

Alien and Invasive Species

Regulation 29 of the Alien and Invasive Species Regulations gazetted in terms of the National Environmental Management: Biodiversity Act, 2004 is relevant for the drafting of contracts of immovable property from the 1st of October 2014. In terms of Regulation 29(3) the seller of any immovable property must “prior to the conclusion of the relevant sale agreement, notify the purchaser of that property in writing of the presence of listed invasive species on that property”.

The contract of sale should therefore preferably contain a clause confirming that the seller has complied with this obligation. The following wording could be used:

“Regulation 29 of the Alien and Invasive Species Regulations gazetted in terms of the National Environmental Management:

Biodiversity Act 2004

The purchaser hereby confirms having received a notice in terms of Regulation 29 of the Alien and Invasive Species Regulations gazetted in terms of the National Environmental Management: Biodiversity Act, 2004 notifying him in writing of the presence of listed invasive species on the Property.”

A list of the relevant invasive species is available on this site:

<http://www.invasives.org.za/legislation/what-does-the-law-say>

In terms of Regulation 35 of the said Regulation any person who fails to comply is guilty of an offence and liable, on conviction, to a fine not exceeding R5 million or imprisonment for a period not exceeding 10 years or both such fine and imprisonment. That is a pretty strong incentive to comply!

Volker Krüger