

THE FAUNA CONSERVATION (AMENDMENT) ACT, 1967

No. 47



of 1967

AN ACT TO AMEND THE FAUNA CONSERVATION PROCLAMATION, 1961

Date of Assent: 19.10.67.

Date of Commencement: On a date to be appointed.

ENACTED by the Parliament of Botswana.

Short Title and Date of Commencement

1. (1) This Act may be cited as the Fauna Conservation (Amendment) Act, 1967.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice in the *Gazette*.

Amendment of Section 2 of Proclamation 22 of 1961

2. Section 2 of the Fauna Conservation Proclamation, 1961, (hereinafter referred to as the principal law) is amended in subsection (1) —

(a) by the insertion after the definition of "close season" of —

“ “conserved animal” in relation to any area, means any animal which in terms of section 12 is a conserved animal in that area;”;

(b) by the deletion in the definition of “ “game” or “game animal” ” of “Protected Game” and the substitution of “a conserved animal or protected game”;

(c) by the insertion after the definition of “professional hunter” of —

“ “protected game” in relation to any area, means any animal which in terms of section 12 is protected game in that area;”;

(d) by the deletion of the definition of “Protected Game”;

(e) by the deletion in the definition of “unscheduled animal” of “other than a bird”.

Replacement of Section 3 of Proclamation 22 of 1961

3. Section 3 of the principal law is repealed and the following section is substituted —

“Appointment of officers

3. (1) The Minister may appoint an officer in the public service to be Chief Game Warden.

(2) The Minister shall appoint suitable persons to be licensing officers for the purposes of this Proclamation in and for such areas of Botswana as he may direct.”.

Amendment of Section 4 of Proclamation 22 of 1961

4. Section 4 of the principal law is amended —

(a) by the deletion in the head-note of “to Africans”;

(b) by the deletion of subsection (2) and the substitution of —

“(2) The provisions of Parts I, II and III of this Proclamation shall not apply in the case of land proclaimed a National Park under the provisions of the National Parks Act, 1967.

(3) Subject to the provisions of any regulation to the contrary regulating the terms and conditions of hunting within a controlled hunting area, nothing in this Act shall render unlawful the hunting on State land of an animal, other than a conserved animal, by a person belonging to a community which is entirely dependent for its living on hunting and gathering veld produce, and who is himself so dependent, where the animal is hunted for the reasonable food requirements of the hunter or of the members of the community to which he belongs.

(4) Where terms and conditions have been prescribed in terms of section 11 in respect of any controlled hunting area the President may, by notice in the Gazette, order that the provisions of section 14 and, additionally or alternatively, any or all of the provisions of Part III (other than sections 34 and 35 as read with 36 and 37) shall not apply to such area.

(5) Without derogating from the generality of the powers conferred in subsection (1) a regulation made in pursuance of the powers conferred by that subsection as read with section 93 may fix the fees payable for any licence or permit issued in terms of the regulations.

(3) Any person who contravenes the provisions of this section or of any regulation made under this section as read with section 93 shall be guilty of an offence and liable to the penalties prescribed in section 11 (2).”.

Amendment of Section 11 of Proclamation 22 of 1961

5. Section 11 of the principal law is amended by the deletion of subsection (1) and by the substitution of —

(1) Subject to the provisions of section 4 (2) and of sections 34 and 35 and of sections 36 and 37 no person shall hunt or capture any animal in any specified hunting area except in accordance with such regulations as may be prescribed for that area.

(2) Where any regulations of the nature described in subsection (1) are prescribed for the issue of a permit or licence, a fee in such amount as may be prescribed may be charged for such permit or licence.

(3) The fee may, by order in the *Gazette* direct to be paid to the District Council specified in that order, be payable to the District Council specified in that order."

Replacement of Part II of Proclamation 22 of 1961

6. Part II of the principal law is repealed and the following Part is substituted --

"PART II

CONSERVED ANIMALS - PROTECTED GAME

Conserved animals and protected game

12. (1) The animals specified in the first column of Part I of the Second Schedule shall be conserved animals throughout Botswana unless an area is or areas are specified in the second column of that Schedule opposite the name of any animal and in that event such animal shall be a conserved animal in the area or areas so specified.

(2) The animals specified in the first column of Part II of the Second Schedule shall be protected game throughout Botswana unless an area is or areas are specified in the second column of that Schedule opposite the name of any animal and in such event the animal shall be protected game in the area or areas so specified.

(3) The Minister may at any time by notice in the *Gazette* add to or amend the Second Schedule or may replace the whole or any part thereof.

