

**LIMPOPO**

**PROVINCIAL GOVERNMENT**  
**REPUBLIC OF SOUTH AFRICA**

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**DEPARTMENT OF**  
**ECONOMIC DEVELOPMENT, ENVIRONMENT & TOURISM**

**HANDLING OF EXHIBITS POLICY**

**2022**

## Handling of exhibits policy

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## 1. ACRONYMS

<b>CPA</b>	: Criminal Procedure Act
<b>ECE</b>	: Environmental Compliance Enforcement
<b>ECO</b>	: Environmental Compliance Officer
<b>EMI</b>	: Environmental Management Inspector
<b>DNA</b>	: Deoxyrebonucleic Acid
<b>HOD</b>	: Head of Department
<b>LEDET</b>	: Limpopo Department of Economic Development, Environment and Tourism
<b>MEC</b>	: Member of Executive Council
<b>SAPS</b>	: South African Police Services
<b>SONR</b>	: State Owned Nature Reserves
<b>VGL</b>	: Veterinary Genetics Laboratory

## 2. DEFINITIONS

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

- 2.1. **'CAS'** refers to South African Police Services case management system used to register all cases;
- 2.2. **'Environmental Management Authority'** means the Provincial Department of Economic Development, Environment and Tourism or component responsible for environmental management;
- 2.3. **'Environmental Compliance Officer'** means a person appointed in terms of section 94 (1) (a) of the Limpopo Environmental Management Act 7 of 2003;
- 2.4. **'Environmental Management Inspector'** means a person appointed and designated as an EMI in terms of sections 31B, 31BA and 31C of the National Environmental Management Act 107 of 1998;

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- 2.5. **'exhibit'** means any article seized or confiscated by an EMI, ECO or SAPS member;
- 2.6. **'firewood'** means the dead 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;
- 2.7. **'game'** means any living or dead wild animal;
- 2.8. **'indigenous plant'** means plants which originated unintentionally without the involvement of human beings;
- 2.9. **'J534 case'** refers to a case where an admission of fine was granted;
- 2.10. **'minor value'** refers to any item which its monetary value is less than the monetary threshold set in any approving authority as outlined in the relevant legal prescripts; and
- 2.11. **'weapon'** means a fire-arm, the ammunition for a fire-arm, any other weapon or implement with which a projectile can be so propelled that it can kill, injure or immobilise a wild or alien animal.

### 3. INTRODUCTION

LEDET recognises the legal framework in which it has to operate while enforcing the Limpopo Environment Management Act 7 of 2003 and national environmental legislation and is committed to the legal control of exhibits.

The handling of exhibits is part of the investigation duties and functions of all law enforcement officers. The correct procedures must be followed when handling exhibits as stipulated in the environmental legislation and the Criminal Procedures Act to ensure successful convictions.

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

The purpose and objectives of this policy are to ensure the following:

- 4.1 A standard and uniform approach in dealing with exhibits.
- 4.2 Consistency when applying environmental legislation during law enforcement operations.
- 4.3 Uniformity by LEDET employees 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. SCOPE OF APPLICATION**

This policy is applicable to all employees of the Department of Economic Development, Environment and Tourism, Limpopo Province.

#### **7. LEGAL FRAMEWORK**

This policy is informed by the following legal prescripts:

- 7.1. The Constitution of the Republic of South Africa Act 108 of 1996, as amended.
- 7.2. The Limpopo Environmental Management Act 7 of 2003.
- 7.3. The National Environmental Management Act 107 of 1998.
- 7.4. The Criminal Procedure Act 51 of 1977, as amended.
- 7.5. The Firearms Control Act 60 of 2000, as amended.
- 7.6. The Public Finance Management Act 1 of 1999.
- 7.7. The National Environmental Management: Biodiversity Act 10 of 2004
- 7.8 Treasury Regulations of 2000.
- 7.9. Gifts, Donations and Sponsorships Transversal Policy, 2018.
- 7.10. Practice Note on Disposal No. 5 of 2007.

## **8. POLICY PRONOUNCEMENTS**

LEDET is obliged to adhere to legal prescripts on handling of exhibits. This warrants a policy focusing on the handling of exhibits that LEDET confiscates in the process of law enforcement activities and how to legally deal with forfeited items. Education and training of all staff is of utmost importance to ensure continuous improvement in knowledge, skills and capabilities which facilitate consistent conformance to the stakeholders' expectations. In order to ensure a standard and uniform approach in dealing with handling of exhibits during and after an investigation, ensuring consistency when applying environmental legislation during law enforcement operations and to ensure the uniform procedures by LEDET in handling of exhibits, the policy guidelines become vital.

