

# **Fauna (Protection and Control) Act 1966**

Chapter 154.

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Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Chapter 154.

## ***Fauna (Protection and Control) Act 1966.***

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

***Fauna (Protection and Control) Act 1966,***

Being an Act to make provision for the protection, control, harvesting and destruction of fauna, and for related purposes.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

In this Act, unless the contrary intention appears—

“**animal**” means a member of a species included in the definition of “fauna” in this section, or a part or product of any such animal;

“**approved organization**” means a scientific or zoological organization approved by the Minister;

“**the Conservator**” means the Conservator of Fauna appointed under Section 4;

“**fauna**” means any species included in the animal kingdom, whether native, introduced or imported, but does not include man;

“**land**” includes land covered by water and waters within the territorial jurisdiction of Papua New Guinea;

“**permit**” means a permit issued under Section 10;

“**possession**”, in relation to a protected animal, includes having the animal in a building, lodging, apartment, field or other place whether belonging to or occupied by the person charged or not, and whether the animal is there for the use of the person charged or of another person;

“**protected animal**” means a member of a species that is protected fauna, or a part or product of any such animal;

“**protected area**” means a protected area declared under Section 13;

“**protected fauna**” means fauna declared to be protected fauna under Section 6;

“**Ranger**” means the Conservator or a person appointed under Section 20;

“**sanctuary**” means a sanctuary declared under Section 11;

“**taking or killing**” means hunting, shooting, killing, poisoning, netting, snaring, spearing, pursuing, taking, disturbing or injuring;

“**this Act**” includes the regulations.

**PART II. – ADMINISTRATION.**

**2. ADMINISTRATION OF ACT.**

Subject to any directions of the Minister, the Conservator is charged with the administration of this Act.

**3. OPERATION.**

Nothing in this Act affects the operation of the *Animals Act 1952*.

#### **4. CONSERVATOR OF FAUNA.**

The Minister may, by notice in the National Gazette, appoint an officer to be the Conservator of Fauna.

#### **5. POWERS, DUTIES, ETC., OF CONSERVATOR.**

The Conservator has such powers, functions and duties as are prescribed.

### **PART III. – PROTECTED FAUNA.**

#### **6. DECLARATION OF PROTECTED FAUNA.**

The Minister may, by notice in the National Gazette, declare any fauna to be protected fauna for the purposes of this Act.

#### **7. PROTECTED FAUNA VESTED IN THE STATE.**

Subject to the regulations, all protected animals are the property of the State.

#### **8. KILLING, ETC., PROTECTED FAUNA.**

<sup>[1]</sup>(1) Subject to this Act, a person who takes or kills any protected fauna or uses any explosive, dog, net or instrument or other means for the purpose of taking or killing any protected fauna is guilty of an offence.

Penalty: A fine not exceeding K500.00 for each protected fauna.

(2) Subject to this Act, a person who takes or kills any protected fauna by use of a firearm within the meaning of the *Firearms Act 1978* is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 for each protected fauna.

#### **9. POSSESSION OF PROTECTED FAUNA.**

(1) <sup>[2]</sup> <sup>[3]</sup> Subject to Section 29, a person who knowingly buys, sells, offers or consigns for sale, or has in his possession or control, a protected animal is guilty of an offence.

Penalty: A fine not exceeding K500.00 for each animal in respect of which the offence has been committed.

(2) Subsection (1) applies whether or not the animal was killed, taken or brought in or received from a place outside the country.

(3) On the conviction of a person for an offence against this section in relation to a protected animal, the animal concerned shall be disposed of in such manner as the court that convicts him directs.

(4) It is a defence to a charge of an offence against this section if the accused person proves that at the time when it came into his possession the animal was lawfully obtained.

## **10. PERMIT TO TAKE PROTECTED FAUNA.**

(1) The Conservator may, on the application of a representative of an approved organization issue to him a permit authorizing the taking of protected fauna in accordance with the permit.

