

THE NATIONAL PARKS ACT, 1967

No. 48



of 1967

AN ACT FOR THE ESTABLISHMENT OF NATIONAL PARKS AND FOR THE PRESERVATION OF WILD ANIMAL AND FISH LIFE; VEGETATION AND OBJECTS OF SCIENTIFIC INTEREST; AND TO PROVIDE FOR THE CONTROL AND MANAGEMENT OF SUCH PARKS AND FOR MATTERS INCIDENTAL THERETO.

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 National Parks Act, 1967.

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

Interpretation of terms.

2. In this Act, unless the context otherwise requires —

“animal” subject to the provisions of section 15 (k), means any reptile, amphibian, mammal or bird, including the eggs and young thereof;

“park” means a national park constituted under this Act;

“park attendant” means any person employed in a park other than a park officer;

“park officer” means —

(a) the Director of National Parks;

(b) the warden of any park;

(c) a game officer as defined in section 2 of the Fauna Conservation Proclamation, 1961;

(d) any other officer in the public service appointed by the Minister to be a park officer for the purposes of this Act;

“public notice” means a notice published once in the *Gazette* and at least once during each of three successive weeks in a newspaper circulating in the area to which the notice relates, the first insertion in the newspaper being made in the same week as the publication in the *Gazette* ;

“trap” means any net, rod, hook, spring, gin, snare, contrivance or device by means of which an animal can be captured, netted or snared ;

“weapon” means any firearm or ammunition therefor or any other instrument capable of propelling a projectile or capable of being propelled or used in such manner that any animal can be killed or injured thereby.

Constitution of parks.

3. (1) The President may by order in the *Gazette* constitute as a national park for the propagation, protection, and preservation therein of wild animal life, vegetation and objects of geological, ethnological, historical, archaeological, or other scientific interest for the benefit, advantage and enjoyment of the inhabitants of Botswana —

(a) any area of State land ; or

(b) any land bequeathed or donated to him or to any other person for all or any of the purposes mentioned in this subsection ;

and may give a name to such park or may add any State land or land so bequeathed or donated to a park which shall thereafter form part of such park.

(2) The President shall not constitute as a national park or add to a park any land so bequeathed or donated to any other person or persons unless he is satisfied that such person or all such persons have consented thereto.

(3) The area defined in the Schedule shall be deemed to be a national park constituted under subsection (1) and shall be known as the Chobe National Park.

(4) If it is proposed to recommend to the President the issue of an order under subsection (1), the Minister shall cause public notice of the proposal to be given and shall in such notice call upon any person interested to lodge in writing with him within a reasonable time to be fixed in such notice objections, if any, to the proposal.

(5) Any objections shall be laid before the President for his consideration.

(6) Any order issued in terms of subsection (1) shall be laid before Parliament as soon as may be after it has been published in the *Gazette* and every such order shall, unless confirmed by resolution of Parliament during the session it is so laid before it, lapse and cease to have any effect as from the date of the conclusion of that session.

Exclusion of land from park.

4. (1) Subject to the provisions of subsection (2), the President may by order in the Gazette declare that any land forming part of a park shall cease to form part of such park.

(2) The provisions of subsection (4), (5) and (6) of section 3 shall apply in relation to any order issued or proposed to be issued in pursuance of subsection (1).

Minister to control and manage the parks.

5. (1) It shall be the function and the duty of the Minister as representing the State to control, manage and maintain the parks for the objects described in section 3.

Powers of the Minister.

