

## **TOPS REGULATIONS – UNTENABLE FOR WILDLIFE AND HABITAT CONSERVATION**

09 March 2023 – Wildlife Ranching South Africa (WRSA) and the Professional Hunters' Association of South Africa (PHASA) has issued and served papers to halt the draconian and illogical [Threatened or Protected Species \(TOPS\) Regulations](#) and arbitrary TOPS Species Listing, recently Gazetted by Minister Barbra Creecy of the Department of Forestry, Fisheries, and Environment (DFFE), in Government Gazette 47984 on 3 February 2023. Both organisations are deeply concerned about the recent promulgation of these regulations which are due for implementation on 1 April 2023 as we believe these Regulations will have an adverse impact on game ranching, hunting and the conservation of species outside of protected areas.

*Read the Notice of Motion Founding Affidavit Case B1269/2023 [here](#).*

Key concerns in the founding affidavit highlight governmental lack of capacity and implementation capabilities. Something Minister Creecy even admitted in her press release when she announced the new regulations on 14 February 2023. *“Given existing capacity, it would be impossible to regulate the scope of restricted activities envisaged by NEMBA in respect of all the species included in the list.”* What is even more concerning, as highlighted by former President of WRSA Mr Jacques Malan during the Implementation roadshow held in Pretoria on 27 February 2023, is that since inception of TOPS in 2007, some provinces have never even implemented these TOPS regulations within their province. Mr Malan asked the DFFE official present at the roadshow, how can they expect game ranchers to implement these overburdening regulations when the DFFE's own officials are not even adhering to, or administering, these regulations for the last 16 years?

In most instances, protected areas and state-run reserves are failing, with limited budget, capacity and/or means for officials to perform their duties. Kruger National Park for instance has lost 75% of its white rhino population since 2011, and due to mismanagement and neglect allowed 20 roan antelope to die of thirst within their breeding camps. The most recent report in the Mail & Guardian “Corruption rife at Kruger” estimates about 40% of the law enforcement employees at the park are participating in corrupt activities. (<https://mg.co.za/news/2023-03-04-corruption-rife-at-kruger-park-report/>)

Private wildlife ranchers currently conserve more than double the amount of habitat as compared to protected areas. Commercial wildlife ranches cover 16.8% of the country's landmass, with approximately 80% (16 million) of all game in South Africa, estimated at 20 million. Nevertheless, when determining the TOPS species list in 2015, the DFFE based its decisions on the IUCN 2001 Red list system. These figures are now 21 years old and excluded the majority of game ranchers and their wildlife. Sable antelope are now listed as "vulnerable", based on numbers that do not reflect the total population in the country. According to the updated 2016 IUCN Red List, there are only 1 346 mature sable in South Africa. Yet during the last 20 years, more than 18 818 sable were sold on auctions. Considering that an estimated 15 – 25% of the entire population was sold on auction, the likely total number of sable in private ownership in the country is conservatively estimated between 75 000 and 125 000.

The DFFE's inclusion of arbitrary "**natural distribution ranges**" for wildlife within the Regulations is unenforceable as no maps were promulgated with the regulations and there is no indication of who would decide, and on what basis, these "home ranges" would be determined.

This further highlights a severely flawed 2015 public participation process as inadequate information was provided. The Minister's rational to now publish these drafted regulations 8 years later, despite substantive change, numerous amendments, the removal of key definitions and omission of an entire section from the 2015 draft regulation is irrational and, in our opinion, unlawful. The removal of essential definitions from the Regulations, such as "game farm" and "semi-extensive wildlife systems" undoubtedly place the industry in a legislative vacuum.

These TOPS Regulations are nothing more than **legislative deprivation** aimed at eroding the rights of private ownership. Placing private assets under governmental control with an illogical permitting system.

The arbitrary inclusion of abundantly common species such as blesbok, blue wildebeest and normal plains zebra, that occur in the hundreds of thousands across South Africa on a threatened and protected species list, merely to then exempt them is illogical. The TOPS regulations are

designed with the intent to protect species facing extinction. TOPS is by no means the correct tool for such a listing as is proven with the black wildebeest, which were culled in the thousands. In fact, the current demand for black wildebeest which were included on TOPS since 2007, is that a 1,500 black wildebeest were sold from the Bloemhof Dam Nature Reserve only for culling purposes as recently as April last year. The price was determined as R28,00 per kilogram.

It is deplorable that key stakeholders within the wildlife economy are excluded from the process, despite our considerable contribution to the conservation of our biodiversity heritage and the rural the wildlife economy. The South African game ranching model has brought several species back from the brink of extinction and into thriving populations. In spite of these successes and the significant contribution to the country's social and economic well-being, we are left in an inescapable legislative wasteland through illogical and unsupported regulations. It is most unfortunate that we are left with no choice but to pursue legal action for the sake of our business, our communities, and our wildlife.

**WRSA and PHASA are fully committed to fight for the constitutional rights of our members. This includes our right to earn a living from the wise and sustainable use of natural resources through proactive wildlife management and responsible hunting.**



[Notice of Motion Founding Affidavit Case B1269/2023](#)

**Please consider contributing to our Legal Fund. This fund enables us to continue to fight for your full private game ownership rights.**

**Thank you to WRSA members Dr Peter Oberem and Dr Gert Dry for donating R10 000,00 each.**