### **8.1. ROLES AND RESPONSIBILITIES**

#### **8.1.1. Environmental Compliance Officer and Environmental Management Inspector**

- a) Administer environmental compliance monitoring.
- b) Undertake compliance enforcement operations
- c) Coordinate and participate in compliance promotion and awareness
- d) Keep an updated exhibit register
- e) Photograph all exhibits seized.

### **8.2. PROCEDURES FOR HANDLING OF EXHIBITS**

8.2.1. All items seized by an EMI or ECO in terms of environmental legislation must be kept in police custody.

8.2.2. 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.

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- 8.2.3. Forensic exhibits and 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 analyses are subject to the rules, instructions and policies of the SAPS.
- 8.2.4. The EMI or ECO must apply the same crime scene management principles as the SAPS in respect of preservation and management of exhibits.
- 8.2.5. All items seized by an EMI or ECO in terms of environmental legislation must be registered in the SAP 13 exhibit register. Such items may be signed back to the EMI or ECO using the SAP 136 form, in such instances, the EMI or ECO takes full responsibility for the item seized.
- 8.2.6 The EMI or ECO will keep an Exhibit Register. All items signed out from the SAPS 13 register must be signed into the EMI or ECO Exhibit Register to ensure that the chain of custody is maintained.
- 8.2.7. All exhibits must be photographed to form part of the ECO or EMI investigation report and case docket.
- 8.2.8 Disposal of perishable items seized during or after an investigation will be determined by a police officer who may, with due regard to the interest of the person concerned dispose of the article seized in such a manner as the circumstances may require in terms of the Criminal Procedure Act 51 of 1977.

## 8.3 FIREARMS

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

### 8.3.1 Legally owned Fire Arms

- a) Any firearm that is confiscated from a legal owner of such a firearm must be placed in a plastic bag obtained from the forensic laboratory of the SAPS with a seal number on

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and sealed. This bag must be properly marked with the SAP 136 form and CAS numbers.

- b) Forensic and ballistic testing is necessary on all confiscated firearms, such firearms should be booked out of SAP 13 register on an SAP 136 form and must then be registered in the exhibit register of the EMI or ECO. Such an exhibit must be physically delivered to the forensic laboratory in Pretoria, the chain of custody must be recognised.
- c) When the firearm is sent back from the forensic laboratory, it must be returned to the SAPS for safekeeping.
- d) If such a firearm is forfeited to LEDET, it must be collected from the SAPS with the necessary documentation, such a firearm must then be handed over to the Firearm Control Officer at Head Office for further handling according to procedures stipulated in the Firearms Control Act.
- e) If such a firearm is not forfeited to the Department, then it must be returned to the legal owner. The official handing back of the firearm to the legal owner must ensure the process is documented and ensures he or she obtains documentary proof of legal ownership i.e Proof of ownership and license for such firearm.

### 8.3.2. Illegally in possession of a firearm

- a) Any illegal firearm that is confiscated from a person must be placed in a plastic bag issued by the forensic laboratory of the SAPS with a seal number on and sealed, then handed in to SAPS and be registered in the SAP 136 form, the bag must be properly marked with the SAP 13 register and case numbers.
- b) If forensic testing is necessary, such firearm should be booked out of SAPS register on an SAP 136 form and must then be registered in the exhibit register of the EMI or ECO. Such an exhibit must be physically delivered to the forensic laboratory in Pretoria. The chain of custody must be recognised. When the firearm is sent back from the forensic laboratory it must be returned to the SAPS for safekeeping.

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- c) If such a firearm is forfeited to the Department, the firearm must be collected from the SAPS with the necessary documentation, then be handed over to the Firearm Control Officer at LEDET Head Office for further handling in line with the procedures outlined in the Firearms Control Act of 2000.

### 8.4. LIVE FAUNA AND FLORA

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

- 8.4.2 After registration, such an animal or plant must 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.

- 8.4.3 The confiscated animal or plant should then be kept in a controlled and safe environment until the court's verdict. Animals can be released before the end of any court proceedings to ensure and consider the welfare of the animals (If such animal can be released back into its natural habitat). LEDET bears all the costs incurred during the process.

- 8.4.4 If such animals or plants are in a J 534 case and are not forfeited to the Department by the magistrate, such item must be handed back to the person who owned such plants or animals before, if such person has the capacity to own such exhibits legally. If such a person cannot own such an exhibit legally, then the article or exhibit is forfeited to the State in terms of Section 32(2) of the Criminal Procedures Act 51 of 1977.

- 8.4.5. If such an animal or plant cannot be moved for various reasons, then a SAPS member of the Provincial Forensic Unit, EMI or ECO must take photographs of the exhibits for verification. This member must then prepare a sworn statement to such an effect.

- 8.4.6 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

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articles or exhibits for record and court purposes.

8.4.7. The exhibits must be scanned for microchips and the readings of the microchip number be photographed for report and statement purposes. All live animals must be microchipped, scanned and the number photographed for case verification purposes. All dead exhibits must be tagged, such tag must reflect the ECE case file number, the SAPS CAS number and date.

