

LEGAL NOTICE NO. 36

REPUBLIC OF TRINIDAD AND TOBAGO

THE ENVIRONMENTAL MANAGEMENT ACT, 2000

RULES

MADE BY THE MINISTER UNDER SECTIONS 26(e) AND 41 OF THE ENVIRONMENTAL MANAGEMENT ACT, 2000

ENVIRONMENTALLY SENSITIVE SPECIES RULES, 2001

1. These Rules may be cited as the Environmentally Sensitive Species Rules, 2001. Citation

2. In these Rules—

“Act” means the Environmental Management Act, 2000;

Interpretation
Act No. 3 of
2000

“Authority” means the Environmental Management Authority established under section 6 of the Act;

“ESS” means any species of living plant or animal designated as an environmentally sensitive species under section 41 of the Act;

“Notice” means a Notice designating an ESS made under section 41 of the Act.

3. (1) The Authority may by Notice designate as an ESS an animal or plant—

Standards
and
guidelines for
designation
of “environ-
mentally
sensitive
species”

(a) that is indigenous to Trinidad and Tobago or, although not indigenous to Trinidad and Tobago, is present in Trinidad and Tobago for a part of its life or reproductive cycle;

(b) that throughout all or a part of its range is, or is likely to become, in danger of extinction and whose survival is unlikely if the factors jeopardising it continue to operate;

(c) that is required to be protected for the purpose of meeting the Government’s international obligations under any of the International Conventions referred to in Schedule I;

Schedule I

(d) to which any of the Guidelines set out in Schedule II applies;

Schedule II

(e) that is referred to in a written law set out in Schedule III.

Schedule III

(2) The activities that, for the protection of the ESS, may be prohibited or regulated in a Notice including the following:

- (a) with respect to any species of living plant, and its parts and products, where appropriate, all forms of destruction and disturbance, including the picking, collecting, cutting, uprooting or possession of or trade in, such species;
- (b) with respect to any species of living animal—
 - (i) the taking possession or hunting of such species, or trade in such species, their parts or products;
 - (ii) to the extent possible, the disturbance of wild animals particularly during the period of breeding, incubation, estivation or migration, as well as other periods of biological stress.

(3) The Authority shall designate on the basis of the best scientific data available and after taking into consideration the economic impact and any other relevant impact of the designation.

(4) This rule does not apply to the captive breeding of living animals and to the propagation of living plants.

(5) In this rule “hunt” means—

- (a) to kill, injure or shoot at;
- (b) with intent to kill, injure, shoot at or capture, to wilfully disturb or molest by any method; or
- (c) with intent to kill, injure, shoot at or capture, to lie in wait for, follow or search for, any animal.

(6) In this rule “trade” means export, sell, expose for sale or otherwise dispose of.

Form and
contents of
Notice
Schedule IV

4. A Notice shall be in the form set out in Schedule IV and shall include—

- (a) a description of the plant with reference to its local and botanical names;
- (b) a description of the animal with reference to its common and scientific names;
- (c) the reason for the designation as set out in rule 3(1) or in paragraph 1 of Schedule II;
- (d) the limitations on use of, and the activities that are permitted with regard to, the ESS as set out in rule 3(2);
- (e) the activities prohibited for the protection of the ESS; and
- (f) the appropriate mitigation measures which should be undertaken.

Schedule II

5. (1) Where the Authority proposes to make a Notice, it shall notify that fact, and transmit a draft of the proposed Notice to—

Procedure for designating an environmentally sensitive species

- (a) the governmental entities having responsibility for agriculture, plant protection, forestry, conservation of wild life, and fisheries; and
- (b) any other government entity having responsibility for planning and management with respect to the proposed ESS.

(2) The notification shall invite written submissions with respect to the proposed Notice to be made to the Authority by a stated date, being not less than thirty days from the giving of the notification.

(3) The Authority may revise the proposed Notice to give effect to the submissions received under subrule (2).

(4) The Authority shall thereafter publish in the *Gazette* and in at least one daily newspaper a similar notification inviting submissions from the public, together with the proposed Notice as may be revised.

(5) A submission shall contain the grounds therefor and may include additions, modifications or amendments to give effect to the submission.

(6) The Authority shall have regard to any submissions received under subrule (4) before making the Notice and publishing it in the *Gazette*.

6. (1) Where any of the provisions of rule 3(1) cease to apply to an ESS the Authority may by Notice rescind the designation of the ESS.

Rescission of designation of environmentally sensitive species Schedule V

(2) The Notice shall be in the form set out in Schedule V and shall include—

- (a) the information set out in rule 4(a) or (b); and
- (b) the reason for the rescission of the designation.

(3) The procedures as set out under rule 5 for the designation of an ESS shall, where appropriate, apply for the making of a Notice under this rule for the rescission of that designation.

SCHEDULE I

[Rule 3(1)(c)]

INTERNATIONAL CONVENTIONS

- (i) The Convention on International Trade in Endangered Species of Wild Fauna and Flora which entered into force in Trinidad and Tobago on 8th April, 1984 (the CITES Convention);
- (ii) The Protocol concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region which entered into force in Trinidad and Tobago on 18th January, 1990 (the SPAW Protocol);
- (iii) The Convention on Wetlands which entered into force in Trinidad and Tobago on 21st April, 1993 (the Ramsar Convention, Iran, 1971);
- (iv) The United Nations Convention on Biological Diversity which entered into force in Trinidad and Tobago on 1st August, 1996 (the BIODIVERSITY Convention);
- (v) Any other international legal convention relating to the environment to which Trinidad and Tobago is a party.

