

NOTES TO ASSIST WITH THE CORRECT COMPLETION OF APPLICATION FORMS WITH REGARD TO PROTECTED TREES

Basic principles and requirements

NOTE: a) Protected trees include dead trees.

- b) According to the legal definition, “tree” includes any part of it, like coppice shoot, root, branch, fruit, seed, bark, leaves, as well as seedling, sapling or transplant.
- c) In principle if any action or use applied for, is unsustainable, it should be refused. Sustainability should not be compromised.
- d) An application can be refused, or granted on certain conditions. Whatever the decision, this must be based on justifiable reasons, to comply with the requirements of administrative justice. This entails fairness, impartiality, a good sense of judgment, and utter caution in order to prevent precedents. If in doubt, consult someone with the necessary experience/authority.

A. The form is designed for the following applicants:

- The landowner: In the case of protected trees being cut, damaged, disturbed or destroyed, or they or their products being collected and removed from their place of origin, the landowner must apply. This will also include trees or seedlings that are uprooted and transplanted.
- The person(s) or concern(s) disposing of a protected tree or its products: This is after a protected tree has been cut or destroyed, or parts of it have been harvested or collected (e.g. bark, leaves, fruit, seed), and these are to be used. The tree, or parts of it, may, if desired, be processed into e.g. firewood or logs, etc., on the property where it was cut or destroyed, and then be removed, transported, donated, sold, etc., or otherwise it can be processed after it was removed, transported, etc. This can be done by the landowner and/or someone else, e.g. a client of the landowner. Take note that the application form also provides for cases where trees or seedlings are dug out roots and all and transplanted somewhere else. This may be from nature, or an urban private property.
- The buyer(s) or receiver(s) of the protected tree or its products: There can be two or more buyers/receivers involved. One that buys/receives the raw or processed products from the landowner and then e.g. adds value to it and sells it to someone else. “Someone else” buys/receives from the first one and sells it again to say, the end user. We may have a wholesaler/retailer chain in the disposal process, but in that case the end purchaser who buys the end product from the retailer to use/possess it, does not have to apply. In other words, only the wholesaler who supplies to the retailer, needs to apply. However, the retailer should be in possession of a certified copy of the wholesaler’s licence. (It is impossible to require the retailer to apply for a licence. In the case of firewood, there may literally be scores of retailers involved with one wholesale distributor.)
- The person(s) or concern(s) importing, exporting and transporting protected tree or its products: This can be e.g. someone that brings in products of trees protected in South Africa from a neighbouring country and either uses them himself, or sells, or donates them to others. If a sub-contractor transports on behalf of a seller, buyer, importer, exporter, etc., he needs to have a certified copy of the licence issued to the “someone” who employs his services. In fact, any driver of a vehicle containing protected trees or their products needs to be in possession of such a copy. This is regardless of whether the produce/products transported came from outside the country or inside the country.

B. The form is designed to provide for the following categories of cutting, destruction, damage or disturbance of protected trees:

- Deforestation for change of land use: This can be for infrastructure development (e.g. a new urban development in a natural environment like a woodland, or for agricultural land use change (e.g. conversion of woodland into cultivated lands), or mining.

- Selective cutting/destruction or transplanting of individual trees or seedlings: This includes the cutting/destruction of single trees from amongst other trees, and the control of bush encroachment by herbicides, which is also a selective destruction process.
- The disturbance of a tree: This includes for instance the undercutting of the root system by earth removal works, e.g. for excavations, road-building, construction of buildings, etc.
- The pruning or delimiting (debranching) of trees: This category provides for instance for pruning of branches, or the removal of parts of the tree for some or other reason, e.g. where a branch is dangerous to a building
- The harvesting of non-timber parts of the tree: This includes bark, seed, fruit, leaves, roots. Note that these are not legally speaking forest products at the stage they are harvested, but as soon as e.g. Marula seeds are processed to produce oil, or the fruit to produce Marula liqueur, or the bark is dried and crushed into powder, these are forest products.

C. The form is designed to provide for the following categories of disposal of the protected trees or their products:

- Use of the trees/timber derived from cut or destroyed protected trees. This can be the raw timber or in a processed form. It can include trees or seedlings that are uprooted and transplanted elsewhere.
- Sale or donation of timber derived from cut or destroyed protected trees.
- Transport, move, import or export trees/timber derived from cut or destroyed protected trees.
- Purchase, receive or possess trees/timber derived from cut or destroyed protected trees.