(2) A permit under Subsection (1) may specify–

- (a) the protected fauna that may be taken; and
- (b) the numbers that may be taken; and
- (c) the area within which the fauna may be taken; and
- (d) such further or other conditions as seem necessary or desirable to the Conservator.

(3) A person who takes a protected animal in contravention of a condition of a permit under this section is guilty of an offence.

Penalty: A fine not exceeding K40.00 for each animal in respect of which the offence has been committed.

## **PART IV. – SANCTUARIES.**

### **11. DECLARATION OF SANCTUARIES.**

(1) The Minister may, by notice in the National Gazette, declare an area to be a sanctuary for the purposes of this Act.

(2) In the notice referred to in Subsection (1) or in a subsequent notice in the National Gazette, the Minister may specify animals or classes of animals that may lawfully be taken or killed in the sanctuary.

### **12. FAUNA NOT TO BE TAKEN OR KILLED IN A SANCTUARY.**

(1) Subject to this Act, a person who takes or kills in a sanctuary an animal other than an animal, or animal of a class, that is specified under Section 11(2) is guilty of an offence.

Penalty: A fine not exceeding K20.00 for each animal in respect of which the offence has been committed.

(2) In a prosecution for an offence against Subsection (1), the possession of an animal in a sanctuary by a person is *prima facie* evidence that that animal was taken or killed in the sanctuary by him.

## **PART V. – PROTECTED AREAS.**

### **13. DECLARATION OF PROTECTED AREAS.**

The Minister may, by notice in the National Gazette, declare an area to be a protected area in relation to a species or class of animals specified in the notice.

### **14. SPECIFIED FAUNA NOT TO BE TAKEN IN A PROTECTED AREA.**

(1) Subject to this Act, a person who takes or kills in a protected area a member of a species or class of animals specified under Section 13 in relation to the protected area is guilty of an offence.

Penalty: A fine not exceeding K20.00 for each animal in respect of which the offence has been committed.

(2) In a prosecution under Subsection (1), the possession in a protected area of a member of a species or class of animals specified under Section 13 in relation to the protected area is *prima facie* evidence that that prescribed animal was taken or killed in that protected area.

## **PART VI. – WILDLIFE MANAGEMENT AREAS.**

### **15. DECLARATION OF WILDLIFE MANAGEMENT AREAS.**

(1) Subject to Subsection (2), the Minister may, by notice in the National Gazette, declare an area to be a Wildlife Management Area for the purposes of this Act.

(2) Where the Minister intends to declare an area to be a Wildlife Management Area, he shall–

(a) consult, as far as is practicable, with the owners of the land within the area to be declared; and

(b) where the area that he intends to declare is wholly or partly within the area of a Local-level Government, consult with that Local-level Government.

(3) Failure by the Minister to consult with a Local-level Government as required by Subsection (2) does not invalidate a declaration in made under this section.

### **16. ESTABLISHMENT OF WILDLIFE MANAGEMENT COMMITTEES.**

In the notice referred to in Section 15 or in a subsequent notice in the National Gazette, the Minister may, in his discretion–

(a) establish a Wildlife Management Committee for the area and specify the number of members of the Committee; and

(b) appoint persons to be members of the Committee; and

(c) specify the manner in which other persons may become members of the Committee; and

(d) specify a person or officer to be the agent of the Committee.

### **17. RULES FOR WILDLIFE MANAGEMENT AREAS.**

(1) Subject to Subsection (2), the Minister may, after consultation with a Wildlife Management Committee, make rules for the protection, propagation, encouragement, management, control, harvesting and destruction of fauna in the Wildlife Management Area for which the Committee is appointed.

(2) Where the Minister intends to make rules in respect of a Wildlife Management Area, he shall–

(a) consult, as far as practicable, with the owners of the land within the area to be declared; and

(b) where the area he intends to declare is wholly or partly within the area of a Local-level Government, consult with that Local-level Government.

