

FORESTRY (INTERNATIONAL TRADE IN WILD FLORA) REGULATIONS

(sections 19A(2) and 19B)

(18th December, 2009)

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Schedule

S.I. 98, 2009.

1. Citation

These Regulations may be cited as the Forestry (International Trade in Wild Flora) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires-

"artificial propagation" means the growing under controlled conditions of plants from seeds, cuttings, callus tissues, spores or other propagules;

"country of origin" means the country in which a specimen has been taken from the wild or artificially propagated or introduced from the sea;

"domestic trade" means any commercial activity, including, but not limited to, purchase and manufacture, within Botswana, of any flora specimens listed under the appendices to the Convention;

"export" means the taking of any specimen of a plant species listed in the appendices to the Convention, out of Botswana;

"import" means the bringing into or introducing into Botswana, other than for purposes of transit, any specimen of a plant species listed in the appendices to the Convention;

"international trade" means any commercial activity, including, but not limited to export, re-export, import or transit of any flora specimens listed in the appendices to the Convention outside Botswana;

"introduction from the sea" means transportation into Botswana, of plant specimens taken from the marine environment not under the jurisdiction of any State, including the air space above the sea and the sea bed and subsoil beneath the sea;

"Management Authority" means the Department of Forestry and Range Resources as provided for under regulation 3; and

"Scientific Authority" means the Department of Biological Sciences of the University of Botswana as provided for under regulation 4.

3. Management Authority

(1) The Department of Forestry and Range Resources shall be the Management Authority in charge of wild flora as referred to in Article IV, paragraph (a) of the Convention.

(2) The Management Authority shall exercise all the functions conferred on it by the Convention in order to provide for import, export, re-export, possession or transportation of any species of flora specified in the Convention.

(3) Subject to subregulation (2), the Management Authority shall-

(a) institute measures for the implementation of the Convention both solely and in co-operation with other public bodies, organs of Government or non-governmental organisations;

(b) issue permits or certificates for the import, export, re-export, possession or transportation of species of flora in accordance with requirements of the Convention.

(c) monitor the implementation of the provisions of the Convention and assess its effectiveness in improving the level of protection, conservation and sustainable management of species of flora as specified in the Convention;

(d) advise the Minister on ways of giving effect to the purposes of the Convention; and

(e) maintain records of international trade in flora specimens and prepare an annual report concerning such trade, and submit the report to the Convention Secretariat by the end of October of the year following the year in which the report was made.

4. Scientific Authority

(1) The Department of Biological Sciences of the University of Botswana shall be the Scientific Authority for purposes of the Convention.

(2) The Scientific Authority shall perform all the functions specified under the Schedule to the Act.

5. Trade in CITES listed specimen

(1) No person shall export, import, re-export, introduce from the sea, possess or transport any specimen of a plant species listed in the appendices to the Convention without a permit or certificate issued by the Management Authority.

(2) Any person who wishes to import, export, re-export, introduce from the sea, possess or transport through Botswana any specimen of a plant species listed in the appendices to the

Convention, shall apply for a permit or certificate from the Management Authority in Form A specified in the Schedule to these Regulations.

(3) The Management Authority may grant a permit or a certificate for import, export, re-export, possession, transport or for introduction from the sea of a specimen of a plant species listed in the appendices to the Convention subject to the following conditions-

(a) an export permit for plant specimens listed under Appendix I and II shall not be issued if the Scientific Authority has advised that the export will be detrimental to the survival of the species concerned, unless the export quota is within the limit of an annual quota approved by the Scientific Authority;

(b) an import permit for species listed under Appendix I shall be issued unless the Scientific Authority has advised that the import will be for purposes that are detrimental to the survival of the species;

(c) the Management Authority is satisfied that the specimen concerned has not been obtained in contravention of any law, including foreign law;

(d) the Management Authority is satisfied that any specimen to be re-exported was imported in accordance with the provisions of these Regulations and the Convention; and

(e) the Management Authority is satisfied that an import or export permit for Appendix I listed plant specimen taken from the wild would not to be used primarily for commercial purposes.

(4) Specimens of plant species listed in Appendix I that have been artificially propagated for commercial purposes shall be deemed to be specimens of plant species listed in Appendix II.

6. Issue of permit, etc.

(1) The Management Authority may issue a permit or certificate subject to such conditions as may be contained in the permit or certificate.

(2) A permit or certificate issued under this regulation shall be in Form B set out in the Schedule to these Regulations.

7. Permit or certificate valid for trade

A permit or certificate issued under regulation 6 shall be valid for both domestic and international trade.

8. Validity of permit, etc.

(1) Notwithstanding the provisions of subsection (2), a permit or certificate issued under these Regulations shall be valid for such a period as may be stipulated therein and may be subject to renewal at the end of such period.

(2) An import permit for specimens listed in the appendices to the Convention shall be valid for a period not exceeding 12 months from the date of issue.

9. Suspension or revocation of permit, etc.

(1) The Management Authority may suspend a permit or certificate on any of the following grounds-

(a) non-compliance with any condition to the permit or certificate ; or

(b) contravention of any of the provisions of these Regulations.

(2) A suspension under subregulation (1) shall be for such period as the Management Authority may determine to enable the holder of the permit or certificate to take remedial action so as to comply with the conditions of the permit or certificate and the provisions of these Regulations.