Prohibition of hunting or capturing conserved animals

13. (1) No person shall, except under and in accordance with the terms and conditions of a permit issued under section 34, hunt or capture any animal in any area within which it has been declared a conserved animal under this Proclamation.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable --

(a) on a first conviction, to a fine not exceeding eight hundred rand, or, in default of payment thereof to imprisonment not exceeding two years, or to

such imprisonment without the option of a fine or to both such fine and imprisonment;

- (b) on a second or subsequent conviction, to a fine not exceeding one thousand five hundred rand, or in default of payment thereof to imprisonment not exceeding three years, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

Prohibition of hunting or capturing protected game

14. (1) Save as is otherwise provided in this Proclamation, no person shall, except under and in accordance with the terms and conditions of a permit issued under section 31, hunt or capture any animal in any area within which it has been declared protected game under this Proclamation.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable —

- (a) on a first conviction to a fine not exceeding six hundred rand, or, in default of payment thereof to imprisonment not exceeding one year, or to such without the option of a fine or to both such fine and imprisonment;
- (b) on a second or subsequent conviction to a fine not exceeding one thousand rand, or, in default of payment thereof to imprisonment not exceeding two years, or to such imprisonment without the option of a fine or to both such fine and imprisonment."

Amendment of Section 15 of Proclamation 22 of 1961

7. Section 15 of the principal law is amended in subsection (2) —

- (a) by the insertion in paragraph (c) after "unscheduled animal" of "other than one of a kind, but not of the age or sex, specified in the Third Schedule,";
- (b) by the addition of the following paragraph —
“(d) if the contravention is in respect of an unscheduled animal, and that animal is of a kind, but not of the age or sex, specified in the Third Schedule, to the penalty prescribed in this subsection for the hunting or capturing of an animal of the age or sex so specified.”.

Amendment of Section 16 of Proclamation 22 of 1961

8. Section 16 is amended in subsection (2) by the insertion after "Fourth Schedule" of "or in Part I of the Second Schedule".

Amendment of Section 31 of Proclamation 22 of 1961

9. Section 31 of the principal law is amended —

- (a) in subsection (1) by the deletion of "therein." and the substitution of "therein, other than conserved animals.";

Amendment of Section 41 of Proclamation 22 of 1961

13. Section 41 of the principal law is amended in subsection (2) by the deletion of "Protected Game" and by the substitution of "conserved animal or protected game".

Amendment of Section 56 of Proclamation 22 of 1961

14. Section 56 of the principal law is amended —

(a) in subsection (1) by the addition after paragraph (c) of —

"(d) in any motor vehicle or mechanically propelled vessel approach any animal for the purpose of hunting or capturing the animal nearer than 200 yards.";

(b) in subsection (2) in paragraph (b) by the insertion after "Fourth Schedule" of "or in Part I of the Second Schedule".

Amendment of Section 57 of Proclamation 22 of 1961

15. Section 57 of the principal law is amended by the addition of the following subsection —

"(4) Nothing in this section shall render unlawful —

(a) the use of a poisoned weapon, pitfall, stake, trap, snare, fence or enclosure (other than a trap or snare of a type manufactured for commercial purposes or a wire snare, fence or enclosure);

(b) the possession of a poisoned weapon, trap or snare (other than a trap or snare of a type manufactured for commercial purposes or a wire snare);

by a person, belonging to a community which is entirely or mainly dependent for its living upon hunting and gathering veld produce, and who is himself so dependent, within any area, not being private land, where the user or possessor is entitled to hunt."

Amendment of Section 60 of Proclamation 22 of 1961

16. Section 60 of the principal law is amended in subsection (3) by the deletion of "licence." and by the substitution of "or curio maker's licence."

Amendment of Section 61 of Proclamation 22 of 1961

17. Section 61 of the principal law is amended in subsection (1) by —

(a) the deletion of "(other than an African in a tribal territory or on State land)";

(b) the deletion of "sixty" and the substitution of "sixty or by virtue of an order under section 4 (4):".

Amendment of Section 63 of Proclamation 22 of 1961

18. Section 63 of the principal law is amended by the addition of the following subsection —

“(5) No permit shall be granted under the provisions of subsection (1) in respect of any animal, trophy or meat which is prescribed as a prohibited animal trophy or meat for the purposes of this section otherwise than in accordance with such exceptions or conditions as may be prescribed.”.

Amendment of Section 64 of Proclamation 22 of 1961

19. Section 64 of the principal law is amended in subsection (1) —

(a) by the deletion of “animals.”;

(b) by the deletion of “any animal,” wherever it appears in the proviso.

