



SAPS Central Firearms Registry Accreditation 1300050

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The Director-General

Department of Environmental Affairs and Tourism
Private Bag X447
Pretoria
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ATTENTION: DR PIET BOTHA

Dear Dr Botha,

COMMENTS ON THE DRAFT NATIONAL NORMS AND STANDARDS FOR THE REGULATION OF THE HUNTING INDUSTRY IN SOUTH AFRICA

The Draft National Norms and Standards for the Regulation of the Hunting Industry In South Africa, which were published on 5 May 2006 as Government Notice 598 in the Government Gazette, no 28803, refers.

The National Shooting Association would like to comment on the relevant proposed Regulations in the following manner:

First the relevant section of, or the whole of the definition or the regulation is quoted with an indication of sections that are proposed to be added or deleted, followed by a rationale, which is the motivation for the changes.

Proposed changes are indicated as follows:

ADD = i.e. Nationally (Bold red)

Delete =i.e. Nationally (Bold blue with strike through)

1. DEFINITIONS

1.1 “Wingshooting” - Change definition to read:

“Wingshooting” means the hunting of **gamebirds** (one word) **in flight** ~~that are listed~~ **animals whether listed or not.**

Rationale:

The definition is not correct as it stand now.

1.2 ADD definition of Code of Conduct

“Code of Conduct” means a set of rules compiled by a hunting association or organisation, which conforms to internationally accepted principles of fair chase as well as principles regarding the dispatch of hunted animals in the quickest and most humane manner possible, and to which members of such hunting association(s) are required to conform to, and in failing to conform, disciplinary action could be instituted against members who would transgress such codes of conduct.

Rationale:

The use of the concept **ethics** as a common denominator to regulate behaviour is fraught with difficulty as ethics are determined by cultural value judgements and inferences, and is therefore not universally the same for all people. For Christians it is not ethically correct to marry more than one wife while it is perfectly correct for a Muslim to marry more than one wife. The same is true in the instance of taking the life of an animal. Not all people in South Africa see the taking of life of an animal as an act having to be conducted against a similar set of culturally determined principles of correct conduct. This is not discriminatory in any way as it is merely stating a fact.

The use of the concept, **Code of Conduct**, which compiles people (hunters) to conform to an acceptable set of rules which would apply in all events of hunting is thus more applicable. All serious hunting associations, organisations or clubs in this country has one or other document regulating the manner in which their members should conduct themselves in the hunt, and the manner in which animals (carcasses) should be treated during and after the hunt. In order to set a minimum standard for such codes of conduct, the national association of hunting organisations as proposed to be set-up in Chapter 4 of the proposed Regulations is proposed to have the function to oversee the compilation, content and application of such codes of conduct (see Section 15(2)(a)).

1.3 ADD Definition for Gamebird

Gamebird means species of the Orders *Anseriformes* (duck and geese), *Galliformes* (partridge, francolin, quail and guineafowl), *Pterocliiformes* (sandgrouse), *Columbiformes* (pigeons and doves) and the Ethiopian Snipe *Gallinago nigripennis*, under the Order *Charadriiformes* all of which have a high reproduction rate and sustainable utilization.

Rationale:

As there are constant reference to gamebirds in the proposed Regulations, the concept needs to be defined.

1.4 **ADD a definition for Wingshooter**

“Wingshooter” a person who uses an applicable gauge shotgun to hunt gamebirds on the wing and in flight, with preferably, gundogs for purposes of pointing, and / or flushing, and / or retrieving of gamebirds.

Rationale:

As wingshooting is a unique form of hunting focussed on the ethical hunting of gamebirds, usually conducted in groups with gundogs, the activity needs to be clearly defined in order to set it apart from ordinary “fur-game” hunting practices.