(3) Without limiting the matters in respect of which rules may be made under Subsection (1), the rules may provide for—

(a) licences to authorize persons to take or kill any animals; and

(b) fees for the licences; and

(c) a scale or scales or royalties in respect of animals taken or killed in the Wildlife Management Area; and

(d) the disposal of fees and royalties.

(4) Failure by the Minister to consult with a Wildlife Management Committee as required by Subsection (1), or with a Local-level Government as required by Subsection (2), does not invalidate rules made under this section.

(5) A person who, without reasonable excuse (proof of which is on him), contravenes or fails to comply with a rule made under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K20.00.

## **18. FUNCTIONS OF AGENT.**

(1) Where the rules made for a Wildlife Management Area provide for the issue of licences, the agent of the Wildlife Management Committee established for the area shall issue the licences.

(2) The agent of a Wildlife Management Committee is responsible for receiving any licence fees or royalty payments provided for under the rules.

(3) The agent of a Wildlife Management Committee shall account to that Committee for any moneys received by him under Subsection (2).

## **19. AGENT NOT TO RECEIVE REMUNERATION, ETC.**

The agent of a Wildlife Management Committee is not entitled to receive any remuneration or allowance in respect of his duties as agent.

## **PART VII. – RANGERS.**

### **20. APPOINTMENT OF RANGERS.**

The Conservator may, by notice in the National Gazette, appoint a person to be a Ranger for the purposes of this Act.

### **21. POWERS AND FUNCTIONS OF RANGERS.**

Subject to any directions of the Conservator, a Ranger is responsible for the enforcement of this Act, and has such other powers and functions as are prescribed.

## **22. POWER OF EXAMINATION, ETC.**

(1) Subject to this section, for the purposes of this Act a Ranger may, at all reasonable times and with or without assistants—

(a) enter on and search any land, building, aircraft, vessel or vehicle on or in which there is reasonable cause to believe that any animal taken or killed in contravention of this Act is or may be; and

(b) require a person to furnish information concerning, or to produce for inspection, any animal in his possession or under his control; and

(c) seize and detain for further examination and inspection any animal that has been, or that there is reasonable cause to believe has been, taken or killed in contravention of this Act.

(2) A person who—

(a) hinders or obstructs a Ranger or a person lawfully assisting a Ranger in the exercise of his powers under Subsection (1); or

(b) refuses or fails, without lawful or reasonable excuse (proof of which is on him), to furnish information or to produce any animal when required to do so under that subsection,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

Default penalty: A fine not exceeding K20.00.

(3) The power of entry and search conferred by Subsection (1)(a) shall not be exercised except under a warrant in the prescribed form, issued by a justice on being satisfied as to the matter specified in that paragraph.

## **PART VIII. – MISCELLANEOUS.**

### **23. EXEMPTIONS.**

(1) Where, in the opinion of the Minister, it is in the circumstances of the country expedient to do so, he may, by notice in the National Gazette, exempt a person or class of persons from all or any of the provisions of Part III, IV or V.

(2) An exemption under Subsection (1) may be absolute or subject to conditions.

### **24. RULES APPLYING TO SANCTUARIES AND PROTECTED AREAS.**

(1) The Minister may, in relation to—

(a) a sanctuary or class of sanctuaries; or

(b) a protected area or class of protected areas,

make rules for the protection, propagation, encouragement, management, control, harvesting and destruction of fauna in the sanctuary or class of sanctuaries, or in the protected area or class of protected areas, as the case may be.

(2) A person who, without reasonable excuse (proof of which is on him), contravenes or fails to comply with a rule made under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K20.00.

## **25. APPEAL FROM ACT OR DECISION OF RANGER.**

(1) A person aggrieved by an act or decision of a Ranger under this Act may, within 28 days after the act or decision comes to his knowledge, appeal to the Conservator.