SCHEDULE II

[Rule 3(1)(d)]

GUIDELINES FOR ENVIRONMENTALLY SENSITIVE SPECIES

1. The designation of species as "environmentally sensitive" is to meet one or more of three general categories of objectives:

- (a) conservation of biological diversity and protection of the environment;
- (b) sustainable economic and human development;
- (c) logistic support, e.g., environmental education, information sharing, etc.

The specific objectives are:

- (a) maintenance of species abundance and diversity;
- (b) preservation of the integrity of species' populations to ensure genetic viability and to sustain their intangible and direct material benefits;
- (c) maintenance of its importance or significance to the ecosystem(s) of the immediate locality or to wider areas;
- (d) regulation of species which are or may pose a health or ecological liability;
- (e) provision of valuable educational and non-destructive scientific research opportunities;
- (f) demonstration of the benefits of wise use and the pitfalls of indiscriminate use of particular species.

2. Designation of environmentally sensitive species will be on the basis of one or more of the following criteria:

- (a) importance as a pharmaceutical or for the provision of other medicinal derivatives;
- (b) good potential for the conduct of non-destructive research to provide important scientific data;
- (c) commercial importance as non-domesticated species which is harvested, extracted or traded;
- (d) indicator or sentinel species for pollutant levels, diseases, weather or climate patterns;

- (e) integral to the maintenance of a climax community through key physical processes or ecological interactions characteristic of a given locality or wider area;
- (f) critical to the colonisation, consolidation or rehabilitation of barren, hostile or unsettled areas;
- (g) unique or of significant taxonomic importance as a subspecies or variant of continental genera; a relict species; a species adapted to local conditions; or a viable mutant strain;
- (h) significance in ecosystems external to Trinidad and Tobago as a migrant or transient, that is spending part of its life cycle in, or passing through this country;
- (i) high in aesthetic value;
- (j) potential for ecological or health risks by nature of its biology or by the introduction of a pathogenic agent respectively.

SCHEDULE III

[Rule 3(1)(e)]

ANIMALS AND PLANTS REFERRED TO IN OTHER WRITTEN LAWS

1. An animal or plant—

- (a) that is indigenous to Trinidad and Tobago or, although not indigenous to Trinidad and Tobago, is present in Trinidad and Tobago for a part of its life or reproductive cycle; and
- (b) to which subrule (2) or (3) applies, is eligible for designation as an environmentally sensitive species by a Notice made by the Authority under section 41 of the Act.

2. This subrule applies to—

- (a) a plant that is included in a proclamation made under section 4(a) or (b) of the Plant Protection Ordinance; Ch. 23. No 17
- (b) a plant that is included in an Order made under section 3 of the Plant (Export Prohibition) Act; Chap. 63:54
- (c) a protected animal referred to in section 2 of the Conservation of Wildlife Act; Chap. 67:01
- (d) a fish that is included in a regulation made under section 4(b), (d) or (e) of the Fisheries Act. Chap. 67:51

3. This subrule applies to—

- (a) an animal or plant that is included in Appendix I, II, or III of the CITES Convention;
- (b) an animal or plant that is listed in Annex I, II or III, and a protected species referred to in Article I(h), of the SPAW Protocol;
- (c) waterfowl whose habitat is a natural reserve established under Article 4 of the Ramsar Convention;
- (d) a component of biological diversity identified under Article 7(a) of the BIODIVERSITY Convention.

SCHEDULE IV

(Rule 4)

THE ENVIRONMENTAL MANAGEMENT ACT, 2000

NOTICE

MADE BY THE ENVIRONMENTAL MANAGEMENT AUTHORITY UNDER SECTIONS 41, 42 AND 43 OF
THE ENVIRONMENTAL MANAGEMENT ACT, 2000

- Designation Part I 1. The Environmental Management Authority hereby designates as an environmentally sensitive species (the ESS) the plant/animal described in Part I.
- Reason for designation Part II 2. The reason for the designation is to meet the objective set out in Part II.
- Limitations on use and activities Part III 3. The limitations on use of and activities with regard to the ESS with which compliance is required, are as specified in Part III.
- Permitted use and mitigating measures Part IV 4. Subject to paragraph 3, the wise use of the ESS is permitted and the mitigating measures to be undertaken are as specified in Part IV.

PART I

(a) Plant	Local Name	Botanical Name
(b) Animal	Common Name	Scientific Name

PART II

PART III

PART IV

Made the day of

*Chairman/Deputy Chairman/Secretary,
Environmental Management Authority*

SCHEDULE V

[Rule 6(2)]

THE ENVIRONMENTAL MANAGEMENT ACT, 2000

NOTICE

MADE BY THE ENVIRONMENTAL MANAGEMENT AUTHORITY UNDER SECTION 41, OF THE ENVIRONMENTAL MANAGEMENT ACT, 2000

1. The Environmental Management Authority hereby rescinds the designation of the plant/animal described in Part I as an environmentally sensitive species (the ESS). Rescission of designation Part I

2. The reason for the rescission of the designation is that the objective set out in Part II has ceased to apply to the ESS. Reason for rescission Part II

3. Legal Notice No. of 19 is hereby revoked. Revocation

PART I

<i>(a)</i> Plant	Local Name	Botanical Name
<i>(b)</i> Animal	Common Name	Scientific Name

PART II

Made the day of

*Chairman/Deputy Chairman/Secretary,
Environmental Management Authority*

Made this 13th day of February, 2001.

A. NANAN
Minister of the Environment

Laid in the House of Representatives this day of , 2001.

Clerk of the House

Laid in the Senate this day of , 2001.

Acting Clerk of the Senate