2. **REGULATIONS**

2.1 **Factors to be taken into account when considering applications for provincial hunting authorisations**

5. When considering an application for a provincial hunting authorisation to hunt a listed animal, an issuing authority must, to the extent applicable, take into account

- (a).....
- (b).....
- (c).....
- (d).....
- (e).....
- (f) whether the hunt to which the application relates is to be –
 - (i) a trophy hunt;
 - ~~(ii)~~ **a recreational hunt; (change following number of sub-section accordingly)**
 - (iii) a biltong or meat hunt;
 - (iv) wingshooting;
 - (v) a traditional hunt; or
 - (vi) a hunt for any other purpose;

Rational:

Recreational hunting implies killing for pleasure. Trophy hunting to a certain extent already implies this. The concept of recreational hunting should not be contained in regulations purporting to regulate hunting and/or to set norms and standards for hunting in this country. The dictum for amateur hunting should be that one hunts (kills) an animal when one wants to eat the meat, when the animal wants to “eat” you, or when it is a pest (has to be determined scientifically).

4.2 Compulsory conditions subject which hunting authorisations and permits must be issued

14. (1) All provincial hunting authorisations and national hunting permits must be issued subject to conditions that the holder of the authorisation or permit –
- (a) ...
 - (b) ...
 - (c) ...
 - ~~(d) must act in accordance with the code of ethical conduct and good practice of the hunting organisation of which that person is a member, to the extent that such code applies to hunting.~~
- (2) All provincial hunting authorisations and national hunting permits authorising the hunting of a listed animal must, in addition to any other conditions the issuing authority may or must impose, be issued subject to the following conditions:
- (a) The animal may not be hunted by means of –
 - (i) ...
 - (ii) ...
 - (iii) ...
 - (iv) ...
 - (v) ...
 - (vi) ...
 - (vii) a firearm other than a rifle, **or a shotgun**, or a handgun specifically designed for hunting purposes;
 - (viii) ...
 - (ix) air guns; **(except in the case of rats, mice, doves, quellas and other small bird species which may be regarded as problem animals) or**
 - (x) any other device **of which the use has a high risk of mere injury to an animal** ~~which use would result in injuring or killing an animal in a way which is not humane~~
 - (b) the animal may not be hunted by luring the animal by means of –
 - (i) bait, except in the case of –
 - (aa) lions and leopards, if the use of dead bait is specifically permitted by provincial legislation; and
 - (bb) fish or other aquatic species;
 - (ii) sounds **excluding duck callers used to lure gamebirds**
 - (iii) smell; or
 - (iv) any other induced luring method **excluding artificial gamebird decoys used to lure gamebirds or artificial lures used for artificial lure fishing**
 - (c) ...
 - (d) ...
 - (e) ...
 - (f) the hunter, or if that person is a hunting client, the professional hunter assisting the client, must within 21 days of the hunt furnish the provincial department responsible for biodiversity management in the relevant province with a written return on the hunt stating –

- (i) the number of the provincial hunting authorisation or national hunting permit and date of issue of the authorisation or permit;
 - (ii) the species, gender and number of animals hunted; and
 - (iii) the location where the hunt took place.
- (g) the wingshooter, or if that person is a wingshooter hunting client, the professional hunter must annually at the end of the season when the gamebird hunting permit or licence expires, furnish the provincial department responsible for biodiversity management in the relevant province with a written return on wingshooting event(s) –**
- (i) the number of the provincial hunting authorisation or national gamebird hunting permit and date of issue of the authorisation or permit;**
 - (ii) the species, number of gamebirds hunted, and gender if possible; and**
 - (iii) the location where the wingshooting event(s) took place.**
- (2-3)** Subregulation (2)(a)(iv) does not prevent the use of dogs for the purpose of –
- (a) tracking a wounded animal; or
 - (b) pointing, **flushing**, and retrieving ~~in the case of listed threatened or protected bird~~ **of all gamebird species, listed or not.**
- (4)
- (5)

Rationale:

Section 14(1)(d)

Making the issue of “*All provincial hunting authorisations and national hunting permits... subject to conditions that the holder of the authorisation or permit’ ...’...must act in accordance with the code of ethical conduct and good practice of the hunting organisation of which that person is a member, to the extent that such code applies to hunting’*” is not executable as the issuing authority has no way of knowing this about the person they are issuing the permit to.

Codes of conduct of hunting associations (organisations) invariably refer to conduct pertaining to hunting and could not refer to anything else !

Inclusion of this sub-section is unnecessary here as these aspects are provided for under Chapter 4 of this set of proposed Regulations.