6. (1) For the purpose of carrying out his functions the Minister shall have power within a park —

- (a) to construct such roads, bridges, aerodromes, soil and water conservation works, irrigation works, buildings and fences and to carry out such other works as he may consider necessary for the purposes of such park;
- (b) to take such steps as will ensure the security of the animal and vegetable life in such park and the preservation of such park and the animals and vegetation therein in a natural state;
- (c) to reserve or set aside any area of such park as breeding places for animals and for nurseries for trees, shrubs, plants and flowers;
- (d) to let sites for the erection of shops, hotels, restaurants or other buildings for the accommodation or recreation of visitors, to let sites to yachting clubs, boating clubs, boat-wrights and persons plying boats for hire and to control the manner in which any such undertaking shall be carried on;
- (e) to construct, maintain, administer or let hotels, restaurants, rest camps and other buildings or to let accommodation therein;
- (f) to control the charges which may be made by shop-keepers, hotel keepers, restaurant proprietors, boatwrights and persons plying boats for hire.

(2) The Minister shall also have power —

- (i) to designate an officer in the public service as Director of National Parks;
- (ii) to delegate to any park officer such of his powers under this Act as he thinks fit;
- (iii) to sell or exchange any specimen of animal or vegetable life in a park;
- (iv) to purchase, exchange or otherwise acquire any specimen of animal or

vegetable life which he may consider it desirable to introduce into a park ;

- (v) to authorize any person to take or collect and remove any specimen of animal or vegetable life from a park or to do anything prohibited under section 11 (1) for scientific purposes ;
- (vi) to authorize any scientific investigations on such terms and conditions as he may approve ;
- (vii) to authorize the killing or capturing of animals and the destruction or removal of vegetation in the interest of the conservation of the flora or fauna of the park and of its management and control.

Freedom from liability.

7. No liability shall attach to the State or the Minister or any park officer or park attendant for any loss of life or property or damage or injury sustained by any person in a park or beyond the boundaries of any park by reason of the presence, action or depredation of any animal.

Minister exempt from the provisions of Proclamation 22 of 1961.

8. In the exercise of his powers under section 6 and section 15 the Minister shall not be subject to the provisions of the Fauna Conservation Proclamation, 1961.

Possession and delivery of firearms.

9. Without obtaining an arm certificate or permit under the Arms and Ammunition Proclamation, 1959, to authorize the delivery or possession of firearms, the Minister and any park officer may deliver arms and ammunition to any park attendant which he requires for the performance of his duties as such attendant, and any park attendant may possess such arms and ammunition.

Entry into park.

10. (1) Save as is otherwise provided in this Act and notwithstanding the provisions of any other law, no person other than a person in the employment of the Government who enters a park in the execution of his official duty, and any park officer or park attendant shall enter, be or reside in a park except under and in accordance with the permission of the Minister or of any park officer authorized to grant such permission :

Provided that the Minister may by notice exhibited at any entrance to a park grant permission to persons to enter such park on such days and during such hours as may be stated in the notice and subject to such conditions as may be prescribed by regulation.

(2) Permission under subsection (1) may be granted subject to such conditions as may be prescribed by regulation or as may be deemed necessary by the persons granting such permission, and shall be granted only for the purposes of —

- (a) health, study or recreation, or matters incidental thereto ;
- (b) travel or transport along such roads as may be defined by regulation ; and
- (c) transacting any lawful business with or concerning any person within a park or if the person seeking permission was, or belongs to a community which was resident in the park prior to the date when the park came into being.

Prohibition of certain acts in park.

11. (1) Save as is provided in subsection (2), no person other than a park officer or park attendant who is acting under and in accordance with the authority of the Minister or any other employee of the Government acting in the execution of his duty shall —

- (a) convey into a park any weapon, explosive, trap or poison, or be in possession of any such article within a park ;
- (b) within a park be without lawful excuse in possession of or kill, injure, capture or disturb any animal or take or destroy any egg or nest ;
- (c) cause any damage to any object of geological, ethnological, historical, archaeological, or other scientific interest within a park ;
- (d) introduce any wild or domestic animal into a park or permit any domestic animal to stray into a park, or introduce any vegetation into a park ;
- (e) remove from a park any animal or vegetation whether alive, or dead, other than an animal lawfully introduced by such person into such park, or remove from any park any part of an animal ; or
- (f) cut, damage or destroy any tree or other vegetation in a park ;
- (g) remove from a park any object of geological, ethnological, historical, archaeological, or other scientific interest ;
- (h) destroy or deface any object, whether animate or inanimate, in a park ;
- (i) wilfully or negligently cause any veld fire.

