

# LIMPOPO

PROVINCIAL GOVERNMENT

REPUBLIC OF SOUTH AFRICA

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DEPARTMENT OF  
ECONOMIC DEVELOPMENT, ENVIROMENT & TOURISM

**HANDLING OF EXHIBITS POLICY**

**2018**

## Handling of exhibits policy

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## 1. ACRONYMS

**ARC** : Animal Production Institute

**CPA** : Criminal Procedures Act

**ECO** : Environmental Compliance officer

**EMI** : Environmental Management Inspector

**HOD** : Head of Department

**LEDET** : Limpopo Department of Economic Development, Environment and Tourism

**LEMA** : Limpopo Environmental Management Act

**MEC** : Member of Executive Council

**NEMBA** : National Environmental Management Act

**SONR** : State Owned Nature Reserve

**VGL** : Veterinary Genetics Laboratory

## 2. DEFINITIONS

The following definitions are applicable for the purpose of this policy document:

2.1 “**Environmental Management Authority**” means Provincial

Department (LEDET) or component responsible for Environmental Management;

2.2 “**Environmental Compliance Officer**” means a person appointed in terms

of section 94 (1) (a); 16 of the Limpopo Environmental Management Act 7 of 2003;

2.3 “**Environmental Management Inspector**” means a person appointed and

designated as an EMI in terms of section 31B, 31BA or 31C of the National Environmental Management Act 107 of 1998;

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2.4 “**Exhibit**” means any Article seized /confiscated by an EMI or SAPS member;

2.5 “**Firewood**” means the dead, dry wood of an indigenous plant that is used for domestic purposes, but does not include wood that has been cut, sawn or otherwise processed for the production of ornaments; implements or furniture;

2.6 “**Game**” means any living or dead wild animal;

2.7 “**Head of Department**” means the Head of the Department responsible for Environmental Management in the Province;

2.8 “**Indigenous plant**” means any living or dead plant which is indigenous to the Republic, whether artificially propagated or in its wild state;

2.9 “**J 534 case**” means a case where a direct court summon was issued and a docket opened,

2.10 “**Member of the Executive Council**” means the Member of the cabinet of the Limpopo provincial government who is responsible for environmental affairs in the Province; and

2.11 “**Weapon**” means a firearm; the ammunition for a firearm; and any other weapon or implement with which a projectile can be so propelled that it can kill, injure or immobilize a wild or alien animal.

### **3. INTRODUCTION**

The handling of exhibits is part of the investigation duties and functions of all Law Enforcement Officers. The correct procedures must be followed as stipulated in Environmental legislation and the Criminal Procedures Act to ensure successful convictions.

### **4. PURPOSE AND OBJECTIVES OF THE POLICY**

The purpose and objective of this policy is to achieve the following:

- (a) To ensure a standard and uniform approach in dealing with exhibits during and after an Investigation.
- (b) To ensure consistency when applying Environmental legislation during law enforcement operations.
- (c) To ensure the uniform application is ensured by LEDET and SAPS officials when handling exhibits in an Environmental law enforcement matter.

### **5. AUTHORITY OF POLICY**

The policy is issued under the authority of the MEC as the Executive Authority and the HOD as the Accounting Officer for LEDET.

### **6. LEGAL FRAMEWORK**

This policy is informed by the following legal prescripts:

- 6.1 The Constitution of the Republic of South Africa, 1996 as amended.
- 6.2 The Limpopo Environmental Management Act 7 of 2003.
- 6.3 The National Environmental Management Act.

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6.4 The Criminal Procedures Act, Act 51 of 1977.

6.5 Firearms Control Act 60 of 2000.

6.6 The National Environmental Management Act, Act 107 of 1998 as amended in 2003.

6.7 The Limpopo Environmental Management act 7 of 2003.

## **7. SCOPE OF APPLICATION**

This policy is applicable to all male and female Environmental Compliance Officers and Environmental Management Inspectors of the Department of Economic Development, Environment and Tourism.