The various activities above can best be explained through the use of an example.

D. Scenario: Example of Camel Thorn utilised for firewood:

For example, a Kalahari farmer wishes to sell Camel Thorn firewood. How do you go about it?

- **The landowner (farmer)** on whose land the trees (dead or alive) occur (only inside the country), must apply in the first place. He/she must complete those parts of the application form that are applicable to him/her. He/she completes paragraphs 1 – 4. He/she fills in par. 5 selectively. He/she must complete Category **A**. In the case of Camel Thorn it will normally be class d) that is ticked off with a “X”, for Camel Thorn is a protected species on the list of proclaimed indigenous tree species.

Then, depending on the purpose for which the trees are cut or destroyed, he/she should indicate whether it is for a change in land-use (in agriculture it will mostly be deforestation for making cultivated lands), Category **B**, or whether it is the selective cutting or destruction of individual trees (Category **E**), which can include single dead trees, bush encroachment control and removal of trees from firebreaks.

If he/she is using the timber himself, or prepares it for a buyer, he/she also ticks off and completes Category **F**, viz. **“Use timber from cut or destroyed protected trees”** If he/she sells it to the dealer, he/she ticks off and completes Cat. **G**, viz. **“Sell or donate timber derived from cut or destroyed protected trees”** In this case he/she will provide the name of the dealer as the “buyer”, unless he/she himself supplies the end-product (firewood bundles) to retail businesses, in which case he/she must provide a list of all his/her clients with their particulars together with the application. If he/she also does the transport himself, to deliver the end product to the retailers, he/she also needs to tick off and complete Cat. **H**, viz. **“Transport, move, import or export timber.....etc.?”**

- **The wholesale dealer** who buys the wood from the landowner (farmer), transports it and markets it to retail businesses, must also apply, and must be able to submit a copy of the licence issued to the farmer for the cutting and destroying, as proof, unless both apply together.

Which Categories under par. 5 apply to him/her?

He/she does not complete Categories **A – E**. He/she ticks off and completes Cat. **F**, “**Use timber derived from cut or destroyed protected trees**” if he/she him/herself cuts the trees and processes the wood, or if the farmer cuts the trees and he/she (the buyer) processes the wood into firewood. He/she then proceeds to Cat. **G**, viz. “**Sell or donate timber derived from...etc.**”, and provides the names and particulars of all his/her clients. He/she also ticks off and completes Cat. **H**, viz. “**Transport, move, import, exportetc.**” and gives details in the space provided.

If he/she makes use of a **transport contractor**, or if he/she uses a **driver** employed by him/herself, such a person or driver must be in possession of a certified copy of the licence (stamped and signed by the official granting the licence), in case he/she is stopped along the road for an inspection by a forest officer or other authorised person. If he/she imports the wood from e.g. Namibia, he/she must also attach documents that prove that the wood was cut and obtained legally in that country, as well that it was legally brought into the country in terms of the Agricultural Pests Act.

He/she must also tick off and complete Cat. **I**, viz. “**Purchase, receive or possess timber derived from....etc.**” and provides the particulars of the landowner (in or outside the country) from whom he/she buys the wood.

- **The retail dealer** who buys the end product (firewood bundles) from the wholesaler or the farmer him/herself (if the latter supplies directly to the retailers), needs to be in possession of a certified copy of the licence issued to the wholesaler or farmer. It would be an administrative impossibility to require each retail dealer to individually apply for a licence to buy, possess and sell.

Preferably the firewood bundles should be identified by a specific mark to trace their origin to a specific property where it was cut and prepared. This can assist in making control more effective. An inspecting officer could inspect the identity mark and demand to inspect the copy of the licence.

NOTE: The licence form itself was designed to contain only a minimum of information and the conditions upon which the licence is issued. The application form is meant to be filed and kept as a record of information in order to assess and control/monitor.

A licence is not issued to “export” timber as such. However, because there are other activities involved, like sale and transport, which need to be licensed, the information regarding the destination is required in order to make informed decisions.

The application form is subject to change as experience is gained with the use thereof, and amendments are regarded as necessary to improve it.

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