(2) It shall be lawful for any person —

- (a) in a park to kill any dangerous animal in defence of human life or to prevent the infliction of personal injury ;
- (b) subject to such conditions as may be prescribed by regulation, to introduce or convey into or through a park any domestic animal or article mentioned in paragraph (a) of subsection (1) or, subject as aforesaid, to be in posses-

sion of any such domestic animal or article within a park ;

- (c) to convey into or through a park, with the permission of the Minister or any park officer authorized to grant such permission, any animal required in connexion with lawful travel or transport in or through a park or lawful residence or sojourn in a park ;
- (d) to fish in any waters in a park in accordance with the provisions of regulations and to remove from a park any fish lawfully caught in the waters in a park.

Powers of arrest.

12. (1) Any park officer or park attendant shall, in respect of any offence committed within a park, have the power of arrest and detention conferred upon a peace officer under Part V of the Criminal Procedure and Evidence Proclamation (Cap. 18) and shall further have the power to arrest without a warrant within a park or outside a park within a distance of one mile from the boundary thereof any person suspected upon reasonable grounds of having contravened any of the provisions of this Act.

(2) Any park officer shall have the power to search without a warrant within a park or outside a park within a distance of one mile from the boundary thereof any place, premises, vehicle, tent or receptacle whatsoever suspected upon reasonable grounds of containing any animal or article which may afford any evidence of a contravention of the provisions of this Act, and may seize any such animal or article wherever found.

Payment of fine without appearance in court.

13. When any person has been summoned or warned to appear in a Subordinate Court, or has been arrested, or has been informed by a park officer that it is intended to institute criminal proceedings against him, for any offence under this Act the functions of an officer holding a rank or post designated by the President in terms of section 306 (1) of the Criminal Procedure and Evidence Proclamation (Chapter 18) for the purposes of section 306 of that Proclamation may be performed or exercised by any park officer.

Destruction of domestic animals and vegetation.

14. (1) Any domestic animal found within a park, except a domestic animal in the lawful possession of a park officer or park attendant, or introduced into a park in accordance with the provisions of section 11 (2) may be destroyed by a park officer or park attendant.

(2) Any vegetation introduced into a park in contravention of this Act may be destroyed by or on the instructions of a park officer.

Regulations.

15. The Minister may make regulations in regard to all or any of the following matters —

- (a) the powers and duties of park officers and park attendants in regard to —
 - (i) the exclusion of members of the public from certain areas within a park ;
 - (ii) the killing, capturing or impounding of any animals within a park and the disposal of such animals ;
 - (iii) the burning of grass and the cutting of trees and vegetation within a park ;
 - (iv) the disposal of any animal, vegetable or other product of a park ;
- (b) the conditions subject to which permission to enter, be or reside in a park may be granted under section 10 and the periods or times during which a park or any portion thereof shall be open to the public ;
- (c) the conditions under which prescribed domestic animals or such articles as are mentioned in paragraph (a) of section 11 (1) may be introduced into and conveyed through a park or possessed within a park ;
- (d) the conditions under which the services or attendance of park officers or park attendants may be obtained by any person entering, passing through or sojourning within a park and the fees to be paid in respect of such services or attendance ;
- (e) the fees, if any, to be paid for permission under section 10 to enter or reside in a park, the admission of motor cars or other vehicles and the taking of photographs within a park, or for any other purpose connected with the use and enjoyment of a park ;
- (f) the protection and preservation of a park and of the animal and vegetable life therein in a natural state ;
- (g) the regulation of traffic and carriage of passengers in a park including the prohibition of the use of any road in a park including a public road as defined in the Road Traffic Law, 1963, at specified times, the points by which persons may enter and the roads by which they may pass through a park ;
- (h) the protection from damage or defacement by writing or otherwise of any tree, bridge, rock, fence, seat or other object in a park ;
- (i) the regulation, control, restriction and prohibition of fishing in any waters in a park, the issue of licences for fishing and the fees to be paid for such licences ;
- (j) the regulation, control, restriction and prohibition of boating and yachting on any waters in a park ;

- (k) the inclusion within the meaning of the word "animal" as defined in section 2 of any invertebrate or class thereof or the withdrawing of any mammal, reptile or bird from the meaning of the word as so defined;
- (l) any matter which may in terms of this Act, be dealt with by regulation or prescribed;
- (m) any park, including the setting up of local committees to advise on the administration of any park and defining the functions of such committees.

No mining allowed in park.

16. Subject to any mining rights lawfully acquired in any area by any person before the date when such area became a park, the acquisition of a prospecting or mining right in terms of the Mines and Minerals Act, 1967 shall be prohibited within a park, except with the written permission of the Minister.

Penalties.

17. (1) Any person who contravenes paragraph (b) of section 11 (1) by killing, injuring or capturing any animal for the time being classed anywhere in Botswana as a conserved animal or protected game under the Fauna Conservation Proclamation, 1961, shall be guilty of an offence and liable —

- (a) on a first conviction, to a fine not exceeding R1,000, 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 R1,500 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.

(2) Subject to the provisions of subsection (1) any person who contravenes the provisions of sections 10 (1) or 11 (1), or who fails to comply with the terms and conditions of any authority or permission granted by the Minister in terms of this Act shall be guilty of an offence and liable to a fine not exceeding R500 or, in default of payment thereof to imprisonment not exceeding one year, or to such imprisonment without the option of a fine or to both such fine and imprisonment.

(3) Where a person who has previously been convicted of an offence either under this Act or the Fauna Conservation Proclamation involving the unlawful killing or wounding of an animal is convicted of a similar offence under this Act he shall, notwithstanding anything to the contrary in subsection (2), be liable to a fine not exceeding R1,000 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.

(4) In addition to any other penalties which may be enforced under this Act any weapon, explosive, trap or poison used by any person in contravention of this Act, or which forms an element in a contravention of this Act, and any animal or part of an animal obtained by any person in contravention of the provisions of this Act or which has been removed from a park in contravention of of section 11 (1) (e) shall be declared by the court to be forfeited to the State.

(5) Any person who fails to comply with the provisions of a regulation made in terms of section 15 shall be guilty of an offence and liable to such penalties, not exceeding a fine of R200 or, in default of payment, to imprisonment for a period not exceeding six months, as may be prescribed.

Saving of Existing Regulations.

18. Any regulation made in terms of the Fauna Conservation Proclamation which was applicable to the area described in the Schedule immediately prior to the coming into operation of this Act shall continue in force until it is amended or replaced under this Act and any person contravening such regulation shall be guilty of an offence and be liable to the maximum penalties which may be prescribed under section 17 (5).

SCHEDULE (Section 3)

CHOBE NATIONAL PARK

The area bounded as follows —

Commencing at a point on the international boundary between the Republic of Botswana and the Caprivi Zipfel, being a point due north-west of Beacon KH 7, situated approximately three hundred and twenty-five yards south-west of the Chobe Hotel on the southern bank of the Chobe River; the border runs in a south-westerly direction following the said international boundary between the Republic of Botswana and the Caprivi Zipfel to a point on the said boundary due north of a beacon situated at Ngoma, the said beacon being a point on Fire-break No. 19; thence due south to the said beacon at Ngoma; thence following the eastern edge of the said fire-break in a southerly direction for a distance of approximately twenty and one half miles; thence due west for a distance of approximately one mile to the north-western lip of the Molapo known as Namuchira; thence following the western edge of the said Molapo known as Namuchira for a distance of approximately six and one half miles to its confluence with the Molapo known as Molapo wa Diphofu, being the point where the resulting Molapo becomes known as the Kashaba Molapo; thence in a south-westerly direction following the north-western edge of the said Kashaba Molapo for a distance of approximately sixteen and one half miles; thence on a bearing of $296\frac{1}{2}^{\circ}$ for a distance of approximately three miles; thence on a bearing of $311\frac{1}{2}^{\circ}$ for a distance of approximately four-

teen and two thirds miles to the point of intersection of the said bearing $311\frac{1}{2}^{\circ}$ with the southern edge of fire-break No. 23; thence following the southern edge of fire-break No. 23 in a westerly direction for a distance of approximately four and one half miles; thence on a bearing of 265° for a distance of approximately three and one quarter miles; thence following a bearing of 202° for a distance of approximately one and one half miles; thence due west for a distance of one and three quarters miles; thence in a straight line due north for a distance of approximately four and one quarter miles to the point of intersection of this line and the eastern edge of the motor road from Maun to Kasane; thence following the eastern edge of the said road for a distance of approximately four and one quarter miles to its intersection with south latitude $18^{\circ} 16'$; thence due west following the said parallel of south latitude to its point of intersection with the international boundary between the Republic of Botswana and the Caprivi Zipfel; thence following the said boundary in a westerly direction to its point of intersection with the eastern boundary of the Batawana Tribal Territory; thence due south following the said Batawana Tribal boundary for a distance of approximately thirty-two miles to a beacon situated on the southern edge of a Molapo known as Gatgarra thence following the southern edge of the said Molapo in a south-easterly direction to its point of intersection with the western edge of the sand ridge known as Magwikwe; thence following the western edge of the said sand ridge in a southerly direction to its point of intersection with the parallel of south latitude 19° ; thence due east following the said parallel of south latitude to its point of intersection with the meridian $24^{\circ} 50'$ east; thence in a straight line in a north north-easterly direction to a beacon situated on the south side of the road from Ngwesumba to Nunga and marked "Chobe Game Reserve"; thence in a straight line in a north north-easterly direction to a beacon situated two and three quarter miles east of Tambiko Pan; thence due north to a beacon situated on the south side of the road from Lesuma to Ngwezumba and being three and one half miles east of the road turn-off of the motor road to Serondela from the said road, at Mandabuzi; thence in a straight line to the northern edge of the intersection of fire-breaks No. 17 and No. 8; thence northwards following the western edge of fire-break No. 8 for a distance of approximately four miles one thousand eight hundred feet to its point of intersection with fire-break No. 6; thence following the western edge of fire-break No. 6 in a north-westerly direction for a distance of approximately one mile one thousand seven hundred and sixty feet to its intersection with fire-break No. 7; thence north-westwards following the western edge of fire-break No. 7 for a distance of approximately one mile eight hundred and fifty-nine feet to its point of intersection with fire-break No. 2; thence northwards and north-eastwards following the western edge of fire-break No. 2 for a distance of approximately two miles two thousand eight hundred and forty-three feet to its point of intersection with the main road from Lesuma to Kasane; thence in a westerly and north-westerly direction following the southern edge of the said road from Lesuma to Kasane to its point of intersection with the boundary of the freehold property known as the Chobe River Hotel; thence in a south-westerly direction following the said Chobe River Hotel boundary to beacon

KH 3 being a beacon on the said boundary ; thence in a straight line south-westwards to beacon KH 8 being a beacon situated on the boundary of the leasehold property adjacent to the Chobe River Hotel; thence in a straight line north-westwards to beacon KH 7 being a beacon on the southern bank of the Chobe River situated approximately three hundred and twenty-five yards south-west of the Chobe River Hotel; thence in a straight line to the point of commencement.

Note: All bearings are measured on true North. Firebreaks are recorded on Forestry Dept. Map FD 1/9 filed with the Ministry of Agriculture."

Passed by the National Assembly this day, the 31st August, 1967.

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