Substitution of Section 64A of Proclamation 22 of 1961

20. Section 64A of the principal law is repealed and the following section is substituted —

“64A. The Minister may, by notice in the *Gazette*, at any time vary the rate of export duty payable under the provisions of the Ninth Schedule as read with the provisions of section 64 and may, in like manner, vary or amend the provisions of that Schedule:

Provided that no such notice which has the effect of increasing the rate of duty in respect of any item in that Schedule, or of adding an additional item to the Schedule, shall be brought into operation until the expiration of two months after the publication of the notice in the *Gazette*.”.

Amendment of Section 65 of Proclamation 22 of 1961

21. Section 65 of the principal law is amended —

(a) in subsection (3) by the deletion of “licence.” and by the substitution of “or curio maker’s licence.”;

(b) by the insertion after subsection (3) of the following subsection —

“(3a) No person other than the holder of a trophy dealer’s licence shall employ or engage any person, not being a member of his immediate family, to manufacture any article from any trophy.”.

Amendment of Section 66 of Proclamation 22 of 1961

22. Section 66 of the principal law is amended —

(a) in subsection (1) by the addition at the end thereof “and may be issued subject to such conditions as may in each case be imposed by endorsement on the licence restricting the classes of trophies in which the trophy dealer may carry on business”;

43. (b) the addition of the following subsection: —

"(3) The Minister may cancel a curio dealer's licence where the holder is guilty of any offence under this Proclamation or under the National Parks Act, 1957."

Insertion of Section 87A in Proclamation 22 of 1961

44. The principal law is amended by the insertion after section 87 of the following new section: —

"87A. (1) A curio maker's licence in such form as may be prescribed by regulation may be issued by a licensing officer upon application

(2) A curio maker's licence shall entitle the holder to purchase trophies in such amount and of such description as may be specified in the licence, to manufacture articles therefrom or from such other trophies as may lawfully be in his possession and to sell the articles so manufactured in such quantity or to the extent specified in the licence

(3) No person shall transfer a curio maker's licence to any other person, and no person, except the person to whom it is issued, shall make use of any curio maker's licence.

(4) Any person who contravenes the provisions of subsection (3) of this section shall be guilty of an offence and liable to a fine not exceeding two hundred rand or, in default of payment, to imprisonment for a period not exceeding six months.

(5) The holder of a curio maker's licence shall not be authorized thereby to sell articles manufactured thereunder from any shop or other fixed premises.

(6) The fees payable in respect of a curio maker's licence shall be those specified in the Fifth Schedule.

(7) A curio maker's licence shall be valid for one year from the date on which it is issued or for such lesser period as may be stipulated therein.

(8) A curio maker's licence shall not authorize any person other than the holder or member of his immediate family to manufacture articles from trophies on the holder's behalf."

Amendment of Section 80 of Proclamation 22 of 1961

24. Section 80 of the principal law is amended in subsection (11) —

(a) by the insertion after "animals" of "or where animals may reasonably be expected to be,";

(b) by the deletion of "and such person has not obtained the permission of the owner or occupier of such land to be on such land";

section shall be guilty of an offence and liable to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and to such imprisonment.”.

Amendment of the First Schedule of Proclamation 22 of 1961

26. The First Schedule of the principal law is amended by the deletion of item 1 being so much as relates to the Chobe Game Reserve.

Amendment of the Second Schedule of Proclamation 22 of 1961

27. The Second Schedule of the principal law is repealed and the following Schedule is substituted —

**“SECOND SCHEDULE
(section 12)**

**PART I
CONSERVED ANIMALS**

<i>First Column</i>	<i>Second Column</i>
Antbear	
Brown Hyena	
Cheetah	
Giraffe	
Hippopotamus	
Honey Badger	
Klipspringer	
Oribi	
Pangolin	
Puku	
Rhinoceros	
Yellow-spotted Dassie	

**PART II
PROTECTED GAME**

<i>First Column</i>	<i>Second Column</i>
Chobe Bushbuck	
Defassa Waterbuck (kobus deffasa)	
Eland	
Elephant (immature specimens and females)	
Klipspringer	
Maanhaar Jackal	
Rhebok	
Roan Antelope	
Sable Antelope”.	

Amendment of Third Schedule of Proclamation 22 of 1961

28. (1) The Third Schedule is amended in Part A by the deletion of "Pulvos" and the substitution of "Fulvous".

(2) This amendment shall be deemed to have come into operation on the 19th April, 1961.

Replacement of the Fourth Schedule of Proclamation 22 of 1961

29. The Fourth Schedule of the principal law is repealed and the following Schedule is substituted —

**"FOURTH SCHEDULE
(Section 16 and 41)**

Animals which may *not* be hunted by virtue of land-holder's privileges; and
Animals *the destruction of which* must be reported

Any conserved animal
Chobe Bushbuck
Elephant
Klipspringer".

