

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)



CASE NO: 6.2.4.8.6 / 18

In the matter between

**THE FEDERATION OF SOUTHERN AFRICAN
FLY FISHERS**

Applicant

and

**THE MINISTER OF ENVIRONMENTAL
AFFAIRS**

Respondent

NOTICE OF MOTION

BE PLEASED to take notice that on 15 / 01 / 2019 at 10h00 or so soon thereafter as counsel may be heard, application will be made to the above Honourable Court for the following orders:

PART A (Interim Relief)

1. That the respondent be interdicted from exercising her powers under Section 97(1) of the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004) ("the Act") to promulgate any Alien and Invasive Species Regulations, or any amendments to such Alien and

- Invasive Species Regulations, without first publishing in compliance with the Act, draft Regulations which replace the Regulations referred to in Part B of the Notice of Motion;
2. That the respondent be interdicted from exercising her powers under Section 97(1) of the Act to promulgate any Alien and Invasive Species List or any amendments to such Alien and Invasive Species List without first following the consultative process set out in Section 97(3) of the Act;
 3. That the relief sought in Prayers 1 and 2 above operate as an interim interdict pending the finalisation of the relief sought in Part B of the Notice of Motion.

PART B (Final Relief)

BE PLEASED to take notice further that the abovenamed applicant intends to make application to the Honourable Court on a date to be determined by the Registrar for an order in the following terms:

4. Declaring that the respondent failed to comply with Section 100 of the Act in publishing the following regulations in Government Gazette, No 41445 on 16 February 2018:

- 4.1 Government Notice No 112, "Draft Alien and Invasive Species Regulations"; and
 - 4.2 Government Notice No 115, "Draft Amendments to the Alien and Invasive Species List";

(hereinafter the "Notices")
5. Declaring that the respondent failed to comply with Section 100(2)(b) of the Act in publishing in the Government Gazette, No 41722 on 22 June 2018 GN 616, "Notice Extending the Public Commenting Period for the Draft Amendments to the Alien and Invasive Species Regulations and the Draft Amendments to the Alien and Invasive Species Lists";

(hereinafter "the Extension Notice")
 6. Declaring the publication of the Notices in Prayer 4, and the Extension Notice in Prayer 5, to be unlawful and of no force and effect;
 7. Declaring the respondent's purported extension of the period for submitting written representations on, or objections to, the Notices by publishing such extension in The Star newspaper on 21 February 2018 to be a contravention of Section 100 of the Act and accordingly to be unlawful;
 8. Declaring that the publication of a Notice in a newspaper or newspapers as required by Section 100 of the Act after the 30-day period has begun

to run, is not an irregularity that can be condoned in terms of Section 47A of the National Environmental Management Act, 1998 (Act 107 of 1998);

9. Ordering that in terms of Section 32(3)(a) of the National Environmental Management Act, 1998 (Act 107 of 1998), the respondent be ordered to pay the costs on the scale as between attorney and own client of any person or persons entitled to practise as an advocate or attorney in the Republic of South Africa who provided free legal assistance or representation to the applicant in preparation for, or in the conduct of, this application;
10. Granting further and/or alternative relief.

AND TAKE FURTHER NOTICE that the founding affidavit of **ALAN LAX**, together with the annexures and the confirmatory affidavit of **IAN COX**, attached thereto, will be used in support thereof.

AND TAKE FURTHER NOTICE that the applicant has appointed the offices of Bartletts Inc, 163 Oak Avenue, Ferndale, Randburg, c/o MacRobert Attorneys, MacRobert Building, 1062 Jan Shoba Street, Brooklyn, Pretoria as the address at which it will accept notice and service of processes in these proceedings.

AND TAKE FURTHER NOTICE that if the respondent intends opposing the relief sought in Part A of this application he/she is required

- (a) to notify the Applicant's attorney of record in writing thereof at the abovementioned address within 5 (five) days of service hereof; and
- (b) within 15 (fifteen) days after you have so given notice of your intention to oppose this application, to file your answering affidavit, if any; and
- (c) to appoint in such notification an address referred to in Rule 6(5)(b) of the Rules of the above Honourable Court at which you will accept notice and service of all documents in these proceedings.

AND TAKE NOTICE FURTHER that if the respondent wishes to oppose the relief sought in Part B of this application he/she is required:

- (a) to notify the Applicant's attorney of record in writing thereof at the abovementioned address within 5 (five) days of service hereof; and
- (b) within 20 (twenty) days after you have so given notice of your intention to oppose this application, to file your answering affidavit, if any; and
- (c) to appoint in such notification an address referred to in Rule 6(5)(b) of the Rules of the above Honourable Court at which you

will accept notice and service of all documents in these proceedings.

KINDLY place the matter on the roll for hearing accordingly.

DATED at Pretoria this 27th day of August 2018



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TO: **THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA**

AND TO: **THE MINISTER OF ENVIRONMENTAL AFFAIRS
C/O THE DIRECTOR GENERAL
DEPARTMENT OF ENVIRONMENTAL AFFAIRS
ENVIRONMENT HOUSE
473 STEVE BIKO ROAD
ARCADIA, PRETORIA, 001**

(ERF 1563 ARCADIA EXTENSION 6, CNR SOUTPANSBERG AND STEVE BIKO ROADS, ARCADIA, PRETORIA)

REF: MARK PEARCE / VANESSA BENDEMAN

BY SHERIFF