(2) On an appeal under Subsection (1), the Conservator may—

(a) in the case of an appeal against an act—

(i) uphold the action of the Ranger; or

(ii) direct that the Ranger take such other action as to the Conservator seems necessary or desirable; or

(iii) annul the act; or

(b) in the case of an appeal against a decision—

(i) uphold the decision; or

(ii) vary the decision by substituting another decision that the Ranger could lawfully make; or

(iii) annul the decision.

## **26. APPEAL FROM ACT OR DECISION OF CONSERVATOR.**

(1) A person aggrieved by an act or decision of the Conservator under this Act (including a decision under Section 25) may, within 28 days after the act or decision comes to his knowledge, appeal to the Minister, whose decision is final.

(2) On an appeal under Subsection (1), the Minister may—

(a) in the case of an appeal against an act—

(i) uphold the action of the Conservator; or

(ii) direct that the Conservator take such other action as to the Minister seems necessary or desirable; or

(iii) annul the act; or

(b) in the case of an appeal against a decision—

(i) uphold the decision; or

(ii) vary the decision by substituting another decision that the Conservator could lawfully make; or

(iii) annul the decision.

## **27. PRESCRIBED DEVICE OR EQUIPMENT.**

(1) The Minister may, by notice in the National Gazette—

(a) prescribe or limit the devices, equipment or method that shall be used in the taking or killing of members of a species or class of animal; or

(b) prohibit or restrict the devices, equipment or method that may be used in the taking or killing of members of a species or class of animal.

(2) A person who takes or kills an animal in contravention of a notice under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K40.00 for each animal in respect of which the offence has been committed.

## **28. CONSERVATOR OR AUTHORIZED PERSON MAY TAKE FAUNA.**

(1) Notwithstanding this Act, the Conservator, or a person authorized in writing by the Conservator and acting in accordance with the authorization, may take an animal that is—

- (a) a protected animal; or
- (b) an animal in a sanctuary; or
- (c) an animal in a protected area, being a member of a species or class in relation to which the protected area has been declared,

for any purpose directly or indirectly connected with the care, protection, promotion or propagation of particular species or classes of animals, or of fauna generally.

(2) An animal taken or killed under Subsection (1) shall be disposed of as the Conservator directs.

## **29. FAUNA MAY BE TAKEN FOR SPECIFIED PURPOSES.**

(1) Notwithstanding this Act, an animal that is—

- (a) a protected animal; or
- (b) an animal in a sanctuary; or
- (c) an animal in a protected area, being a member of a species or class in relation to which the protected area has been declared,

may be taken for a purpose specified by the Minister by notice in the National Gazette, and the Minister may, in the notice or in a subsequent notice in the National Gazette, restrict the taking of animals—

- (d) to one or more species of animals; or
- (e) to a sanctuary or class of sanctuaries; or
- (f) to a protected area or class of protected areas; or
- (g) to a person or class of persons.

(2) A notice under Subsection (1) may be absolute or subject to conditions.

## **30. IMPORTED FAUNA.**

A person who, otherwise than in accordance with a direction of the Conservator, liberates an animal imported into the country, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

### **31. REGULATIONS.**

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular—

- (a) for the protection, care, preservation and propagation of any species of fauna; and
- (b) prescribing the circumstances in which a person may acquire ownership of protected animals; and
- (c) prescribing the method of laying poison and safeguards in connection with laying poison in order to prevent the destruction of animals; and
- (d) defining the duties of the Conservator and of Rangers appointed under this Act; and
- (e) prescribing penalties of fines not exceeding K100.00 for offences against the regulations.

(2) The regulations may—

- (a) apply to or have operation in the whole or any part of the country; or
- (b) be of general or specially limited application according to time, place or circumstances; or
- (c) be general or restricted to a specified class or subject matter.

Office of Legislative Counsel, PNG

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<sup>[1]</sup> Section 8 replaced by No. 16 of 1976, s1.

<sup>[2]</sup> Section 9(1) amended by No. 16 of 1976, s2.

<sup>[3]</sup> Section 9(1) amended by No. 16 of 1976, s2.