

ACT 43

WILD ANIMALS PRESERVATION ACT, 1961

ARRANGEMENT OF SECTIONS

SECTION

1. Honorary game officers.
2. Collection of specimens.
3. Variation of Schedules.
4. Restrictions on export and import of trophies.
5. Marking of trophies.
6. Prohibition of hunting by motor vehicle or aircraft.
7. Surrounding animals by fires prohibited.
8. Arrest without warrant.
9. Indemnity for acts done in good faith.
10. Government trophies.
11. Regulations.
12. Interpretation.
13. Repeals.

SCHEDULES

FIRST SCHEDULE

*Genera completely protected*

SECOND SCHEDULE

*Genera of which the young are specifically protected*

THIRD SCHEDULE

*Genera of which females accompanied by young are protected*

FOURTH SCHEDULE

*Genera of which only a limited number may be killed*

FIFTH SCHEDULE

*Genera to which measures may be taken to reduce the numbers*

## ACT 43

WILD ANIMALS PRESERVATION ACT, 1961<sup>1</sup>

**AN ACT to consolidate and amend the law relating to wild animals, birds and fish and to continue the observance of the Convention signed at London on the nineteenth day of May, 1900.**

**1. Honorary game officers**

The Minister may appoint honorary game officers by name or as holding an office to carry out all or any of the purposes of this Act, or to do anything required or allowed by this Act to be done by a game officer.

**2. Collection of specimens**

Despite the Regulations the Minister may, by permit signed by the Minister, allow the collection of specimens of animals referred to in the Regulations for museums or zoological gardens or for any other scientific purpose.

**3. Variation of Schedules**

The President may, by legislative instrument, remove the name of an animal from any of the Schedules or declare that the name of any species, variety, or sex of animals, whether beast or bird, not mentioned in any of the Schedules, shall be added to a Schedule, or that the name of any species or variety of animals mentioned or included in one Schedule shall be transferred to another Schedule, and may apply the legislative instrument to the whole of the Republic, or to a Region, or an area of a Region.<sup>2</sup>

**4. Restrictions on export and import of trophies**

(1) A person shall not export or attempt to export a trophy unless that person has been granted a certificate by a superior police officer not below the rank of Assistant Superintendent permitting the export of the trophy.

(2) The certificate shall not be issued unless the superior police officer is satisfied that the trophy has been lawfully imported or otherwise lawfully obtained.

(3) A person shall not import, except on the production of a certificate of lawful export, a trophy which has been exported from a territory which the Minister has notified in the *Gazette* as a territory to which the terms of the International Convention for the protection of Fauna and Flora made at London on the 8th day of November, 1933 applies.

(4) The import or export of a trophy except at places where there is a Customs station is prohibited.

(5) A person who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine of two hundred penalty units or to a term of imprisonment for six months and a trophy imported or being exported in contravention of the provisions of subsections (2), (3) and (4) shall be forfeited.

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1. Assented to on 22nd March, 1961

2. There is a proviso to the section which requires the legislative instrument to be laid before Parliament. It is omitted in view of clause (7) of article 11 of the Constitution.

**5. Marking of trophies**

(1) A trophy consisting of ivory exported in accordance with section 4 shall be identified by marks which, together with the weight of the trophy, shall be recorded in the export certificate.

(2) Any other trophy shall, if possible, be similarly marked and recorded but shall be described in the export certificate so as to identify it with as much certainty as possible.

**6. Prohibition of hunting by motor vehicle or aircraft**

(1) A person shall not use a motor vehicle or an aircraft, including aircraft lighter than air for the purpose of hunting, killing or capturing animals or in a manner that would drive, stampede or disturb the animals including that of filming or photographing.

(2) Subsection (1) does not affect the right of an occupier in respect of land occupied by that occupier from using motor vehicles or aircraft for the purpose of driving away, capturing or destroying animals found on the land where the ejection, capture or destruction is not prohibited under any other provision of this Act.

(3) A person who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term not exceeding twelve months or to both the fine and the imprisonment.

**7. Surrounding animals by fires prohibited**

(1) A person shall not surround animals by fires for hunting purposes.

