

New Alien and Invasive Species Regulations impact on property sales

The National Environmental Management: Biodiversity Act (No. 10 of 2004) (NEMBA) was promulgated in 2004. This act aims to provide the framework, norms, and standards for the conservation, sustainable use, and equitable benefit-sharing of South Africa's biological resources.

By [Louis Kruger](#) ^{3 Dec 2014}



© Steve Coe – southerncrossroads.info

Recently promulgated regulations

The Alien and Invasive Species Regulations for this Act were published on 1 August 2014 in the Government Gazette and came into effect on 1 October 2014. NEMBA together with the Regulations aim to prevent the introduction and spread of alien and invasive species across South Africa.

Different categories of listed invasive species

The various alien invasive and prohibited species (both fauna and flora) have been listed in four different categorisations. There are a total of 559 alien species which are listed as invasive and 560 species listed which are prohibited from being introduced into South Africa.

The four different categories are:

- Category 1a: invasive species that may not be owned, imported into South Africa, grown, moved, sold, given as a gift or dumped in a waterway. These species need to be controlled on your property, and officials from the Department of Environmental Affairs must be allowed access to monitor or assist with control.
- Category 1b: invasive species that may not be owned, imported into South Africa, grown, moved, sold, given as a gift or dumped in a waterway. Category 1b species are major invaders that may need government assistance to remove. Category 1b species must be contained, and in many cases they already fall under a government sponsored management programme.
- Category 2: These are invasive species that can remain in your garden, but only with a permit, which is granted under very few circumstances.
- Category 3: These are invasive species that can remain in your garden. However, you cannot propagate or sell these species and must control them in your garden. In riparian zones or wetlands all category 3 plants become category 1b plants.

Failure to comply

Any contravention of the provisions of the Act or Regulations, or failure to co-operate with the Department, may render a person liable for a fine and in some instances imprisonment.

Impact of the Act and Regulations on immovable property sales

Regulation 29(3) provides that as from 1 October 2014, any agreements of sale must contain a declaration by the purchaser that they have acquainted themselves with and accept the fauna and flora on the property. Further the seller should disclose any knowledge of the presence of any invasive species on the property and provide any permits that may exist.

Sources:

<http://www.capetowninvasives.co.za/news/2014/02/nemba-invasive-alien-species-regulations-list-published-public-comment>

Government Gazette No. 37886 Vol 590 1 August 2014

Government Gazette No. 37885 Vol 590 1 August 2014

<http://www.invasives.org.za/legislation.html>

ABOUT THE AUTHOR

Louis Kruger is a candidate attorney at Schindlers Attorneys, Conveyancers & Notaries.

For more, visit: <https://www.bizcommunity.com>