Section 14(2)(a)(viii):

Shotguns are firearms used for hunting too. As the sub-clause stands now wingshooting is not a legal form of hunting.

Section 14(2)(a)(ix)

Air guns are used to control mice and other small vermin, as well as being a firearm used by parents to teach their smaller children to hunt ethically.

Section 14(2)(a)(x)

The concept humane has different meanings to different people and in the context of different cultures. What is humane to one person is inhumane to another. Rather stay with factually definable concepts than to include value laden concepts which do not always portray culture-fit under all conditions and need extensive interpretation through lengthy court procedures.

Section 14(2)(b)(ii):

Gamebird calling devices are widely used in Europe and North America as standard devices for calling gamebirds. The banning of luring techniques is aimed at ensuring the principle of fair chase. The use of calling devices does not remove the element of fair chase, as gamebirds are always shot in flight.

Section 14(2)(b)(iv):

Artificial decoys which are either two or three dimensional representations of the particular species are widely used in Europe and North America as standard devices for attracting gamebirds in ethical wingshooting practises. The banning of luring techniques is aimed at ensuring the principle of fair chase. The use of decoys does not remove the element of fair chase, as gamebirds are always shot in flight.

As the sub-section stands now flyfishing or artificial lure fishing is NOT permitted – this effectively prohibits all artificial lure fishing for indigenous species of fish (i.e. yellow fish) in this country. One is not under the impression that these regulations are meant to achieve this disservice to sport fishermen.

Section 14(2)(g)

Wingshooting takes place under different conditions within different circumstances than so-called “fur-game” hunting. Wingshooters participate in a number of wingshooting events per annum. Filing a return after each wingshooting event does not make sense, as it would over burden the administration. Permits and licences for gamebirds are issued per annum with open seasons and bag limits being indicated per annum per Provincial proclamation.

It thus makes more sense to also make reporting an annual event rather than a task to be conducted after every shooting event.

With one or two exceptions it is nearly impossible for the ordinary person to determine gender in all gamebird species, since few South African gamebirds show sexual dimorphism. That is the reason why the phrase: “...and gender if possible” is included

Section 14(3)(b):

The element of the dogs flushing out birds needs to be included to avoid a very narrow definition of pointing and retrieving. Pointing and flushing does not involve any chasing, engagement or physical contact between the dog and the bird. The Regulations should provide for the use of gundogs in all wingshooting events and for all gamebird species, which include common game like the majority of dove species.

4.3 National association of hunting organisations

15. (1) ~~An association of hunting organisations claiming to represent all recognised hunting organisations in the Republic may apply to the Minister for recognition as the national association of hunting organisations.~~

Change to read:

National Forum of Provincially Registered Hunting Associations

15 (1) A forum consisting of two representatives of all Provincially recognised hunting associations in the Republic, irrespective of hunting code and including the professional hunters, to be established by the Department to act as the National Forum of Hunting Associations

Rationale:

The principle to found a national body representing all hunting associations in the country with which the Minister can consult is supported and long overdue.

However, trying to establish a *National Association of Hunting Organisations* depicts a serious lack of knowledge and understanding of the scenario pertaining to hunting associations in this country.

There are a number of highly competent and organised hunting associations in the country, covering the different codes of hunting from “fur-game” hunting, through wingshooting to bow-hunting. Some of these associations are nationally organised while others are provincially or regionally organised, each serving their specific members in a specific manner for a specific purpose. Because of this there is no way that a small

number of representatives can be tasked to nationally represent the totality of hunting associations in the country. These individuals would just not have the capacity to fairly represent all the interests of all the different hunting associations, the different regional hunting interests, or the different hunting codes, as these are just too diverse in nature.

Wingshooting, as an example, is vastly different from “fur-game” hunting and definitely differs markedly from bow-hunting (the fastest growing hunting sport in the world today). Wingshooting is also conducted under different conditions and under different circumstances, as well as in different environmental surrounds than “fur-game” hunting and bow-hunting.

If the Minister wants representation, rather speak to all hunting associations and not just to a number of people who purport to represent the hunters in this country. As the Section reads now, read in conjunction with the functions of such a body as stated in the following Sections, it would mean that all hunting associations would now have to join one national body to which they would become subject for their functioning. Denoting a serious flaw in the thought process to suggest the establishment of such a national body in the first place.