(2) A person who contravenes a provision of subsection (1) commits an offence and is liable on summary conviction to a fine of two hundred penalty units or to a term of imprisonment for twelve months or to both the fine and the imprisonment.

**8. Arrest without warrant**

(1) A game officer may arrest without a warrant a person reasonably suspected to have been concerned in an offence punishable under this Act, if that person

- (a) refuses to give the name and address of that person, or
- (b) gives a name and address which the game officer reasonably believes to be false, or

if the game officer has reason to believe that that person will abscond.

(2) A person arrested shall be taken before a District Court or to the nearest police station without an unnecessary delay.

**9. Indemnity for acts done in good faith**

An action does not lie against a public officer in respect of an act done in good faith in the performance or intended performance of a function under this Act.

**10. Government trophies**

Trophies of animals shot by a game officer in the execution of duties shall be the property of the Government.

**11. Regulations**

The President may, by legislative instrument, make Regulations for the administration of this Act and in particular for the

- (a) establishment of closed seasons with the view to facilitate the rearing of young animals;
- (b) application of measures for preventing the transmission of contagious diseases from domestic to wild animals;
- (c) destruction of the eggs of crocodiles, poisonous snakes, and pythons;
- (d) prohibition of the hunting and destruction of the animals mentioned in the First Schedule and also of any other animals whose protection, whether owing to their rarity or threatened extermination, may be considered necessary;
- (e) prohibition of the hunting and destruction of young animals of the species mentioned in the Second Schedule;
- (f) prohibition of the hunting and destruction of the species mentioned in the Third Schedule when accompanied by their young;
- (g) prohibition, to a certain extent, of the destruction of females, when they can be recognised as females, with the exception of those of the species mentioned in the Fifth Schedule;
- (h) prohibition of the hunting and destruction, except in limited numbers, over a limited area and for a limited period of time, of animals of the species mentioned in Fourth Schedule;
- (i) prohibition of the hunting of wild animals by any persons except holders of licences issued by the competent Government authority on the terms prescribed by the Regulations;
- (j) restriction or prohibition of the use of nets, pits or enclosures, gins, traps or snares or of set guns and missiles containing explosives for hunting animals;
- (k) application of measures for effecting the sufficient reduction of the numbers of the animals of the species mentioned in the Fifth Schedule;
- (l) establishment of reserves within which it is unlawful to hunt, capture, or kill a bird or any other wild animal except those which are specially exempted from protection;
- (m) imposition of export duties on, and the prohibition of the sale or exportation of, a trophy;
- (n) prohibition of hunting or killing young elephants and the confiscation of elephant tusks [weighing less than twenty-five pounds];
- (o) the protection and preservation of reserves and of the animals in the reserves;
- (p) the protection of the use of dazzling lights, flares, poison or poisoned weapons for hunting animals;
- (q) prohibition of eggs of specified birds;

- (r) the imposition of penalties not exceeding one hundred penalty units or a term of imprisonment not exceeding six months or both the fine and the imprisonment for the breach of a regulation made in pursuance of this section.

## 12. Interpretation

In this Act, unless the context otherwise requires,

“**animal**” or “**species**” means the vertebrates and invertebrates, including non-edible fish, their nests, eggs, eggshells and plumage;

“**export**” or “**import**” means export from, or import into the Republic;

“**functions**” includes power and duties;

“**game officer**” means an officer recognised as such by the Minister or a person appointed under section 1;

“**Minister**” means the Minister responsible for Forestry;

“**Regulations**” means the Regulations made under this Act;

“**trophy**” includes an animal, dead or alive, mentioned in any of the Schedules or any thing which is part of, or produced from, that animal when dead and the eggs, eggshells, nests or plumage of a bird mentioned in any of the Schedules but does not include a trophy which by a process of *bona fide* manufacture has lost its original identity.

## 13. Repeals

*Spent.*<sup>3</sup>

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### SCHEDULES

#### FIRST SCHEDULE

[Section 3 and 11]

#### *Genera completely protected*

The hunting, capturing or destroying of any species listed in this Schedule is absolutely prohibited at all times.