## **8. POLICY PRONOUNCEMENTS**

8.1 The Department of Economic Development, Environment and Tourism (LEDET) recognizes the legal framework in which it has to operate while enforcing the Limpopo Environmental Management Act 7 of 2003 and National Environmental legislation, and are committed to legal control of exhibits under LEDET's control.

8.2 Constitutionally, LEDET is obliged to adhere to the Criminal Procedures Act 51 of 1977. This warrants a policy focusing on the handling of exhibits that LEDET obtain in the process of law enforcement actions and forfeited items through court proceedings. As a result, continuous education and training of all staff to ensure acquisition of knowledge, skills and capabilities to facilitate consistent conformance to the stakeholders' expectations and objectives and in ensuring compliance with relevant legislation should be conducted and in fulfilling the expectations of the legal system and those of other stakeholders in terms of corporate governance. This will ensure a standard and uniform approach in dealing with exhibits during and after an investigation, and ensuring consistency when applying environmental legislation during law enforcement operations to ensure the uniform application by LEDET and SAPS with the handling of exhibits. This policy is subject to the limitations of the

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Criminal Procedures Act 51 of 1977.

## **8.3 KEY ROLES AND RESPONSIBILITIES**

### **8.3.1 Accounting Officials**

All officials (ECO and EMI's) are accountable for designing, implementing, monitoring and integrating this policy.

## **9. PROCEDURES FOR DEALING WITH EXHIBITS**

9.1 As a general rule, all items seized by an EMI or ECO in terms of environmental legislation must be kept in police custody.

9.2 Where seized items cannot be kept in police custody due to the nature or volume of the item seized, other arrangements must be made with regard to the custody thereof as the circumstances may require, with due regard to the integrity of the exhibit seized and to ensure that the chain of custody is maintained.

9.3 Forensic exhibits or Items which are collected at crime scenes and which are referred to the Criminal Record and Forensic Science Services Division of the SAPS for forensic analysis is subject to the rules, instructions and policies of the SAPS. In this regard it is essential that the EMI or ECO apply the same crime scene management principles as the SAPS in respect of preservation and management of exhibits.

9.4 All items seized by an EMI in terms of environmental legislation must be registered in the SAPS 13 exhibit register. Such items may be signed back to the EMI or ECO using the SAPS 136 document, in which event the EMI or ECO takes full responsibility for the item seized.

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- 9.5 Each institution in which EMI or ECO's are employed will keep an exhibit register. All items signed out from the SAPS 13 must be signed into the EMI exhibit register to ensure the chain of custody is maintained.
- 9.6 All exhibits must be photographed to form part of the ECO or EMI investigation report and case docket.
- 9.7 Disposal of perishable items seized during or after an investigation, a police official may, with due regard to the interests of the person concerned dispose of the article in such a manner as the circumstances may require as per Criminal Procedure Act 51 of 1977.

## **10. FIREARMS**

Firearms can be legally owned or somebody can be illegally in possession thereof.

### **10.1 Legally owned firearms**

- (a) Any firearm that is confiscated from a legal owner of such a firearm must be placed in a plastic bag with a seal number on and sealed. The Forensic Laboratory of the SAPS provides such bags. This bag must be properly marked with the SAP 13 and CAS numbers (Case number).
- (b) If forensic testing is necessary, such firearm can be booked out of SAP 13 register on an SAP 136 form and must then be registered in the exhibit register of the investigating officer (LEDET). Such an exhibit must be taken to the Forensic Laboratory in Pretoria per hand delivery. The chain of custody must be recognized.
- (c) When the firearm returns from the forensic laboratory it must be returned to the SAPS for safekeeping. If such a firearm is forfeited to LEDET, then it must be collected from the SAPS with the necessary documentation, such a firearm must



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then be handed over to the firearm controlling officer at head office for further handling according to procedures stipulated in the Firearm Control Act. If such a firearm is not forfeited to the Department, then it must be returned to the legal owner. The official handing back the firearm to the legal owner must ensure the process is documented and ensure he or she obtains documentary proof of legal ownership. Proof of ownership is a legally obtained license for the said firearm.