The first question that comes to mind is who is going to pay for the establishment and functioning of such a national body. Such a national body will not be able to function without an own secretariat and an own budget. It will, no doubt, merely be a duplicating function of that which is already currently being managed in a highly competent manner by that body's to be, member associations.

Establishing a national hunting body under the auspices as proposed, also denies the self-determination right of individual hunting associations which have worked hard to establish themselves as representatives for a specific section of the hunting fraternity in this country – not even mentioning the issues of representation and costs. In addition the internal politics that will be created through the establishment of such a national body to which all other associations must now belong, if they do not support the founding of such a body in the first place, will scuttle the intended purpose of the national body from the outset.

The establishment of a national forum, however, immediately cuts through all of the above mentioned problems in establishing a national hunting body with which the Minister can consult on matters pertaining to hunting in the country.

The example of the Hunters Forum which was set-up by virtue of the Firearms Control Act of 2000 (Act 60 of 2000 as amended) and has become a platform for discussion and negotiation between the South African Police Service (Central Firearms Registry) and accredited hunting associations, is a point in case. The SAPS(CFR) accredited hunting

associations and the SAPS(CFR) have been meeting on a regular basis for the past 2½ years in respect of all aspects pertaining to the new legal framework for the licensing of firearms, and have managed to solve difficult problems sensibly, amicably and timeously.

In the same vain the establishment of a ***National Hunters Forum of Provincial Registered Hunting Associations*** can be founded, which will serve a much better and sensible purpose than that which is proposed with Section 15 as it stands now.

4.4 National association of hunting organisations

- 15 (1)....
- (2) The purpose of recognising a ~~national association of hunting organisations~~ ***National Hunters Forum of Provincial Registered Hunting Associations*** is –
- (a) to ~~have an organisation found a national forum which will to~~ represent the interests of ***all provincially registered hunting associations its member organisations*** nationally;

Rationale:

In line with the motivation under 4.3 above

- (b) to ensure that ~~its member organisations~~ ***provincially registered hunting associations*** establish and maintain ***peer group approved*** codes of ***ethical*** conduct for their members;

Rationale:

In line with the motivation under 4.3 above

- (c) to ***oversee advise on*** the training of professional hunters and hunting outfitters by any of its member organisations, including the training of professional hunters and hunting outfitters from disadvantaged communities;

Rationale:

The function of overseeing the training of professional hunters and outfitters rests with the Professional Hunters Association for South Africa, as they are the best qualified people to execute this function. Members of hunting associations don't always know and understand the intricacies of the trade of professional hunting and outfitting, and should not be made to oversee such training. They should not be allowed to do more than advise in this instance. In any case, the training of professional hunters and outfitters is part of the SAQA system, and relevant learnerships and career paths are catered for by THETA.

- (d) to maintain an accreditation system for its member organisations to ensure enforcement by those member organisations of their codes of **ethical** conduct **and good practice**;

Rationale:

- See the argument under 3.2 above.
- Good practice is already included in, and implicitly implied by codes of conduct..

- (e) to act as the official body representing the hunting industry in its relations with organs of state; and

- ~~(f) — to act as a forum for stakeholder involvement in the hunting industry.~~

Rationale:

- The fact of a forum is already implicit in the proposed changes to the proposed regulations.
- In addition, a "...forum of stakeholders..." implies all stakeholders in the "hunting industry", and not a number of individuals purporting to represent such people because they happen to be part of a national hunting body proposed to be instituted in Section 15(1) of the proposed regulations.

- ~~(3) — The recognised national association of hunting organisations may establish —~~

- ~~(a) — a uniform curriculum for the training of professional hunters and hunting outfitters; and~~

- ~~(b) — a uniform code of ethical conduct and good practice for members of its member organisations.~~

Rationale:

- Already catered for in the changes to the above sub-sections.
- Peer group approved codes of conduct is a better system to enforce a code than to try and impose such from the top down.

