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ACT

No. 11 of 2017

I assent

PROF. ARTHUR PETER MUTHARIKA

PRESIDENT

20th January, 2017

ARRANGEMENT OF SECTIONS

SECTIONS

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An Act to amend the National Parks and Wildlife Act

ENACTED by the Parliament of Malawi as follows—

Short title and commencement 1. This Act may be cited as the National Parks and Wildlife (Amendment) Act, 2017.

Amendment of s.2 of Cap. 66:07 2. Section 2 of the National Parks and Wildlife Act, (hereinafter referred to as the “principal Act”) is amended by—

(a) deleting the definition of “endangered species” and substituting therefor the following new definition—

“endangered species” means any plant or animals occurring within or outside a protected area declared as such pursuant to section 43A”; and

(b) deleting the definition of “protected species” and substituting therefor the following new definition—

“protected species” means any plant or animal within a protected area and declared as such pursuant to section 43”.

General amendment of the principal Act

3. The principal Act is amended by—

(a) inserting, immediately after the words “protected species” wherever they appear throughout the Act, the words “endangered species or listed species”;

(b) deleting the words “protected animals” wherever they appear throughout the Act, and substituting therefor the words “protected species, endangered species or listed species”;

(c) deleting the words “game animals” wherever they appear throughout the Act and substituting therefor the words “game species”;

(d) deleting the words “national parks, wildlife reserves and nature sanctuaries” wherever they appear throughout the Act and substituting therefor the words “protected area”; and

(e) deleting the words “shall be guilty of an offence” wherever they appear throughout the Act and substituting therefor the words “commits an offence”; and

Amendment of s.23 of the principal Act

4. Section 23 of the principal Act is amended—

(a) by deleting the marginal note and replacing therefor the following new marginal note—

“Request to conduct an environmental and social impact assessment”; and

(b) in subsection (1) by inserting, immediately after the words “environmental”, the words “and social”.

5. Section 24 of the principal Act is amended in subsection (1) by inserting, immediately after the words "environmental", the words "and social".

Amendment
of s.24 of the
principal Act

6. Section 33 of the principal Act is amended in subsection (1) by inserting, immediately after the words "section 40", the words "or under a valid hunting licence issued pursuant to Part VII".

Amendment
of s.33 of the
principal Act

7. Section 35 of the principal Act is amended—

Amendment
of s.35 of the
principal Act

(a) in the main paragraph by inserting, immediately after the words "section 40", the words "or under a valid hunting licence issued pursuant to Part VII"; and

(b) in paragraph (c) by inserting, immediately after the word "cultivation", the words "or settlement".

8. Section 43A of the principal Act is amended by inserting, immediately after the words "endangered species", the words "or listed species".

Amendment
of s.43A of
the principal
Act

9. Section 44 of the principal Act is amended by inserting, immediately after the words "animals", the words "other than endangered species or listed species".

Amendment
of s.44 of the
principal Act

10. Section 45 of the principal Act is amended by—

Amendment
of s.45 of the
principal Act

(a) inserting immediately before the word "animals", the word "wild"; and

(b) inserting immediately before the words "protected species", the words "game species or".

11. Section 54 of the principal Act is repealed and replaced by the following new section—

Replacement
of s.54 of the
principal Act

"Hunting
licence

54.—(1) A hunting licence shall authorize the licensee to hunt wild animals which are protected species, endangered species, or listed species.

(2) A hunting licence for hunting wild animals which are protected species, endangered species and listed species shall—

(a) outside a protected area, 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 the professional hunter's licence; and

(b) inside a protected area, be issued subject to the granting of a special permit by the Director, 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 the professional hunter's licence."

Amendment of
s. 54A of the
principal Act

12. Section 54A of the principal Act is amended by inserting immediately after subsection (2), a new subsection (3) as follows—

"(3) The Minister shall, from time to time, publish in the *Gazette* a set of standards for the keeping of wild animals in captivity."

Amendment of
s. 75 of the
principal Act

13. Section 75 of the principal Act is amended—

(a) by deleting the marginal note and replacing therefor the following new marginal note—

"Killing a game species in defence of property."

Amendment of
s. 82 of the
principal Act

14. Section 82 of the principal Act is amended—

(a) in the marginal note by inserting, immediately after the word "provoking", the word "wild";

(b) in subsection (a) by deleting the words "protected or game animal" and substituting thereof the words "wild animal"; and

(c) in subsection (b) by deleting the words "any protected or game animal" and substituting therefor the words "such wild animal".