## 8.5. DEAD FAUNA AND FLORA

8.5.1. An exhibit, e.g a carcass, must be handed in and registered at the SAPS in the SAP 136 form. Such an exhibit must then be properly marked with a SAP 13 tag with all the relevant details. The exhibit can then be booked out of the SAP 136 form and must then be registered in the exhibit register of the EMI or ECO. Such an exhibit must then be stored in an appropriate facility or location until finalisation of the proceedings.

8.5.2. Appropriate photos must be taken of such exhibits for record and court purposes. After legal proceedings of such an exhibit, the carcass can be destroyed and the process must be documented and photographed.

8.5.3. 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, in case such a 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 in terms of the Criminal Procedures Act 51 of 1977.

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

## 8.6 VEHICLES

8.6.1. Any vehicle confiscated as an exhibit must be handed over to the SAPS and registered

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in the SAP 136 form, such a vehicle must be checked out by the vehicle theft unit official of the SAPS and be kept at the SAPS for the duration of the case, unless otherwise agreed upon by the investigating officer and the public prosecutor.

8.6.2. Any forensic testing, including fingerprints should be done before the vehicle is handed over to the SAP 13 (the storage facility for SAPS) if suspects were arrested and such vehicle was used in the crime or the vehicle was found close to the crime scene.

8.6.3. A forfeited vehicle must be claimed from the SAPS with the necessary Justice Department documentation (as determined by the court) and handed over to LEDET departmental transport unit for processing. The vehicle must be registered as a departmental asset, asset management procedures must be applied.

## 8.7 FORENSIC TESTING

8.7.1 Forensic testing may be needed on various exhibits. If Forensic testing is necessary, an exhibit 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 as well as sealed in a Forensic supplied plastic bag with seal number. The exhibit can then be booked out of the SAP 13 on a SAP 136 form and then be registered in the exhibit register of the EMI and ECO.

8.7.2 All sealed exhibits must then be taken to the following Forensic Laboratories in Pretoria for analysis:

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

8.7.3 Throughout the process, the chain of custody must be observed.

## **8.8. OBSERVING THE CHAIN OF CUSTODY**

8.8.1. If Forensic testing is not necessary, an exhibit 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. Such an exhibit must stay in the custody of the SAPS.

8.8.2. If such an animal or plant is an exhibit in a J 534 case, such an item must be handed back to the person who owned it before in case such a person has the capacity to own such an exhibit legally. If such a person cannot own such an exhibit legally, then the exhibit is automatically forfeited to the State (LEDET) in terms of the Criminal Procedures Act 51 of 1977.

## **8.9. RECORD KEEPING**

8.9.1. 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 register.

8.9.2. In accordance with the Criminal Procedures Act 51 of 1977, the police have the responsibility of taking care of exhibits.

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

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

After an article or exhibit 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 line with the following procedures:

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- 8.10.1. If the article was forfeited to the State and in the possession of LEDET, the EMI or ECO should apply in writing to the HOD for the disposal or destruction of the article. The disposal application can be for sale through public auction, donation to educational institutions or SONR in line with the Gifts, Donations and Sponsorships Transversal Policy, 2018 and any other applicable legislation. Destruction excludes living plants. Live animals can either be donated to SONR or sold on public auction or destroyed.
- 8.10.2. Elephant ivory and rhino horns shall not be sold nor destroyed but should be handed over to the departmental directorate: Wildlife Trade and Regulations.
- 8.10.3. Cycads should be donated to the Limpopo Botanical Garden or any other State owned botanical institution.

## 9. APPROVING AUTHORITY

9.1. The following officials can authorise disposal of exhibits mentioned below:

### 9.1.1 Items of minor value

- a) Other poaching equipment such as snares –EMI or ECO.
- b) Firewood –Deputy Director or Director: ECE.
- c) Decayed items such as rotten carcass or skin –EMI or ECO.

### 9.1.2 Authority to items other than the items of minor value (HOD)

- a) Firearms;
- b) Vehicles;
- c) Trophies and skins;
- d) Living wild animals;
- f) Living plants;
- g) Rhino horns;

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- h) Elephant Ivory; and
- i) any other items which is not of minor value.

**10. DEFAULT**

An 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.

**11. INCEPTION DATE**

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

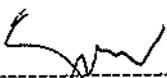
**12. REVIEW**

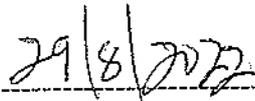
This policy shall be reviewed every thirty-six (36) months.

**13. ENQUIRIES**

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

**14. APPROVAL**

  
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M RATHUMBU  
ACTING HEAD OF DEPARTMENT: LEDET

  
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DATE