Amendment of the Fifth Schedule of Proclamation 22 of 1961

30. The Fifth Schedule of the principal law is amended by the insertion in the part which relates to Fees after that portion which relates to a bird licence of —

"curio maker's licence

(section 67A)

gratis"

Amendment of the Eighth Schedule of Proclamation 22 of 1961

31. The Eighth Schedule of the principal law is amended by the insertion after "Hyena" of "(other than the Brown Hyena)".

Replacement of Ninth Schedule of Proclamation No. 22 of 1961

32. The Ninth Schedule of the Principal law is repealed and the following is substituted.

"NINTH SCHEDULE
(Section 64)

EXPORT DUTY ON TROPHIES AND MEAT

**PART I
TROPHIES**

A. ANIMAL SKINS

<i>Skin</i>	<i>Export Duty</i>	
	<i>Untanned</i>	<i>Tanned</i>
Aardwolf	R 4.00	R 2.00
Buffalo	R 3.00	R 1.00
Bushbuck	R 2.00	R 1.00
Cats (unspecified)	R 25	10
Crocodile	R 1.00	R 1.00
Dassie (Hyrax)	25	25
Duiker	50	25
Eland	R15.00	R 5.00
Fox, Bat-eared	R 2.00	R 1.00
Fox, Silver (Cape Fox)	R 1.00	50
Gemsbok	R 6.00	R 2.00
Grysbok	50	25
Hartebeest	R 2.00	R 1.00
Hyena, spotted	R 1.00	R 50
Impala	R 1.00	50
Jackal, unspecified	R 1.00	25
Kudu	R 5.00	R 2.00
Lechwe	R 9.00	R 3.00
Leopard	R30.00	R10.00
Lion	R15.00	R 5.00
Lizard (Monitor)	R 2.00	R 2.00
Lynx (Caracal)	R 2.00	R 1.00
Ostrich	R 4.00	R 2.00
Otter	R 2.00	R 1.00
Pig, wild	R 1.00	50
Python	R 1.00	R 50
Reed buck	R 4.00	R 2.00
Roan Antelope	R15.00	R 5.00
Sable Antelope	R15.00	R 5.00
Serval	R 1.00	R 50
Sitatunga	R15.00	R 5.00
Snakes, unspecified	40	10
Springbok	R 1.00	50

<i>Skin</i>	<i>Export Duty</i>	
	<i>Untanned</i>	<i>Tanned</i>
Tsessebe	R 6.00	R 2.00
Warthog	R 1.00	50
Waterbuck	R 6.00	R 2.00
Wildebeest	R 1.00	25
Zebra	R15.00	R 5.00

B. KAROSSES

	<i>Export Duty</i>	
	<i>Under 10 sq. ft.</i>	<i>Over 10 sq. ft.</i>
Fox, Bat-eared	R 4.00	R10.00
Jackal, unspecified	R 2.00	R 5.00
Fox Silver	R 3.00	R 7.00
Lynx (Caracal)	R 3.00	R 7.00
Cat, unspecified	R 2.00	R 4.00
Above animals mixed	R 2.00	R 4.00
Leopard	R20.00	R60.00
Lion	R15.00	R30.00

C. MATS

Small antelope	R 1.00	R 2.00
One main skin surrounded by lesser skins should be charged at fee for main skin		

D. MISCELLANEOUS

	<i>Export Duty</i>
Antelope, Buffalo and Zebra tails	25c
Animal fat	40c per lb.
Animal bones	10c per lb.
Antelope and Buffalo horns	as for the skin unless accompanied by the skin when only skin is charged.
Claws of cats	10c each
Ostrich eggs	20c each
Ostrich feathers	50c per lb.
Porcupine quills	R2.00 per lb.
Antelope & Buffalo feet	10c each
Ostrich feet	25c each

Elephant feet	<i>Export Duty</i> R2.00 each
Lion and cats skulls	R2.00 each unless obtained on licence purchased under this Proclamation.
Ivory	50c per lb.

PART II
MEAT

Meat (including biltong)	<i>Export Duty</i> Duty at the rate of 40c per each pound weight : Provided that no duty shall be paid (a) on the first 20 lbs. of exported meat by any person holding a general game licence in any year. (b) on the first 50 lbs. of meat exported by any per- son in any year after the issue to him of his first sup- plementary game licence : Provided further that no one shall export free more than 50 lbs. of meat."
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Passed by the National Assembly this day, the 31st August, 1967.

G.T. MATENGE,
Clerk of the National Assembly.