

DEPARTMENT OF AGRICULTURE

No. R.

CONSERVATION OF AGRICULTURAL RESOURCES ACT, 1983 (ACT No. 43 OF 1983)

REGULATIONS: AMENDMENT

The Minister of Agriculture has, under section 29 of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983), made the regulations in the Schedule.

SCHEDULE

Definition

1. In this Schedule “the regulations” means the regulations published by Government Notice No. R. 1048 of 25 May 1984, as amended by Government Notice No. R. 2687 of 6 December 1985.

Amendment of regulation 1 of the regulations

2. Regulation 1 of the regulations is hereby amended –

(a) by inserting the following definitions before the definition of “excessive soil loss”:

“ ‘biological control’ means the use of natural enemies of category 1, 2 and 3 plants to control such plants;

‘biological control agent’ means a natural enemy of category 1, 2 or 3 plants that is used to control such plants;

‘biological control expert’ means an academic or research institute or an academic or research organisation established by legislation which, or a person associated with or in the employment of such an institute or organisation who, practises and researches biological control of category 1, 2 and 3 plants;

‘biological control reserve’ means an area designated by the executive officer in terms of regulation 15D of the regulations for the breeding of biological control agents;

‘bush encroachment’ means stands of plants of the kinds specified in column 1 of Table 4 where individual plants are closer to each other than three times the mean crown diameter;

'category 1 plants' means plants of the kinds specified as category 1 in column 3 of Table 3 opposite the names of the respective kinds of plants;

'category 2 plants' means plants of the kinds specified as category 2 in column 3 of Table 3 opposite the names of the respective kinds of plants;

'category 3 plants' means plants of the kinds specified as category 3 in column 3 of Table 3 opposite the names of the respective kinds of plants;

'control' means to combat category 1, 2 and 3 plants by means of the methods prescribed in regulation 15E to the extent necessary to prevent or to contain the occurrence, establishment, growth, multiplication, propagation, regeneration and spreading of such plants;

'demarcated area' means an area of land approved by the executive officer in terms of regulation 15B of the regulations for the occurrence, establishment and maintenance of category 2 plants;

'environment conservation regulations' means regulations in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), as published by Government Notice No. R.1182 of 5 September 1997, as amended from time to time, or similar regulations promulgated under legislation administered by the Department of Environmental Affairs and Tourism;";

(b) by inserting the following definition after the definition of "flood area":

" 'propagating material' means any material of a plant that can be used for the propagation of that plant;";

(c) by inserting the following definition after the definition of "secretary":

" 'sell' includes agree to sell, or offer, advertise, keep, exhibit, send, consign, convey or deliver for sale, or exchange for anything or dispose of or deliver to any other person in any manner, whether for a consideration or otherwise; and 'sold' and 'sale' have corresponding meanings;";

(d) by deleting the word "and" after the definition of "veld";

(e) by adding the word "and" after the definition of "waterway"; and

(f) by adding the following definition:

“ ‘wetland’ means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.”.

Substitution of regulation 15 of the regulations

3. Regulation 15 of the regulations is hereby substituted for the following regulation:

“Declaration of weeds and invader plants

15. (1) Plants of the kinds specified in column 1 of Table 3 as category 1 plants are hereby declared weeds to the extent indicated in column 3 of the said Table opposite the names of the respective kinds of plants.

(2) Plants of the kinds specified in column 1 of Table 3 as category 2 plants and as category 3 plants are hereby declared invader plants to the extent indicated in column 3 of the said Table opposite the names of the respective kinds of plants.”.

Insertion of regulations 15A to 15F

4. The regulations are hereby amended by the insertion of the following regulations after regulation 15:

“Combating of category 1 plants

15A.(1) Category 1 plants may not occur on any land or inland water surface other than in biological control reserves.

(2) A land user shall control any category 1 plants that occur on any land or inland water surface in contravention of the provisions of sub-regulation (1) by means of the methods prescribed in regulation 15E.