(3) The Management Authority may revoke a permit or certificate where-

(a) the permit or certificate has been issued as a result of false or misleading statements by the permit or certificate holder;

(b) contravention of any of the provisions of these Regulations.

(4) The Management Authority shall not suspend or revoke a permit or certificate without first giving written reasons of its decision to the holder.

(5) The holder of a permit or certificate may appeal the Management Authority's decision to suspend or revoke a permit or certificate to the High Court, within 30 days of notification of the decision.

10. Powers of entry and inspection

(1) An officer of the Management Authority may-

(a) enter into any premises or a vehicle which he reasonably suspects contains a specimen in contravention of these Regulations;

(b) examine what he reasonably suspects to be a specimen transported, acquired or traded in contravention of these Regulations; or

(c) examine any records held relating to specimens referred to in paragraphs (a) and (b); or

(d) seize or take anything which he believes on reasonable grounds will afford evidence as to the commission of an offence under these Regulations.

(2) In all cases, specimens that are the subject of an offence shall be confiscated and disposed off as the Management Authority, in consultation with the Scientific Authority, may advise:

Provided that such disposal shall not in any way include returning any of the specimens to the offender or any party to the offence.

11. Offences and penalties

(1) Any person who imports, exports, re-exports, introduces from the sea, possess or transports through Botswana any plant specimen listed in the appendices to the Convention without a permit or certificate commits an offence and is liable to a fine not exceeding P2 000, or a term of imprisonment not exceeding two years, or to both.

(2) A person who trades, either domestically or internationally or attempts to trade any plant specimen listed in the appendices to the Convention without a valid permit or certificate issued under regulation 6 commits an offence and is liable to a fine not exceeding P2 000, or a term of imprisonment not exceeding two years, or to both.

(3) A person who trades with a forged permit or certificate, or trades with a permit or certificate that has been modified by any person other than the Management Authority, or with a permit or

certificate that is invalid for any other reason commits an offence and is liable to a fine not exceeding P2 000, or a term of imprisonment not exceeding two years, or to both.

SCHEDULE

FORM A

APPLICATION FORM FOR EXPORT, RE-EXPORT, IMPORT AND TRANSIT PERMIT/CERTIFICATE

(reg 5(2))

In accordance with regulation 5 (2) of the Forestry (International Trade in Wild Flora) Regulations, an application is hereby made by:
Name:
Address:
.....
.....
Passport/Omang No Age
To export re-export import transit
(tick whichever is applicable)
To the following destination (address)
.....

The following live plant/plant derivatives which were (obtained from the wild), (propagated)

Species Description of article Number Country of Origin Weight Distinctive Marks

I declare that the (plant/product) in respect of which the permit/certificate is sought were legally obtained under a (type) permit/certificate,
date issued at
Signature
Place signed
Date

FORM B

PERMIT/CERTIFICATE FOR IMPORT/EXPORT/RE-EXPORT, POSSESSION, TRANSIT OF SPECIES

(reg 6(2))

PERMIT/CERTIFICATE NO.

CONVENTION ON INTERNATIONAL TRADE
IN ENDANGERED SPECIES OF WILD FAUNA
AND FLORA

		EXPORT			
		RE-EXPORT			
		IMPORT			
		OTHER:			
		2. Valid until			
3. Importer (name and address)		4. Exporter/Re-exporter (name and address, country)			
3a. Country of import					
5. Special conditions		6. Name, address, national seal/ stamp and country of Management Authority			
<hr/> <hr/> <hr/> <p>For live animals, this permit or certificate is only valid if the transport conditions conform to the Guidelines for Transport of Live Animals or, in the case of air transport, to the IATA Live Animals Regulations.</p>					
5a. Purpose of the transaction (see reverse)		5b. Security stamp No.			
7/8. Scientific name and (genus and species) and common name of animal/plant	9. Description of specimens, including identifying marks or numbers	10. Appendix No. and source (see reverse)	11. Quantity (including unit)	11a. Total exported Quota	
—	7/8.	9	10.	11.	11a.
A	12. Country of origin*	Permit Date	12a. Country of last re-export		

		No.	Certificate No. Date		
					12b. No. of the operation ** or date of acquisition ***
—	7/8.	9	10.	11.	11a.
B	12. Country of origin*	Permit Date	12a. Country of last re-export		
		No.	Certificate No. Date		
					12b. No. of the operation ** or date of acquisition ***
—	7/8.	9	10.	11.	11a.
C	12. Country of origin*	Permit Date	12a. Country of last re-export		
		No.	Certificate No. Date		
					12b. No. of the operation ** or date of acquisition ***
—	7/8.	9	10.	11.	11a.
D	12. Country of origin*	Permit Date	12a. Country of last re-export		
		No.	Certificate No. Date		
					12b. No. of the operation ** or date of acquisition ***

* Country in which the specimens were taken from the wild, bred in captivity or artificially propagated (only in case of re-export)

** Only for specimens of Appendix I species bred in captivity or artificially propagated for commercial purposes

*** For pre-Convention specimens

3. THIS PERMIT IS ISSUED BY:

<hr/> —	<hr/> —	<hr/> —		
Place	Date	Security stamp, signature and official seal		
14. EXPORT ENDORSEMENT:		15. Bills of lading/ Air Way-Bill Number:		
Block	Quantity			
A				
B				

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