

# Legal interventions to date involving cycads

Cycad Round Table meeting  
9 June 2014



Biodiversity and Conservation



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# Overview

Interventions in terms of:

- Threatened or Protected Species (TOPS) Regulations
- National Environmental Management: Biodiversity Act, 2004



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# TOPS Regulations

## Original prohibition of 1 June 2007:

- Restricted activities relating to removal and destroying involving wild specimens of threatened species (CE, E and V), unless if provided for in BMP;
- Trade (import/ export, sell/ buy) in all CE species, unless if provided for in BMP (wild or propagated, and regardless of size);
- Trade (import/ export, sell/ buy) in wild and artificially propagated specimens, relating to specific size

E.g. possession of specimens prohibited



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# Amendment of TOPS Regulations

## 1<sup>st</sup> Amendment, 28 January 2008:

- Any restricted activity involving wild specimens of TOPS prohibited, unless provided in BMP;
- Trade (export/ re-export, buy/ sell) in artificially propagated specimens of CE and E species, unless if provided in BMP;
- Export/ re-export of artificially propagated specimens of V or P species, linked to size restriction;
- Transition provision – person could continue with restricted activities for 12 months after implementation of the Regulations, but must submit BMP for approval 3 months before expiry of the 12 months period



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# Amendment of TOPS Regulations

2<sup>nd</sup> amendment, 27 February 2009:

Amendment related to trade in artificially propagated specimens of CE and E species, unless if provided in BMP

This was an editorial amendment only – purpose was to make it clear that the prohibition related to export, as well as sell/ buy



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# Amendment of TOPS Regulations

3<sup>rd</sup> Amendment of 27 February 2009:

Transitional provision included:

Any person who immediately before the commencement of the TOPS Regulations legally carried out restricted activities involving wild specimens of TOP cycad species, or legally traded with artificially propagated specimens of CE and E species, may continue to do so until such a date as determined by the Minister by notice in the *Gazette* (linked to paragraphs (a) and (b) of Reg. 25)

This amendment effectively postponed the implementation of a BMP as a prerequisite for trade



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# NEMBA prohibition Notice #1

## Notice in terms of Section 57(2) of 14 May 2012 for implementation:

- (1) The following restricted activities involving wild specimens of listed threatened or protected *Encephalartos* species, unless if required for conservation or enforcement purposes:
- (a) Collect, pluck, uproot, destroy;
  - (b) Export from the Republic of South Africa, sell, trade, buy;
  - (c) Receive, give, donate, accept, acquire, dispose;
  - (d) Import into the Republic of South Africa, convey, move, translocate; or



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# NEMBA prohibition Notice #1

## Notice in terms of Section 57(2) of 14 May 2012 for Implementation (continue):

- (e) Possess, exercise physical control (except where permits have been issued, prior to the publication of this notice, for plants that form part of legally obtained parental stock).

Conservation purposes (approved conservation strategy, research program or BMP) and enforcement purposes have been defined in the Notice



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# NEMBA prohibition Notice #1

## Notice in terms of Section 57(2) of 14 May 2012 for Implementation (continue):

- (2) The following restricted activities involving artificially propagated specimens of listed threatened or protected *Encephalartos* species:

The export from the Republic of South Africa of specimens with a stem diameter of more than 15 cm, except for the following dwarf species which cannot be exported if the stem diameter is more than 7cm: *E. caffer*, *humilis*, *cupidus*, *cerinus* and *ngoyanus*.



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# NEMBA prohibition Notice #2

Notice in terms of Section 57(2) of 14 May 2012 for comment:

The following restricted activities involving artificially propagated specimens of listed critically endangered and endangered *Encephalartos* species with a stem diameter of more than 15 cm, except *E. cerinus* and *E. cupidus* if the stem diameter is more than 7cm:

- (a) Selling or buying for a period of 5 years or until recovery targets in Biodiversity Management Plans are achieved.



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# Additional legislative measures

- Repealed Regulation 25 and Regulation 71(3) of the Threatened or Protected Species Regulations by Notice in the *Gazette* on 2 August 2012
- Amendment to NEMBA to include an enabling provision relating to amnesty
- Currently, only Prohibition Notice #1 applies, and all other restricted activities not prohibited in terms of this Notices, is regulated by means of a permit



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