(3) No person shall, except in or for purposes of a biological control reserve –

- (a) establish, plant, maintain, multiply or propagate category 1 plants;
- (b) import or sell propagating material of category 1 plants or any category 1 plants;
- (c) acquire propagating material of category 1 plants or any category 1 plants.

(4) The executive officer may, on good cause shown in writing by the land user, grant written exemption from compliance with the requirements of sub-regulation (1) on such conditions as the executive officer may determine in each case.

Combating of category 2 plants

15B. (1) Category 2 plants may not occur on any land or inland water surface other than a demarcated area or a biological control reserve.

(2) (a) The executive officer may on application in writing demarcate an area as an area where category 2 plants may occur, be established and be maintained.

(b) An area in respect of which a water use license for stream flow reduction activities has been issued in terms of section 36 of the National Water Act, 1998 (Act No. 36 of 1998) shall be deemed to be a demarcated area.

(3) The executive officer shall demarcate an area for the occurrence, establishment and maintenance of category 2 plants only if –

(a) the category 2 plants in the area are cultivated under controlled circumstances; and

(b) the land user concerned has been authorised to use water in terms of the National Water Act, 1998 (Act No. 36 of 1998); and

(c) the category 2 plants or products of category 2 plants in the area are demonstrated to primarily serve a commercial purpose, use as a woodlot, shelter belt, building material, animal fodder, soil stabilisation, medicinal or other beneficial function that the executive officer may approve; and

(d) all reasonable steps are taken to curtail the spreading of propagating material of the category 2 plants outside the demarcated areas.

(4) When an area is demarcated for the occurrence, establishment and maintenance of category 2 plants the executive officer may impose such additional conditions as may reasonably be deemed necessary to keep the category 2 plants in the area in check.

(5) No person shall sell propagating material of category 2 plants or any category 2 plants to another person unless such other person is a land user of a demarcated area or of a biological control reserve.

(6) No person shall acquire propagating material of category 2 plants or any category 2 plants unless such material or such plants are intended for use in a demarcated area or in a biological control reserve.

(7) Propagating material of category 2 plants or category 2 plants shall only be imported or sold in accordance with the provisions of the Plant Improvement Act, 1976 (Act No. 53 of 1976), the Agricultural Pests Act, 1983 (Act No. 36 of 1983) and the environment conservation regulations.

(8) A land user shall control any category 2 plants that occur on any land or inland water surface in contravention of the provisions of sub-regulation (1) by means of the methods prescribed in regulation 15E.

(9) Unless authorised thereto in terms of the National Water Act, 1998 (Act No. 36 of 1998), no land user shall allow category 2 plants to occur within 30 meters of the 1:50 year flood line of a river, stream, spring, natural channel in which water flows regularly or intermittently, lake, dam or wetland.

(10) The executive officer may, on good cause shown in writing by the land user, grant written exemption from compliance with one or more of the requirements of sub-regulations (1), (3), (5), (6), (8) and (9) on such conditions as the executive officer may determine in each case.

Combating of category 3 plants

15C. (1) Category 3 plants shall not occur on any land or inland water surface other than in a biological control reserve.

(2) Subject to the provisions of sub-regulation (3), the provisions of sub-regulation (1) shall not apply in respect of category 3 plants already in existence at the time of the commencement of these regulations.

(3) (a) No land user shall allow category 3 plants to occur within 30 meters of the 1:50 year flood line of a river, stream, spring, natural channel in which water flows regularly or intermittently, lake, dam or wetland.

(b) The executive officer may impose such additional conditions as may reasonably be deemed necessary with regard to category 3 plants already in existence at the time of the commencement of these regulations.

(c) A land user must take all reasonable steps to curtail the spreading of propagating material of category 3 plants.

(d) The executive officer may, after consultation with the land user, issue a direction in terms of section 7 of the Act that category 3 plants in existence at the time of the commencement of these regulations must be controlled by means of the measures prescribed in regulation 15F.