4.5 Recognition of hunting organisations

16. (1) Any hunting organisation may apply in writing to the MEC responsible for biodiversity management in a province for recognition as a hunting organisation in that province.
- (2) An application in terms of sub-clause (1) must be approved if the applicant —
- (a) has adopted a code of **ethical** conduct **and good practices** which —

- (i) complies with the minimum requirements set out in clause 17; and
- (ii) is ascribed to by its members;

Rationale:

- See motivation under 3.2 above
 - Good practice is already included in, and implicitly implied by codes of conduct..
- (b) gives a written undertaking to the MEC that it will –
- (i) enforce its code of **ethical** conduct ~~and good practices~~ against members who breach the code;
 - (ii)

Rationale:

- See motivation under 3.2 above
 - Good practice is already included in, and implicitly implied by codes of conduct..
- (c) has a clear policy on **Black Economic Empowerment transformation** to **benefit** persons from disadvantage communities.

Rationale:

- Hunting associations, as well as the Professional Hunters' Association of South Africa are all associations which do not do business to the effect that people from disadvantaged communities can be economically empowered.
- No person can be economically empowered just by becoming a member of a hunting association as the sub-section now reads. The concept is used completely out of context here.
- That hunting associations must endeavour to effect **transformation** in their activities and in the conduct of their pass time (hunting), in order to include all South Africans, is not a matter to be negotiated. That must be done, and hunting associations that would want to be registered as hunting associations in provincial context should be able to clearly prove that they have a policy to effect transformation.

4.6 Norms and standards for codes of **ethical conduct ~~and good practice~~**

17. The code of **ethical** conduct ~~and good practices~~ of a hunting organisation must –
- (a) require its members to act in strict compliance with –
 - (i) legislation regulating the hunting industry; and

- (ii) any conditions subject to which any provincial hunting authorisation or national hunting permit is granted to a member;
- (b) define criteria for the hunting of listed animals in accordance with –
 - (i) the fair chase principle; and
 - (ii) humane methods **of executing the hunt**;
- (c) require its members to act in strict compliance with those criteria when hunting a listed animal; and
- (d) provide for disciplinary steps against any member who breaches a provision of the code, which should include steps for the suspension or expulsion of such a member from the organisation.

Rationale:

- See motivation under 3.2 above
- Good practice is already included in, and implicitly implied by codes of conduct..
- The inclusion of the phrase, of executing the hunt, is self explanatory.

4.7 National Hunting Register

- 19.** (1) SANBI must as part of its database established in terms of section 11(1)(j) of the Biodiversity Act, keep and maintain a National Hunting Register in which the following information must be recorded:
- (a) the number of animals of each species for which national hunting permits and provincial hunting authorisations are issued annually in –
 - (i) each province;
 - (ii) each national protected area; and
 - (iii) each provincial protected area;
 - (b) the number of animals of each species annually culled in each protected area;
 - (c) the number of animals of each species hunted for –
 - (i) trophy purposes;
 - (ii) ~~recreational~~ **meat** and biltong purposes; and
 - (iii) subsistence purposes;
 - (d) statistics on the different methods of hunting; and
 - (e) any other statistics SANBI may require for the Register.
- (2) All issuing authorities ~~and all recognised hunting organisations~~ must for the purposes of sub-regulation (1) at least annually submit to SANBI returns on forms provided by SANBI.

Rationale:

- Deleting recreational and substituting with meat has been motivated under point 4.1 above.

- Nowhere in the Sections up to now has it been mentioned that hunting associations should take responsibility to keep statistics of animals hunted by their members. Hunting associations or clubs would in any case not know these statistics as they do not issue the permits or licences or do not require their members to furnish such detail to them. It should be noted that the absolute majority of hunting associations and clubs are bodies manned and administered by volunteers for no remuneration. To now want them to keep records, which is in any case the responsibility of provincial authorities, will swamp them with unwanted and unnecessary paper work. The numbers of animals hunted are reported to the provincial authorities per Section 14(2)(f) and in the case of gamebirds in the proposed additional sub-section 14(2)(g). Provincial authorities are well enough equipped to undertake this function.

Thank you for affording the NSA the opportunity to comment on the proposed Draft National Norms and Standards for the Regulation of the Hunting Industry In South Africa,

Yours Sincerely



Dr Herman Els

Executive chairman
Permanent member of the Executive Council