### **10.2 Illegally in possession of a firearm**

- (a) Any firearm that is confiscated from a person not legally in possession thereof must be placed in a plastic bag with a seal number on and sealed, then handed in at the SAPS and registered in the SAP 13 register. The forensic laboratory of the SAPS provides such bags. This bag must be properly marked with the SAP 13 and CAS number (Case number).
- (b) If forensic testing is necessary, such firearm should be booked out of SAP 13 register on a SAP 136 form and must then be registered in the exhibit register of the male or female investigating officer (LEDET). Such an exhibit must be taken to the forensic laboratory in Tshwane per hand delivery. The chain of custody must be recognized. When the firearm returns from the forensic laboratory, it must be returned to the SAPS for safekeeping.
- (c) If such a firearm is forfeited to the Department, the firearm must be collected from the SAPS with the necessary documentation, such a firearm must then be handed over to the firearm controlling officer at head office for further handling according to procedures.

## **11. LIVE FAUNA AND FLORA**

- 11.1 Any live animal or plant, which is confiscated during investigation proceedings must be handed over to the SAPS for registration in the SAP 13 register. After registration,

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such an animal or plant must then be booked out of the SAP 13 register on a SAP 136 form and must be booked into the exhibit register of the Environmental Compliance and Enforcement directorate. Such an animal or plant must then be kept in a controlled and safe environment until the Court verdict. The Department will be liable for all costs incurred.

11.2 If such an animal or plant is an exhibit in a J 534 case and is not forfeited to the Department by a magistrate, such item must be handed back to the person who owned it before, if such a person can own such an exhibit legally. If such a person cannot own such an exhibit legally, then the article or exhibit is forfeited to the state according to Sec 32(2) of the Criminal Procedures Act 51 of 1977.

11.3 If such an animal or plant cannot be moved for various reasons, then an SAPS member of the Provincial Forensic Unit must take it to the exhibit for verification. This member must then take photos of such an exhibit and prepares a sworn statement to such an effect. A written instruction as per environmental legislation must be handed to the party in contravention of the environmental legislation. The EMI or ECO must photograph all articles or exhibits for record and court purposes. The exhibits must be scanned for microchips and the readings of the microchip number be photographed for report and statement purposes.

## 12. DEAD FAUNA AND FLORA

12.1 An exhibit, for example a carcass must be handed in and registered at the SAPS in the SAP 13 register. Such an exhibit must then be properly marked with a SAP 13 tag with all the relevant details on. The exhibit can then be booked out of the SAP 13 on a SAP 136 form and must then be registered in the exhibit register of the investigating officer. Such an exhibit must then be stored in an appropriate facility or location until finalization of the proceedings.

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12.2 Appropriate photos must be taken of such exhibits for record or court purposes. After legal proceedings of such an exhibit, if forfeited, can be destroyed (carcass), this process must be documented and photographed.

12.3 If such an animal or plant is an exhibit in a J 534 case and is not forfeited to the Department by a magistrate such item must be handed back to the person who owned it before, if such person can own such an exhibit legally. If such a person cannot own such an exhibit legally then the exhibit is automatically forfeited to the state according to Section 32(2) of the Criminal Procedures Act 51 of 1977.

12.4 The SAPS does not have the facilities to handle or store exhibits that can decay or is of great volume such as fire wood.

## **13. ANY OTHER EXHIBIT**

### 13.1 Forensic testing

Forensic testing may be needed on various exhibits. If Forensic testing is necessary, an exhibit, for example, a knife must be handed in and registered at the SAPS in the SAP 13 register. Such an exhibit must then be properly marked with an SAP 13 tag with all the relevant details on as well as sealed in a forensic supplied plastic bag with a seal number. The exhibit can then be booked out of the SAP 13 on a SAP 136 form and must then be registered in the exhibit register of the male or female investigating officer. Such a sealed exhibit must then be taken to the Forensics in Pretoria for analysis. The following analysis are done at places stipulated below:

- (a) Animal DNA – Irene: ARC or VGL
- (b) Tool Markings - Ballistic Unit: SAPS
- (c) Human samples - Forensics Department: SAPS
- (d) Rhino DNA - VGL: Pretoria

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### 13.2 Observing the chain of custody

If forensic testing is not necessary, an exhibit, for example a knife must be handed in and registered at the SAPS in the SAP 13 register. Such an exhibit must then be properly marked with an SAP 13 tag with all the relevant details. Such an exhibit must stay in the custody of the SAPS.