- (4) No person shall, except in or for purposes of a biological control reserve –
- (a) plant, establish, maintain, multiply or propagate category 3 plants;
 - (b) import or sell propagating material of category 3 plants or any category 3 plants;
 - (c) acquire propagating material of category 3 plants or any category 3 plants.

(5) The executive officer may, on good cause shown in writing by the land user, grant written exemption from compliance with one or more of the requirements of sub-regulations (1), (3) and (4) on such conditions as the executive officer may determine in each case.

Designation of biological control reserves

15D. (1) The executive officer may on application in writing designate an area as a biological control reserve.

- (2) The executive officer shall designate an area as a biological control reserve only if –
- (a) the area concerned is used for the breeding of biological control agents by a biological control expert; and
 - (b) no other measures that may destroy or render the biological control ineffective are applied in that area; and
 - (c) the area concerned serves as a refuge from where biological control agents can move or be distributed to other infestations of category 1, 2 and 3 plants.

Methods of control

15E.(1) Where category 1, 2 or 3 plants occur contrary to the provisions of these regulations, a land user shall control such plants by means of one or more of the following methods of control as is appropriate for the species concerned and the ecosystem in which it occurs:

- (a) Uprooting, felling, cutting or burning;

- (b) Treatment with a weed killer that is registered for use in connection with such plants in accordance with the directions for the use of such a weed killer;
- (c) Biological control carried out in accordance with the stipulations of the Agricultural Pests Act, 1983 (Act No. 36 of 1983), the Environment Conservation Act, 1989 (Act No. 73 of 1989) and any other applicable legislation;
- (d) Any other method of treatment recognised by the executive officer that has as its object the control of the plants concerned, subject to the provisions of sub-regulation (4);
- (e) A combination of one or more of the methods prescribed in paragraphs (a), (b), (c), and (d), save that biological control reserves and areas where biological control agents are effective shall not be disturbed by other control methods to the extent that the agents are destroyed or become ineffective.

(2) The methods contemplated in sub-regulation (1) shall also be applied with regard to the propagating material and the re-growth of category 1, 2 and 3 plants in order to prevent such plants from forming seed or re-establishing in any manner.

(3) The performance of an act of control is not in itself proof that the objects of the control methods have been achieved and follow-up operations are mandatory to achieve the appropriate level of combating.

(4) Where uncertainty exists about the presence or efficacy of any biological control agent, a biological control expert shall be consulted.

(5) Any action taken to control category 1, 2 and 3 plants shall be executed with caution and in a manner that will cause the least possible damage to the environment.

Application of other laws

15F. Nothing contained in this regulation shall derogate in any way from any obligation imposed on any land user in terms of any other law.”.

Substitution of Regulation 16 of the regulations

5. Regulation 16 of the regulations is hereby substituted for the following regulation:

“Indicators of bush encroachment

16. (1) Indigenous plants of the kinds specified in column 1 of Table 4 are regarded as indicator plants indicating bush encroachment in the areas specified in column 2 of the said Table opposite the names of the respective kinds of plants.

(2) A land user of an area in which natural vegetation occurs and that contains communities of indicator plants shall follow practices to prevent the deterioration of natural resources and to combat bush encroachment where it occurs.

(3) One or more of the following practices shall be followed with regard to communities of indicator plants contemplated in sub-regulation (2) in order to remove the cause of the deterioration of the natural resources and to improve and maintain the production potential of the natural pastoral land:

- (a) Uprooting, felling or cutting;
- (b) Treatment with a weed killer that is registered for use in connection with such plants in accordance with the directions for the use of such a weed killer;
- (c) The application of control measures regarding the utilisation and protection of veld in terms of regulation 9;
- (d) The application of control measures regarding livestock reduction or removal of animals in terms of regulations 10 and 11;
- (e) Any other method or strategy that may be applicable and that is specified by the executive officer by means of a directive.”.

Substitution of Tables 3 and 4 of the regulations

6. The following tables are hereby substituted for Tables 3 and 4 of the regulations, respectively: