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9.1 National Parks and Wildlife Act 1992

No. 11

National Parks and Wildlife

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(Published 15th May, 1992)

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I assent

H. Kamuzu Banda

LIFE PRESIDENT

4th May, 1992

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PART VI - PROTECTED SPECIES

42. The purpose of this Part is to provide the classification of species of wild plants and animals as protected species in order that those particular species of plants or animals are accorded appropriate management priority. Purpose of this Part

43. - (1) The Minister may, from time to time, on the recommendations of the Board, and by order published in the Gazette, declare any species of wild plant or wild animal specified in such order to be classified as a protected species under this Act. Declaration of protected species

(2) Any order made under subsection (1) may apply to an individual species throughout Malawi, or to all or some species in a specified area, or to varieties of a species including sex and age groups.

44. - (1) For the purposes of this Act, ^{Some} protected species of ^{wild} animals shall be classified as game species. Game species

(2) The Chief Parks and Wildlife Officer shall, after consultation with the Board, and not later than the tenth day of November each year, cause to be published in the Gazette a list of all species that are to be classified as game species under this Act during the following year, and such list shall take effect from the first day of January of the following year.

(3) The Chief Parks and Wildlife Officer, after consultation with the Board may, at any time, by notice published in the Gazette vary the list, in effect at that time, of game species.

45. Wild plants and animals other than protected species shall not be subject to the restrictions on hunting or taking under Part VII, but shall be subject to all other provisions of any other written law. Animals or plants which are not protected species

PART VII - LICENCES TO TAKE OR HUNT WILDLIFE

46. The purpose of this Part is to regulate the hunting and taking of wildlife resources. Purposes of Part VII

47. - (1) Except as otherwise provided by this Act, any person who hunts or takes protected species, except in accordance with the conditions of a licence issued pursuant to this Part shall be guilty of an offence: General prohibition against hunting or taking without a licence

Provided that any officer shall not be required to possess a licence while acting in the performance of his duties or in exercising his powers under this Act.

(2) In any proceedings for an offence against subsection (1) the onus of proving that the taking hunting or the was in accordance with a valid licence shall rest upon the accused.

- Classes of licences
48. - (1) For the purposes of this Act there shall be the following classes of licences-
- (a) a bird licence;
 - (b) a game licence;
 - (c) hunting licence;
 - (d) a special licence; and
 - (e) a visitor's licence.
- (2) The Minister may, on the recommendations of the Board and not later than the tenth day of December each year by notice published in the *Gazette*, prescribe ~~in respect of the forthcoming year-~~
- (a) the conditions attached to each class of licences;
 - (b) the numbers of each class of licences may be issued during the course of a year for specified areas;
 - (c) the methods by which each class of licences may be issued or offered for sale;
 - (d) the species, sorts or varieties, and the numbers or quantities of each class which may be hunted or taken under each class of licences;
 - (e) the methods of hunting or taking which may or may not be used;
 - (f) the areas and times of the year in or during which hunting or taking is lawful, and
 - (g) the fees payable in respect of each class of licences.
- (3) Licences under this Act shall be issued by the Chief Parks and Wildlife Officer, other officers subordinate to him as he may authorise in that behalf and such other persons as the Minister may by notice in the *Gazette* designate as persons also authorised to issue licences under this Act
- (4) Every licence under this Act shall be in the prescribed form and shall be issued upon application made in the prescribed form
- (5) No licence under this Act shall be issued to a person who has not attained the age of eighteen years
- licence not transferable
- 49 Except as otherwise provided by the Act, any licence issued under this Part shall not be transferable to any other person
- Bird licence
- 50 - (1) A bird licence shall authorise the licensee to hunt species of birds specified in the licence subject to and in accordance with the conditions prescribed generally for such class of licences or specially endorsed on his licence
- (2) Subject to section 52, a bird licence shall only be issued to citizens or residents ~~of Malawi~~ of Malawi
- Game licence
- 51 (1) Subject to the provisions of this Act and the conditions prescribed for such licence, a game licence shall authorise the licensee to hunt species in the licence subject to and in

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accordance with the conditions prescribed generally for such class of licences or specially endorsed on his licence.

(2) Subject to section 52, a game licence shall only be issued to citizens or residents of Malawi.

52. Notwithstanding sections 50 and 51, a visitor's licence shall only be issued to a visitor to Malawi on such conditions as the Minister may prescribe, and shall authorise the licensee to hunt birds or game. Visitors licence

53. A special licence shall be issued in respect of protected species and shall authorise the licensee to hunt or to take protected species specified therein subject to and in accordance with the conditions prescribed generally for such classes of licences specially endorsed on his licence and in every case shall be issued for the purpose of- Special licence

- (a) scientific research or the furtherance of scientific research relative to the species;
- (b) scientific or educational or other proper use of the species in zoological institutions, botanical gardens, educational institutions, museums, herbaria and like institutions.

54. A hunting licence shall authorise the licensee to hunt protected species in a specified national park or wildlife reserve and shall be issued only in connection with a professional hunter's licence and subject to and in accordance with the conditions prescribed generally for such class of licence or specially endorsed on his licence. Hunting licence

55. - (1) The Chief Parks and Wildlife Officer may refuse to issue a licence if- Grounds on which a licence may be refused

- a) the applicant fails to comply with any prescribed condition,
- b) any licence formerly held by the applicant under this Act has been revoked by the Chief Parks and Wildlife Officer within the previous twelve months,
- c) the applicant has been convicted of an offence under this Act during the previous twenty-four months,
- d) the Chief Parks and Wildlife Officer is satisfied on reasonable grounds that the applicant is not a fit or proper person to hold such licence, or
- e) the Chief Parks and Wildlife Officer is satisfied that the interests of wildlife management will be better served by a temporary freeze in issuing of licences of that class.

(2) The Chief Parks and Wildlife Officer shall, if requested by the applicant, notify the applicant in writing of any refusal under this section, and shall state his reasons therein

- Appeal to the Minister against refusal of issuance of licence
56. - (1) An applicant who has been refused a licence under section 55 may appeal to the Minister in writing within thirty days after the date of a notice given pursuant to section 57 (2) but the Minister may, on proper cause shown, allow an appeal out of the time prescribed.
- (2) The Minister shall be free to hear the views of the Chief Parks and Wildlife Officer in determining an appeal under this section and may uphold, vary or quash the decision of the Chief Parks and Wildlife Officer.
- (3) The decision of the Minister on determination of an appeal shall be final
- Cancellation of a licence
57. - (1) The Chief Parks and Wildlife Officer may revoke any licence issued to any person under this Part if he is reasonably satisfied of the existence of any ground that would entitle him under section 55 to refuse to issue a licence to that person
- (2) The Chief Parks and Wildlife Officer shall notify the licensee in writing of any cancellation under this section and shall state his reasons in writing
- Appeal to the Minister upon cancellation of a licence
58. - (1) Any licensee whose licence is cancelled under section 57 may appeal to the Minister in writing within thirty days after the date of a notice given pursuant to section 59 (2) but the Minister may on proper cause shown, allow an appeal out of the time prescribed
- (2) The Minister shall be free to hear the views of the Chief Parks and Wildlife Officer in determining an appeal under this section and may uphold, vary or quash the decision of the Chief Parks and Wildlife Officer.
- (3) The decision of the Minister on determination of an appeal shall be final
- Cancellation or suspension of a licence
59. - (1) The Minister may, on the advice of the Board or the Chief Parks and Wildlife Officer, suspend or cancel any licence issued under this Part, either in its entirety or in respect of specified areas, periods, species, or sorts or varieties of species, if the interests of wildlife management so require
- (2) Upon suspension or cancellation of any licence under subsection (1), the Chief Parks and Wildlife Officer shall notify the licensee thereunder either-
- (a) in the case of an individual licensee, by written notice to him, or
- (b) in the case of a general suspension or cancellation, by publishing notices in the *Gazette* and in two consecutive issues of the daily newspaper
- (3) A notice issued under subsection (2) in respect of cancellation may request surrender of licences to the Chief Parks and Wildlife Officer

(4) A licensee under any licence suspended or cancelled under subsection (1) may appeal to the Minister in writing within thirty days after the date of a notice given under subsection (2) (a), or thirty days after publication of a notice in the Gazette made under subsection (2) (b).

(5) In determining such appeal, the Minister shall be free to hear the views of the Board or the Chief Parks and Wildlife Officer.

(6) The decision of the Minister on determination of appeal shall be final.

60. - (1) Every licensee under this Part shall -

- (a) have the licence in his possession whenever he is hunting or taking any animal or plant;
- (b) produce the licence for inspection by an officer or police officer upon request; and
- (c) keep a true record, in the prescribed form, of all game species hunted or taken by him during validity of the licence.

Inspection of a licence and the keeping of records

(2) Any person who contravenes this section shall be guilty of an offence

61 In the case of animals -

- (a) in computing the numbers or quantities of protected species hunted or taken under a licence issued pursuant to this Part, only animals that are killed, wounded, captured or taken shall be counted.
- (b) if any protected species is killed or wounded through accident or error by any licensee under this Part whose licence entitles him to hunt such animal shall be counted as having been hunted under such licence.

Method of computing numbers or quantities of animal hunted or taken

62.- (1) Any licensee under this Part may employ or use another person to assist him as a guide, tracker or porter in hunting protected species Guides trackers porters

(2) Any person employed under subsection (1), not being himself a licensee, who chases, drives or employs any weapon against any protected species shall be guilty of an offence

(3) Nothing in this section shall be construed as preventing the holder of a professional hunter's licence issued under section 92 from assisting his employer

PART VIII- METHODS OF HUNTING AND TAKING, AND RESPONSIBILITIES OF HUNTERS

63 The purpose of this Part is to regulate methods of hunting and taking of animals and with a view to ensuring that wildlife resources are better managed and the opportunity to hunt made available to as many eligible persons as possible.

Purposes of this part

Prohibition of use of fires for hunting	<p>64. - (1) Subject to subsection (2), any person who, for the purpose of hunting, taking or assisting another to hunt or take, any wild animal or plant, causes any fire shall be guilty of an offence.</p> <p>(2) The provisions of subsection (1) shall not apply to an owner of private land and any person acting on the authority of an owner of private land causing fire upon his own land:</p> <p>Provided that nothing in this subsection shall be construed as (a) entitling the owner of the private land held under lease; or (b) absolving the owner of the private land or any person acting on his authority from any offence or other forms of liability under this Act or any other Act or law arising from the spread of fire or the movement of any animal to adjoining land or lands.</p>
Prohibition of hunting of dependent young	<p>65. Except as may be authorised under a special licence issued pursuant to section 57 or as permitted under the provisions of Part IX, any person who hunts any dependent young or any female accompanied by dependent young of any protected species shall be guilty of an offence.</p>
Prohibited acts against killing protected species, etc	<p>66. - (1) Except as may be authorised by the conditions contained in any licence issued under this Act, any person who -</p> <p>(a) for the purpose of or in connection with hunting or taking of protected species, possesses, prepares, makes, buys, sells or uses any poison, birdlime, trap, net, snare or similar substance or device capable of killing, capturing or wounding, any protected species</p> <p>(b) makes, prepares or uses any excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding, any protected species, shall be guilty of an offence.</p> <p>(2) The onus of proving that an act under this section was done lawfully shall lie on the accused person.</p>
Regulation for weapons to be used in hunting	<p>67. - (1) The Minister may from time to time, on the recommendations of the Board or the Chief Parks and Wildlife Officer, make regulations specifying the types, sizes and calibres of weapons which may lawfully be used for hunting any protected species.</p> <p>(2) A person who contravenes the provision of any regulation made under this section shall be guilty of an offence.</p>
Prohibition of hunting during hours of darkness	<p>68. Except as may be authorised by the conditions contained in any licence issued under Part VII, any person who, during the hours of darkness, hunts or assists in the hunting of any protected species shall be guilty of an offence.</p>
Hunting by traditional methods	<p>69. Subject to regulations made by the Minister under this Act or any other written law, nothing in this Act shall be construed to prohibit the hunting of animals by traditional methods in places other than protected areas.</p>

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70.-(1) Except as provided by subsection (2) or as may be authorised by the conditions contained in any licence under this Act, any person who-

use of motor vehicle aircraft or radio communication prohibited

(a) discharges any weapon at any protected species from or within fifty metres of any motor vehicle, aircraft, or boat:

(b) uses any aircraft or radio communication system to locate any protected species for the purpose of hunting it, shall be guilty of an offence.

(2) Nothing in subsection (1) shall prohibit the use of a motor vehicle, aircraft or boat for the purpose of driving off any wild animal from the land or water upon which an aircraft is about to land or take off.

71.-(1) The Minister may from time to time, on the recommendations of the ~~Board~~, make regulations-

Regulations for use of domestic animals in hunting

(a) prohibiting the use of any domestic animals as an aid to hunting any protected species; or

(b) specifying the conditions under which any domestic animal may be used to hunt any protected species.

(2) Any person who contravenes the provisions of any regulation made under this section shall be guilty of an offence.

72.-(1) The Minister may from time to time, on the recommendations of the ~~Board~~, make regulations-

Regulations for use of substances or hunting

(a) prohibiting or controlling the use of baits, decoys, calling devices, devices in hides, blinds, stands, or any other substances or devices to bring protected species into closer range of hunters;

(b) Specifying the conditions under which any substance or device may be used to hunt any protected species;

(c) prohibiting or controlling hunting in the vicinity of salt licks, water holes or isolated watering places used by wild animals: or

(2) Any person who contravenes the provisions of any regulation made under this section shall be guilty of an offence.

PART IX - HUNTING DANGEROUS ANIMALS, KILLING IN ERROR, WOUNDING AND MOLESTING ANIMALS

73. The purposes of this Part are-

Purposes of this part

(a) to authorise the killing without licence of protected animals under circumstances where human life or property is threatened by the animals which circumstances are defined in section 79 and 80;

(b) to make provision with respect to the killing or wounding of protected animals through error or accident;

(c) to provide for subsequent action to the wounding of a dangerous animal; and

(d) to prohibit molesting or ill-treating wild animals.

Killing a protected animal in self-defence

74. - (1) Any person may kill or attempt to kill any protected animal in defence of himself or of another person or any property, crop or domestic animal if immediately and absolutely necessary.

Provided that nothing in this section shall absolve from liability of an offence under this Act, any person who at the time of attempted killing was committing any offence under this Act.

Killing a game animal in defence property

75. Any person may attempt to kill or kill any game animal which is causing material damage to any land, crop, domestic animal, building, equipment or other property of which the person is either the owner or the servant of the owner acting on his behalf in of safeguarding the property.

Ownership of carcass not transferable

76. - (1) Except as otherwise provided by this Act, or by the conditions of any licence issued under Part VI, the killing of any protected animal under section 74 or 75 shall not be deemed to transfer ownership of the carcass thereof to any person.

(2) Any person who kills a protected animal under section 74 or section 75 shall, as soon as practicable, report the facts to any officer and shall, unless otherwise entitled to retain the same under the conditions of any licence issued under Part VII, hand over the carcass or such parts thereof as the officer may direct.

(3) Any person who contravenes this section shall be guilty of an offence.

Reports to be made to an officer where protected animals cause damage to property

77. - (1) Subject to this Act, any person having reason to believe that any protected animal is causing or is about to cause material damage to any land, crop, domestic animal, building, equipment or other property may report the facts to an officer.

(2) An officer who receives a report pursuant to subsection (1) shall, as soon as practicable, assess the extent of the threat posed by the said animal and take any necessary action he considers fit in the circumstances.

(3) In deciding what action should be taken to minimise damage to property caused by a protected animal, an officer shall carefully consider the status of the species and if he decides to kill or attempts to kill the animal, he shall do so only as a last resort and if only he has reasonable ground for believing that this course of action will not endanger survival of the species.

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78.-(1) If any person kills any protected animal through accident or error he shall, as soon thereafter as may be practicable, report the facts to an officer and shall hand over the carcass or such parts thereof as the officer may direct.

Reports to be made where a protected animal is killed through error or by accident

(2) Nothing in subsection (1) shall apply to any person if such person is entitled under any licence issued under Part VII to hunt a protected or game animal of that species and sort, in the circumstances under which he killed such animal and no offence under this Act shall have been committed in relation to the killing of such animal.

(3) Any person who contravenes this section shall be guilty of an offence.

79.-(1) Any person who in any circumstances wounds any protected animal and fails without reasonable cause to use all reasonable endeavour to kill such animal at the earliest opportunity, shall be guilty of an offence

Wounded protected animals

(2) Subsection (1) shall not be construed as authorising any person to follow any wounded animal-

(a) into a national park or wildlife reserve, unless the person holds a licence authorising him to hunt the animal in the national park or wildlife reserve; or

(b) onto private land upon which the person has no permission to enter

(3) Any person who believes that he has wounded any protected animal which in such wounded condition has entered a national park or wildlife reserve shall immediately report the facts to an officer who shall as he sees fit, decide whether or not the animal should be killed and shall issue instructions accordingly.

(4) Any person who believes that he has wounded any protected or game animal which in such wounded condition has entered private land upon which he has no permission to enter shall, immediately report the facts to the owner of the land.

(5) An owner of land who receives a report pursuant to subsection (1) shall decide whether or not the person making the report is to be permitted to enter his land for the purpose of hunting the animal, and the landowner's decision in this regard shall be final

(6) Any person who contravenes this section shall be guilty of an offence.

80.-(1) Any person who, in any circumstances whatsoever, wounds any dangerous animal and fails to kill or capture it within 24 hours after its wounding shall, immediately report the facts to an officer.

Wounded dangerous animal

(2) Any officer who receives a report pursuant to subsection (1) shall take immediate steps to locate the wounded animal, assess its condition and decide, as he sees fit, whether or not to kill it and shall either carry out the act himself or give instructions accordingly.

Provided that if the animal enters a national park or wildlife reserve provisions of subsections (2) or (3) of section 79, as the case may be, shall apply.

(3) The provisions of section 79 (1) in respect to private land shall not apply to a person entering such land in pursuit of a dangerous animal wounded by him

Provided that he reports the facts to the owner of the land as soon as practicable.

(4) Any person who contravenes this section shall be guilty of an offence.

Dangerous
animal
posing threat
to human
life or
property

81.- (1) If any dangerous animal is believed to be threatening or about to threaten human life or property, any person may request any officer for assistance in minimising or preventing the threat.

(2) Where an officer receives a request pursuant to subsection (1) he shall, as soon as practicable, take steps to minimise or prevent the threat, and such steps may include the killing of the animal:

Provided that if the animal is a protected animal the killing shall only be undertaken subject to section 74 or 75.

Molesting or
provoking
animals
prohibited

82. Any person who wilfully and without just excuse or cause -

(a) molests or provokes any protected or game animal in a manner which results or is likely to result in its destruction: or

(b) molests or provokes any wild animal in a manner which results or is likely to result in the provocation, harassment or destruction of any protected or game animal, shall be guilty of an offence.

Protection of
wild animals

83. A person who causes unnecessary or undue suffering to any wild animal, whether the animal lives in the wild or is being kept in captivity, shall be guilty of an offence.

Use of
repellent
substances or
devices

84. Nothing in this Part shall be construed as prohibiting the use of repellent substances or devices which are not capable of killing or injuring any protected or game animal by a property owner or his servant for the purpose of repelling any wild animal from his property.

PART X - COMMERCE RELATED TO WILDLIFE

Purpose of
this Part

85. The purpose of this Part is to regulate commerce in wildlife and its specimens with the goal of better safeguarding the resource.

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86.-(1) Except as otherwise provided by subsection (2), any person who possesses buys or sells, or who attempts to possess, buy or sell any specimen of a protected species shall be guilty of an offence.

Prohibition of possession, sale and buying, of protected species

(2) The provisions of subsection (1) shall not apply to possession of any specimen lawfully acquired under a licence issued under Part VII, by a person who is in possession of a valid certificate of ownership issued pursuant to section 88 (3).

87.-(1) The Minister may from time to time, on the recommendation of the Board make regulations providing for-

Regulations for controlling trade or dealings in protected animals

(a) the control of trade in live animals of such species as the Minister shall prescribe in the regulations and the control of trade in the carcasses, meat and skins of such animals;

(b) the control of industry engaged in the manufacturing of articles derived from protected animals;

(c) the control of the taxidermy industry;

(d) the issue of permits to persons engaged in the foregoing occupations, and for prescribing fees payable for such permits.

(2) Any person who contravenes any regulation made under this section shall be guilty of an offence.

88.-(1) Any person who, under a licence issued under Part VII, takes possession of a specimen for human consumption shall within fourteen days, present the specimen together with his licence to the Chief Parks and Wildlife Officer and if he wishes to retain the specimen he may apply in writing or in the prescribed form, if any, to the Chief Parks and Wildlife Officer for a certificate of ownership in respect thereof.

Certificate of ownership

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) Where the Chief Parks and Wildlife Officer is satisfied that an applicant under subsection (1) is in lawful possession of any specimen, he may issue a certificate of ownership which shall be in the prescribed form.

(4) Where the Chief Parks and Wildlife Officer is satisfied that a certificate of ownership under subsection (3) has been issued through fraud, misrepresentation or error, he may revoke the certificate and the person to whom the certificate was issued shall forthwith upon demand by the Chief Parks and Wildlife Officer surrender the certificate to him for cancellation and a person who, without valid reason, fails so to surrender the certificate shall be guilty of an offence.

(5) Any person aggrieved by the cancellation of a certificate of ownership pursuant to subsection (4) may, within thirty days of its cancellation, appeal in writing to the Minister.

(6) In determining an appeal under subsection (5), the Minister may hear the views of the Chief Parks and Wildlife Officer, or instruct him to reissue the certificate of ownership.

(7) The decision of the Minister on the determination of an appeal shall be final.

Transfer of
ownership of
specimen

89.- (1) Any person who transfers or purports to transfer ownership of any specimen of a prescribed species, whether by gift, sale or otherwise shall at the time of the transfer, or the purported transfer be in possession of a certificate of ownership in respect of the specimen.

(2) Upon the transfer of any specimen, the transferor shall surrender the certificate to the Chief Parks and Wildlife Officer who shall thereupon issue a new certificate to the new owner but the Chief Parks and Wildlife Officer shall retain the certificate surrendered to him.

(3) Any person who receives by transfer the ownership of any specimen of a prescribed species shall, at the time of the transfer, obtain from the transferor in respect of the specimen a certificate of ownership endorsed pursuant to subsection (2).

(4) Any person who contravenes this section shall be guilty of an offence.

(5) Nothing in this section shall apply to any transfer of ownership occasioned by operation of law.

Government
trophy

90.- (1) Any specimen of any protected species the absolute ownership of which has not passed to any person under the provisions of this Act, shall be a government trophy for the purposes of this Act.

(2) Any person who obtains any government trophy by any means shall, as soon thereafter as may be practicable, report the facts to an officer and, if required, shall deliver up the trophy to the officer.

(3) Any person who contravenes subsection (2) shall be guilty of an offence.

(4) Any specimens so received or collected by an officer pursuant to section (2) shall be delivered by him to the Chief Parks and Wildlife Officer and all specimens received by the Chief Parks and Wildlife Officer shall be subject to the provisions of Part XIII

Dealings in
government
trophy

91.- (1) Any person who unlawfully possesses or who purports to buy, sell, or otherwise transfer or deal in any government trophy shall be guilty of an offence.

(2) Except as otherwise provided by section 90, possession by any person of a specimen of a protected species without a certificate of ownership shall, for the purposes of this section, be *prima facie* evidence of the specimen being a government trophy and of unlawful possession thereof by such person.

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92.-(1) For the purposes of this Act, there shall be a professional hunter's licence which shall authorise the licensee to conduct business as a professional hunter and to solicit clientele. Professional hunter's licence

(2) Upon application in the prescribed form, the Chief Parks and Wildlife Officer may, on the recommendations of the Board and with prior approval of the Minister, issue a professional hunter's licence subject to such conditions as may be prescribed and upon payment of the prescribed fee.

(3) A professional hunter's licence shall not absolve the licensee from compliance with any other written law that may relate to his business.

(4) A professional hunter's licence shall, unless sooner revoked or cancelled, be valid for the period endorsed on the licence which period shall in no case be longer than twelve months.

93. A person who is not a licensee under a valid professional hunter's licence who-

(a) conducts business as a professional hunter;

(b) advertises himself as a professional hunter;

(c) solicits any contract or commission under which or for which he is to act in the capacity of a professional hunter; or

(d) for gain or reward, assists any other person to hunt any protected game animal except as a guide, tracker, porter or in some other like capacity.

shall be guilty of an offence. Certain prohibited acts by non-professional hunters

94.-(1) The Chief Parks and Wildlife Officer may, on the recommendation of the Board and with the approval of the Minister, cancel professional hunter's licence if the licensee-

(a) is convicted of an offence under this Act;

(b) fails to comply with any condition of the licence; or

(c) is not, in the opinion of the Chief Parks and Wildlife Officer conducting the business of a professional hunter in a fit and proper manner and the Chief Parks and Wildlife Officer shall forthwith suspend such professional hunter's licence pending consideration of its cancellation under this subsection. Suspension or cancellation of a professional hunter's licence

(2) The Chief Parks and Wildlife Officer shall notify the licensee in writing of any decision to suspend or cancel as the case may be, the professional hunter's licence and shall state the reasons for the decision.

(3) A licensee whose licence is cancelled under this section may appeal to the Minister in writing within thirty days after the date of the notice of cancellation given under subsection (2).

(4) In determining any appeal under subsection (3), the Minister may hear the views of the Board and the Chief Parks and Wildlife Officer and may uphold the cancellation or may instruct the Board and the Chief Parks and Wildlife Officer to reinstate the validity of the licence.

(5) The decision of the Minister on the determination of the appeal shall be final.

Restrictions on the professional hunter's licence 95 A professional hunter's licence shall not authorise the licensee to hunt any protected or game animal except as may be necessary in defence of human life or property as provided by sections 74 and 75, or to prevent the escape of an animal wounded by his client, that client being himself a licensee under a licence valid for that animal.

PART XI - IMPORT, EXPORT AND RE-EXPORT OF SPECIMENS OF PROTECTED SPECIES AND LISTED SPECIES

Purpose of this Part 96. The purpose of this Part is to control the import and export of wildlife specimens in order to-

(a) assist in managing the wildlife resources of Malawi; and

(b) assist conservation efforts that may be subject to international, regional or bilateral agreement to which Malawi or the Government is a party

Import, export or re-export permits 97. The Chief Parks and Wildlife Officer may issue to any person a permit in the prescribed form, to import or to export or to re-export any specimen of a protected species or listed species.

Provided that, in the case of a protected species, the Chief Parks and Wildlife Officer shall first require the person to produce a valid certificate of ownership in respect thereof and in the case of a listed species to produce evidence of compliance with the requirements of regulations made pursuant to section 99, or the requirements of this Act or of any other regulations made under this Act.

Importation, exportation to meet customs laws 98. Any person who imports, exports or re-exports or attempts to import or export any specimen of a protected species or a listed species-

(a) except through a customs post or port: or

(b) without producing to a customs officer a valid permit to import, to export or to re-export the specimen, shall be guilty of an offence.

Additional restrictions on imports, exports or re-export of specimens 99.-(1) The Minister may, after consulting the Minister responsible for Trade and Industry, make regulations imposing additional restrictions on imports, exports or re-exports of specimens of a protected species or listed species and for the purposes of such regulations the Minister may incorporate the requirements under any international, regional or bilateral agreement to which Malawi or the Government is a party.

(2) Any person who contravenes regulations made under subsection (1) shall be guilty of an offence.

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PART XII - NATIONAL PARKS AND WILDLIFE FUND

100.-(1) There is hereby established a fund to be known as the National Parks and Wildlife Fund (in this Act referred to as the "Fund").

Establishment
of the Fund

(2) The Fund shall consist of -

(a) such sums as shall be appropriated by Parliament for the purposes of the Fund;

(b) advances made to the Fund under section 102;

(c) such sums as may be received for the purposes of the Fund by way of voluntary contributions;

(d) payments made into the Fund under section 119; and

(e) such sums or other assets as may be donated for the purposes of the Fund by any foreign government, international agency or foreign institution or body

101. The Fund shall be vested in the Minister and subject to this Act, shall be administered in accordance with his directions subject to the provisions of the Finance and Audit Act.

The Fund to
vest in the
Minister
Cap. 37:01

102. If in any financial year the income of the Fund together with any surplus income brought forward from a previous year, is insufficient to meet the actual or estimated liabilities of the Fund, the Minister responsible for finance may make the advances to the Fund in order to meet the deficiency or any part thereof and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Minister responsible for finance may determine.

Advances to
the Fund

103. The objects for which the Fund is established shall be the development, promotion, management and administration of the national parks and wildlife reserves in Malawi.

Objects of
the Fund

104. Without derogation from the generality of section 103, the Fund, may be applied to -

Application
of the Fund

(a) research and training which is calculated to promote proper management of national parks and wildlife reserves;

(b) the acquisition of land, equipment, materials and other assets and the construction of buildings in order to promote the objects of the Fund;

(c) the cost of any scheme which the Minister considers to be in the interest of the management of national parks and wildlife;

(d) meeting any expenses arising from the establishment and maintenance of the Fund; and

(e) any purpose which the Minister considers to be in the interest of the objects of the Fund.

105.-(1) The Minister shall cause to be kept proper books and other records of account in respect of receipts and expenditures of the Fund in accordance with the provision of the Finance and Audit Act.

Books and other
records of
account, Audit
and reports of
the Fund
Cap. 37:01

- Cap. 37:01 (2) The accounts of the Fund shall be audited by the Auditor General, who shall have all the powers conferred upon him by the Finance and Audit Act.
- (3) The Minister shall cause to be prepared, as soon as practicable, but not later than six months after the end of the financial year, an annual report on all the financial transactions of the Fund.
- (4) The report under subsection (3) shall include a balance sheet, an income and expenditure account and the annual report of the Auditor General and shall be laid by the Minister before the National Assembly.
- Holdings of the Fund 106.-(1) All sums received for the purposes of the Fund shall be paid into a banking account and no amount shall be withdrawn therefrom except by means of cheques signed by such persons as are authorised in that behalf by the Minister.
- (2) Any part of the Fund not immediately required for the purposes of the Fund may, on the recommendation of the Board, be invested in such manner as the Minister, after consulting with the minister responsible for finance, may determine.
- Financial year 107. The Financial year of the Fund shall be the period of twelve months ending on the 31st March in each year:
- Provided that the first financial year of the Fund may be a period shorter or longer than twelve months as the Minister shall determine, but in any case not longer than eighteen months.
- PART XIII - PENALTIES AND FORFEITURES**
- General penalty 108. Subject to the provisions of this Act, a person who is convicted of an offence under this Act for which no other penalty is provided shall -
- (a) In the case of a first offence, be liable to a fine of not less than ⁵⁰⁰⁰ K200 but not more than ¹⁰⁰⁰⁰ K500 and to imprisonment for a term of ^{2 yrs.} three months;
- (b) in the case of a second or subsequent offence, to a fine of not less than ¹⁰⁰⁰⁰ K500 but not more than ²⁰⁰⁰⁰ K1,000, and to imprisonment for a term of six ^{4 yrs} months.
- Offences relating to game species 109. Any person who is convicted of an offence involving -
- (a) taking, hunting, molesting or reducing into possession any game species; or
- (b) possession of, selling, buying, transferring, or receiving in transfer any specimen of game species, shall -
- (i) in the case of an offence committed in a protected area, be liable to a fine of not less than K800 but not more than K2,000 and to imprisonment for a term of one year;
- (ii) in the case of an offence committed in an area other than a protected area, be liable to a fine of not less than

K50 but not more than K2,000 and to imprisonment for a term of one year.

110. Any person who is convicted of an offence involving -
- (a) taking, hunting, molesting, or reducing into possession any protected species other than game species; or
 - (b) possession of, selling, buying, transferring or accepting in transfer any specimen of protected species other than game species;
 - (c) contravention of provision of this Act which provides for the conduct of a licensee under a professional hunter's licence; or
 - (d) contravention of sections 32, 33 and 35 of this Act, shall be liable to a fine of K10,000 and to imprisonment for a term of 5 years, and in any case the fine shall not be less than the value of the specimen involved in the commission of the offence.

50,000
10y.

50,000
10y.

111. Any person who is convicted of an offence under section 98 or under regulations made pursuant to section 99 shall be liable to a fine of K10,000 and to imprisonment for a term of 5 years, and in any case the fine shall not be less than the value of the specimen involved in the commission of the offence.

112. If any person is convicted of an offence under this Act in respect of any excavation, fence, enclosure or any other device fixed in or on the ground or upon vegetation, which the person has made, used or had in his possession for the purpose of hunting in contravention of this Act, the court shall, in addition to any other penalty imposed, order the device to be destroyed or obliterated in such manner as the court may specify, and any expenditure incurred, if any, shall be recoverable from the person as a civil debt owed to the Government.

113.-(1) Upon the conviction of any person of an offence under this Act where it considers forfeiture to be necessary, the court shall, notwithstanding any other written law and subject to the provisions of section 108 and in addition to any other penalty imposed, declare any specimen, domestic animal or any firearm or other weapon, trap, net, poison, material or any motor vehicle, aircraft, boat, or any other article taken by or used in connection with the commission of the offence to be forfeited to the Government.

(2) Upon the conviction of any person of an offence referred to in section 99, the court may, in addition to any other penalty imposed, declare any specimen, domestic animal or article as specified under subsection (1) to be forfeited to the Government.

(3) The disposal of any specimen, domestic animal or article forfeited to the Government under this section shall be subject to the provisions of Part XIV.

Conditional
order of
forfeiture

114.-(1) When a court is required under subsections 115 (1) and (2) to make a declaration of forfeiture in respect of any article the ownership of which requires registration under any written law, the court shall make a conditional order of forfeiture in the prescribed form.

(2) Upon the making of a conditional order of forfeiture pursuant to subsection (1), the Chief Parks and Wildlife Officer shall, within thirty days thereafter, cause to be published in the *Gazette* and in two consecutive issues of a local newspaper in general circulation, a notice of the order.

(3) If ownership of the article is registered in the name of any person other than the convicted party, the Chief Parks and Wildlife Officer shall, within seven days after publication of the notice in the *Gazette* cause a copy thereof to be sent to the person concerned

(4) Any person who wishes to claim right of ownership in the article may, within sixty days of the last publication of the conditional order, lodge with the court a written application for discharging of the order, setting out his claim of ownership in the article.

(5) Upon an application made under subsection (4), the court shall set a date for a hearing of the application and serve notice of the hearing on the applicant and on the Government.

(6) In any hearing of any application made under subsection (4), the burden of proof shall be upon the applicant, and the conditional order shall not be discharged unless the applicant proves, that he was not privy to the offence and that the article was, at the time that the offence was committed, being used for that purpose without his knowledge or consent.

(7) If any application made under subsection (4) fails to win discharge of a conditional order, the court shall declare the article finally forfeited to the Government.

(8) Where upon any application made under subsection (4), a court is satisfied that an article is owned jointly by, or is the subject of a rental agreement between the applicant and the convicted person, and the applicant has discharged the burden of proof in accordance with subsection (6), the court shall declare forfeited all of the estate, interest or rights of the convicted person therein, and shall order them to be disposed of as it deems fit.

(9) Any right of any claimant under any rental agreement to repossess any article which is subject to a conditional order of forfeiture made under subsection (1) shall be suspended pending determination of any application made under subsection (4)

115.-(1) If any article the ownership of which requires registration under any written law is seized as a result of an offence under this Act and the person responsible is unknown and cannot be found for the purpose of charging him with the offence or having been charged, fails to appear to answer the charge, the Chief Parks and Wildlife Officer may apply to the court for a declaration of forfeiture

seized goods may be subject of forfeiture order

(2) Upon receipt of an application from the Chief Parks and Wildlife Officer under subsection (1), the court shall make a conditional order of forfeiture in the prescribed form and the provisions of subsections (2) to (9) of section 114 shall apply.

116. If any licensee under any licence or the holder of any licence or the holder of any permit or certificate issued under this Act which involves the licence, permit or certificate, the court shall, in addition to any other penalty imposed, order the person to surrender it forthwith to the Chief Parks and Wildlife Officer to be dealt with by him in accordance with the provisions of this Act.

Surrender of licence, permit and certificate in event of conviction

PART XIV - DISPOSAL OF GOVERNMENT TROPHIES, FORFEITED SPECIMENS, DOMESTIC ANIMALS AND OTHER ARTICLES

117. Where the Chief Parks and Wildlife Officer take possession of any government trophy or any confiscated specimen, domestic animal, or article, he shall cause receipt thereof to be recorded in the prescribed register and shall safeguard it until such time as it may be disposed of in accordance with the provisions of section 118 and shall be recorded by the Chief Parks and Wildlife Officer in the prescribed register.

Disposal of specimens by the Chief Parks and Wildlife Officer

118.-(1) Where the Chief Parks and Wildlife Officer takes possession of a dead specimen of a protected species he shall at his discretion either -

Disposal of dead or live specimens, of protected species or listed species

(a) destroy the specimen;

(b) donate the specimen, without requiring payment, to a recognised scientific or educational institution,

(c) sell it in whole or in parts; or

(d) retain the specimen in his official custody either permanently or pending disposal in accordance with paragraphs (a) or (b) or (c) of this subsection.

(2) Where the Chief Parks and Wildlife Officer takes possession of a live specimen of any protected species or of any listed species and such specimen is, in his opinion, capable of normal survival in its natural habitat, he shall cause the said specimen to be returned to the said habitat:

Provided that if the specimen, in the opinion of Chief Parks and Wildlife Officer, requires to be withheld temporarily from the wild for the purpose of better ensuring its eventual survival, the Chief Parks and Wildlife Officer may direct that the specimen be so withheld.

(3) Where the Chief Parks and Wildlife Officer, takes possession of any live specimen of any protected species other than game species or listed species and such specimen is, in his opinion, permanently incapable of normal survival in its natural habitat he may -

(a) donate the specimen, without requiring payment, to a recognised zoological botanical, scientific or educational institution; or

(b) retain the specimen in his official custody either permanently or pending disposal in accordance with paragraph (a).

(4) Where the Chief Parks and Wildlife Officer takes possession of -

(a) any live game animal which is, in his opinion, incapable of normal survival in its natural habitat.

(b) the meat of any game animal; or

(c) any live domestic animal,

he shall dispose of the animal or meat as he considers fit:

Provided that if disposal is by sale, any sums received shall be payable in accordance with the provisions of Part XII.

Money from
sale of
specimen
to be paid
into the Fund

119. Whenever the disposal of specimens or articles under this section is by sale, all monies realised shall be payable only to a Fund established under this Act.

Specimens or
articles to be
held by Chief
Parks and
Wildlife Officer

120. Any specimen, domestic animal or article held in the custody of the Chief Parks and Wildlife Officer under this Act shall be held by him solely in his official capacity, and nothing in this Act shall be construed as giving the person holding the office of Chief Parks and Wildlife Officer any private right of ownership over any specimen, domestic animal or article.

PART XV - MISCELLANEOUS

General
indemnity

121.-(1) No action shall lie against the Government for the recovery of any damage caused to any person or property by any animal in a national park or wildlife reserve

(2) The Chief Parks and Wildlife Officer or any other officer shall not be held liable in damages or otherwise to any person by reason of his exercise or non-exercise in good faith of the powers vested in him under this Act.

Implementation
of agreements

122. The Minister may, by an order published in the *Gazette*, specify the measures for the proper implementation of relevant provisions of any convention on national park or wildlife management to which Malawi or the Government is a party.

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National Parks and Wildlife

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123. The Minister may make regulations for carrying this Act into effect and, without prejudiced to the generality of the foregoing power, such regulations may-

Regulation

- (a) provide for returns to be furnished to the Minister or the Chief Parks and Wildlife Officer by holders of licences, permits, certificates or records issued or maintained under this Act;
- (b) prescribe forms to be used under this Act.
- (c) prescribe for the remission in special cases of any fees payable under this act;
- (d) provide for the remission in special cases of any fees payable under this Act;
- (e) provide for the furtherance of public knowledge concerning the management of wildlife by such means as may be considered appropriate; and
- (f) provide for the furtherance of public knowledge concerning the management of wildlife by such means as may be considered appropriate; and
- (g) provide anything required to be prescribed under this Act.

PART XVI - REPEAL AND SAVINGS

124. -(1) The following Acts are hereby repealed -

Repeal and savings

- (a) the Game Act; Cap. 66:03
- (b) Wild Birds Protection Act; Cap. 66:04
- (c) Crocodiles Act : and Cap. 66: 06
- (d) National Parks Act. Cap. 66:07

(2) Any subsidiary legislation made under the Acts repealed by subsection (1) in force immediately before the commencement of this Act-

(a) shall, unless in conflict with this Act continue in force and be deemed to be subsidiary legislation made under this Act:

(b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

(3) Any subsidiary agreement or similar arrangement made pursuant to the provisions of the Acts repealed by subsection (1) shall continue in force until terminated in accordance with terms and conditions thereof

Passed in Parliament this fifteenth day of April, one thousand, nine hundred and ninety-two.

R L GONDWE
Clerk of Parliament



9th December, 1994

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MALAWI GOVERNMENT

Form 13

REGISTER OF GOVERNMENT TROPHIES OR CONFISCATED SPECIMENS, DOMESTIC ANIMALS OR ARTICLES

(under section 117)

Item	Date	Received	Source	Remarks

Signature
of Officer
Receiving

*In the case of items forfeited to the Government under section 113, Case Number.

*Remarks to include date and mode of disposal of the item(s).

Made this 30th day of March, 1994.

(FILE NO. 48/3/1/VOL. 2)

M. M. MWAKIKUNGA
*Minister of Forestry and
Natural Resources*

GOVERNMENT NOTICE No. 89

NATIONAL PARKS AND WILDLIFE ACT

(No. 11 of 1992)

NATIONAL PARKS AND WILDLIFE (PROTECTED SPECIES)
(DECLARATION) ORDER, 1994

IN EXERCISE of the powers conferred by section 43 of the National Parks and Wildlife Act, I, MFUNJO MWANJASI MWAKIKUNGA, Minister of Forestry and Natural Resources, acting on the recommendation of the Wildlife Research and Management Board, make the following Order—

1. This Order may be cited as the National Parks and Wildlife (Protected Species) (Declaration) Order, 1994.
2. The species of wild plants and wild animals specified in the Schedule are hereby declared to be protected species for the purposes of the Act.

SCHEDULE

para. 2

PROTECTED SPECIES

PART I—PROTECTED SPECIES OF WILD PLANTS

A. Plants

- (1) Any plant whatsoever in a national park or wildlife reserve; and

(2) Botanical name	Vernacular Name
<i>Adina microcephala</i>	Mwenya, Chonga, Mgwenya, Mung'ona, Mwina, Mungwira
<i>Azelia quanzensis</i>	Mkongomwa, Msokosa, Mangaliondo, Msambamfumu, Mkongwa, Chifuuda, Ipapa, Mpapa, Mpapandende
<i>Borassus aethiopum</i>	Mvumo, Mdikwa
<i>Bridelia micrantha</i>	Makoma, Mulala, Msopa, Chisopa, Mpasa, Mlewezi, Msongamino, Mwisya
<i>Burkea africana</i>	Mkalati, Kalinguti, Kawidzi, Kawidzu, Nakapanga
<i>Colophospermum</i>	Tsanya, Sanya
<i>Mopane</i>	Ntsano, Mopani, Mpani
<i>Cordyla africana</i>	Mtondo
<i>Hyphaene Crinita</i>	Mgwalangwa, Mkomakoma, Makoma, Mulala
<i>Khaya Nyasica</i>	Mbawa, Muwawa, Bulamwiko
<i>Pterocarpus angolensis</i>	Mlombwa, Mtumbati, Mbira, Nawazi
<i>Terminalia Sericea</i>	Naphini, Nyapini, Mpini, Nalinsi, Mkondoni, Mpululu, Njoyi

PART II—PROTECTED SPECIES OF WILD ANIMALS

B. Mammals

- (1) Any mammal in a national park or wild reserve; and
- (2) Bushbuck, Warthog, Common Duiker, Buffalo, Brown Hyaena, Cheetah, Blue Monkey, Eland, Elephant, Rhinoceros, Hartebeest, Hippopotamus, Impala, Klipspringer, Kudu, Leopard, Livingstone's Suni, Nyala, Oribi, Sable, Sharpe's Grysbok, Waterbuck, Zebra, Cape Hunting Dog, Civet, Serval, Jackal, Lion, Puku, Red Duiker, Pangolin, Aadvark and Bush Baby.

C. Reptiles

- (1) Any reptile in a national park or wild life reserve; and
- (2) Crocodile, Python, Cobra, Viper, Mamba, Boomslang, Monitor Lizard, Tortoise, Turtles.

D. Fish

Tiger Fish, Mbuna, Mpasa (*Opsaridium microlepis*), Nchila (*Labeo messops*), Kadyakolo (*Barbus eurys tomus*) in a national park or wildlife reserve

E. Birds

- (1) Any bird in a national park or wildlife reserve; and

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- (2) Turaco, Lilian's Love Bird, White Stork, Trogon, Black Ducks, Guinea Fowls, Denham's Burtard, all species of Parrots and Rollers, all species of Cranes, Ground Wood Pecker, Kori and Stanley's Burtards, all species of Owl, Secretary Bird, Red Winged Francolin, all species of Eagle, and Ground Hornbill.

Made this 30th day of March, 1994.

(FILE NO. 48/3/1/VOL. 2)

M. M. MWAKIKUNGA
*Minister of Forestry and
Natural Resources*