If such an exhibit in a J 534 case and is not forfeited to the Department by a magistrate, such item must be handed back to the person who owned it before if such person can own such an exhibit legally. If such a person cannot own such an exhibit legally, then the exhibit is automatically forfeited to the state according to Section 32(2) of the Criminal Procedures Act 51 of 1977.

### 13.3 Vehicles

Any vehicle confiscated as an exhibit must be handed over to the SAPS and registered in the SAP 13, such a vehicle must be checked by the vehicle theft unit of the SAPS and must stay at the SAPS for the duration of the case, unless otherwise agreed upon by the investigating officer, public prosecutor and the defence attorney.

For any forensic testing, fingerprints should be done before the vehicle is handed over to the SAPS if the circumstances demand it. When forfeited, such vehicle must be claimed from the SAPS with the necessary Justice Department Documentation and handed over to the department's transport division for processing.

## 14. RECORD KEEPING

All confiscated items must be handed over to the SAPS and booked in at the relevant SAP 13 register, as prescribed in the Criminal Procedures Act. The Department registers all exhibits, including plants into an exhibit register that is correlated with the SAP 13

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register. Technically, in accordance with the Criminal Procedures Act 51/1977, the police are the responsible body that needs to look after exhibits. However, because the police do not have the knowledge or infrastructure, the Department takes over the care function of live and decaying exhibits.

The chain of custody must be observed with the necessary statements if any exhibits are booked out of the SAP 13 for whatever reason.

### **15. DISPOSAL OF FORFEITED ARTICLES (EXHIBITS)**

After an article is forfeited to the state by court or is a CPA section 32 article, the Department should be able to dispose of the article in a legal manner. The following procedure must be followed:

- a) If the article was forfeited to the state and in the possession of the Department, the investigating officer (EMI) should apply in writing to the HOD for the disposal of the article. The disposal application can be for sale (public auction), donation to educational institutions or the destruction of the article, this exclude living animals or plants as well as Elephant Ivory and Rhino Horns. Live animals should be donated to SONR or sold on public auction. Elephant Ivory and Rhino horns must be handed over to the Directorate: Wildlife trade and Regulation. Cycads should be donated to the Limpopo Botanical Garden or any other state owned Botanical institution.

The following office can dispose of exhibits as stipulated below:

1. Fire arms – Security and Investigation services. (Firearms control section)
2. Vehicles – Logistical Support Services (Transport section)
3. Other poaching equipment (axes, saw, snares, and other items with minor value) – Director: Environmental compliance and Enforcement
4. Trophies and skins - HOD: LEDET
5. Living wild animals- HOD: LEDET

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- 6. Living plants - HOD: LEDET
- 7. Firewood - DIRECTOR: ECE

**17. DEFAULT**

A male or female employee who fails to comply with the provisions of this policy shall be handled in terms of the public service disciplinary code and procedures for public services as amended.

**18. INCEPTION DATE**

The inception date of this policy is 30 days after approval by the HOD.

**19. REVIEW**

This policy shall be reviewed every thirty-six (36) months.

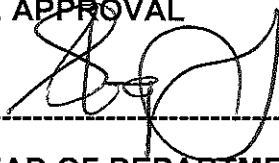
**20. TERMINATION**

The policy shall remain in force until or unless it is withdrawn or amended.

**21. ENQUIRIES**

Enquiries with regard to any matter relating to this policy must be directed to the Office of the Director: Environmental Compliance and Enforcement.

**22. APPROVAL**

  
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HEAD OF DEPARTMENT: LEDET

10/08/2018  
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DATE