c) fails to comply with an instruction notice issued in terms of regulation 28;
- (d) fails to comply with a condition contained in any authorisation in writing issued under these Regulations; or
- (e) obstructs or hinders an authorised official in the execution of his or her duties,

is guilty of an offence.

(2) Any person found guilty of an offence in terms of subregulation (1) is liable to be sentenced to a fine or imprisonment for a period not exceeding five years or both such fine and imprisonment.

(3) The management authority may withdraw any permission, permit or authorisation granted under these Regulations to any person found guilty of an offence under this regulation.

Short title and commencement

30. These Regulations are called the Regulations for the Proper Administration of the Knysna Protected Environment and takes effect on the date of publication thereof in the *Gazette*.

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