Amendment of
s. 86 of the
principal Act

15. Section 86 of the principal Act is amended by deleting subsection (1) and replacing therefor the following new subsection—

"Except as otherwise provided by subsection (2), any person who possesses, buys, sells, transfers or receives in transfer, or who attempts to possess, buy, sell, transfer or receive in transfer any specimen of a game species, protected species, endangered species or listed species commits an offence."

Amendment of
s. 87 of the
principal Act

16. Section 87 of the principal Act is amended in paragraph (1) subparagraph (a) by inserting, immediately after the word "skins", the words "and other specimens".

Amendment of
s. 95 of the
principal Act

17. Section 95 of the principal Act is amended by deleting the words "protected or game animals" and substituting therefor the words "any wild animal which is a protected species, endangered species, listed species or game species"

18. Section 97 of the principal Act is repealed and replaced as follows—

Replacement
of s. 97 of the
principal Act

"Import, export
or re-export
permits

97. The Director may issue to any person a permit in the prescribed form, to import or to export, or to re-export any specimen of a game species, protected species, endangered species or listed species:

Provided that—

(a) in the case of a protected species the Director shall first require the person to produce a valid certificate of ownership in respect thereof; and

(b) in the case of endangered species or listed species, the Director shall require the person, in addition to a valid certificate of ownership, to produce evidence of compliance with the requirements of any international, regional or bilateral agreement relevant to such species to which Malawi is Party to, or the requirements of this Act, or any other Regulations made under this Act."

19. Section 99 of the principal Act is amended by—

Amendment
of s. 99 of the
principal Act

(a) inserting, immediately before the words "protected species", the words "game species"; and

(b) inserting, immediately after the word "agreement" the words "relevant to such species".

20. Section 107 of the principal Act is repealed and replaced with the following new section—

Replacement
of s. 107 of
the principal
Act

"Financial year
of the fund
Cap. 37:02

107. The Financial year of the Fund shall be the Financial Year as defined in the Public Finance Management Act."

21. Section 108 of the principal Act is repealed and replaced with the following new section—

Replacement
of s. 108 of
the principal
Act

"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 for shall be liable to a fine of K2,000,000 and to imprisonment for a term of four years."

22. Section 109 of the principal Act is repealed and replaced with the following new section—

Replacement
of s. 109 of
the principal
Act

"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, or attempting to possess, sell, buy, transfer or receive in transfer any specimen of game species,

shall be liable to a fine of K2,000,000 and to imprisonment for a term of four years."

Replacement of
s. 110 of the
principal Act

23. Section 110 of the principal Act is repealed and replaced with the following new section—

"Offences
relating to
protected
species other
than game
species

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;

(b) possession of, selling, buying, transferring or receiving in transfer or attempting to possess, sell, buy, transfer or receive in transfer any specimen of protected species other than game species,

shall be liable to a fine of K5,000,000 and to imprisonment for a term of ten years and in any case the fine shall not be less than the value of the specimen involved in the commission of the offence".

Insertion of
s.110A and
110B into the
principal Act

24. The principal Act is amended by inserting immediately after section 110, new sections 110A and 110B as follows—

"Offences
relating to
endangered
species

110A.—Any person who is convicted of an offence involving—

(a) taking, hunting, molesting, or reducing into possession any endangered species;

(b) possession of, selling, buying, transferring or receiving in transfer or attempting to possess, sell, buy, transfer or receive in transfer any specimen of endangered species;

(c) the contravention of provision of this Act which provides for the conduct of a licensee under a professional hunter's licence; or

(d) the contravention of sections 33, 35 (c) and 38 of this Act,

shall be liable to a fine of K15,000,000 and to imprisonment for a term of thirty years” and in any case the fine shall not be less than the value of the specimen involved in the commission of the offence.”

“Offences
relating to
listed
species

110B. Any person who is convicted of an offence involving—

(a) taking, hunting, molesting, or reducing into possession any listed species;

(b) possession of, selling, buying, transferring or receiving in transfer or attempting to possess, sell, buy, transfer or receive in transfer any specimen of listed species; or

(c) contravention of provision of this Act which provides for the conduct of a licensee under a professional hunter’s licence,

shall be liable to imprisonment for a term of thirty years”.

25. Section 111 of the principal Act is repealed and replaced with the following new section—

Replacement
of s. 111 of
the principal
Act

“Offences
under section
98

111. Any person who is convicted of an offence under section 98 or under regulations made pursuant to section 99 shall be liable to imprisonment for a term of thirty years”.

Passed in Parliament this seventh day of December, two thousand and sixteen.

FIONA. KALEMBA
Clerk of Parliament