	<i>Series A—Mammals</i>	<i>Scientific Name</i>
(i) <i>Primata:</i>		
(a) Chimpanzee .....		<i>Pan troglodytes</i>
(b) Black and white colobus .....		<i>Colobus polykomos</i>
(c) Olive colobus .....		<i>Colobus verus</i>

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3. The section provided for the repeal of the Wild Animals Preservation Ordinance (Cap. 246) and the Wild Animals Preservation (Amendment) Ordinance, 1952 (No. 10).

## FIRST SCHEDULE—continued

## Genera completely protected—continued

<i>Series A—Mammals</i>	<i>Scientific Name</i>
(d) Red colobus .....	<i>Colobus badius</i>
(e) Diana monkey .....	<i>Cercopithecus diana</i>
(f) Bosman's potto .....	<i>Perodicticus potto</i>
(g) Bush baby .....	<i>Galago senegalensis</i> <i>Galagoides demidovi</i>
(ii) <i>Pholidota</i> :	
(a) Giant pangolin .....	<i>Manis gigantea</i>
(b) Long tailed pangolin .....	<i>Manis longicaudata</i>
(c) Tree pangolin .....	<i>Manis tricuspis</i>
(iii) <i>Tubulidentata</i> :	
(a) Aardvark .....	<i>Crycteropus afer</i>
(iv) <i>Sirenia</i> :	
(a) Manatee .....	<i>Trichechus senegalensis</i>
(v) <i>Carnivora</i> :	
(a) Lion .....	<i>Panthera leo</i>
(b) Leopard .....	<i>Panthera pardus</i>
(c) Cheetah .....	<i>Acinonyx jubatus</i>
(d) Ratel or Honey Badger .....	<i>Mellivora capensis</i>
(e) Clawless otter .....	<i>Aonyx capensis</i>
(f) Golden cat .....	<i>Felis aurata</i>
(vi) <i>Proboscidea</i> :	
(a) Elephant .....	<i>Loxodonta Africana</i>
(vii) <i>Rodentia</i> :	
(a) Palm squirrel .....	<i>Epixerus ebii</i>
(viii) <i>Artiodactyla</i> :	
(a) Hippopotamus .....	<i>Hippopotamus amphibius</i>
(b) Pygmy hippopotamus .....	<i>Choeropsis liberiensis</i>
(c) Senegal hartebeest .....	<i>Damaliscus lunatus</i>
(d) Sitatunga .....	<i>Tragelephas spekei</i>
(e) Eland .....	<i>Taurotragus derbianus</i>
(f) Water chevrotain .....	<i>Hyamoschus aquaticus</i>
(g) Bongo .....	<i>Boocercus enryceros</i>
(h) Roan antelope .....	<i>Hippotragus equinus</i>

FIRST SCHEDULE—*continued**Genera completely protected—continued*

<i>Series B—Reptiles</i>	<i>Scientific Name</i>
(i) <i>Crocodylia</i> :	
(a) Nile crocodile .....	<i>Crocodylus niloticus</i>
(b) Long-snouted crocodile .....	<i>Crocodylus cataphractus</i>
(c) Broad-fronted crocodile .....	<i>Osteolaemus tetraspis</i>
(ii) <i>Lacertilia</i> :	
(a) Nile monitor.....	<i>Veranus niloticus</i>
(b) Bosc's monitor .....	<i>Veranus exanthematicus</i>
(iii) <i>Chelonia</i> :	
All marine turtles—	
(a) Hawksbill turtle .....	<i>Eretmochelys imbricata</i>
(b) Green or Edible turtle .....	<i>Chelonia mydas</i>
(c) Leathery turtle .....	<i>Dermochelys coriacea</i>
SERIES C—BIRDS	
(i) <i>All Birds of Prey</i> ,	
including—	
(a) Falcons, kites, hawks, eagles, buzzards, kestrels, etc. ....	Falconidae
(b) Owls .....	Tytonidae and Strigidae

## SECOND SCHEDULE

[Section 11 (e)]

*Genera of which the young are specifically protected*

1. All Bovoid Ungulates specifically mentioned in Schedule 1, and in addition Antelopes, Gazelles, Duikers, Buck and Buffalo;
2. All Pholidont Pangolins of the genus *MANIS* (*UROMANIS PHATANGINUS*);
3. All Cercopithecoid Monkeys with the exception of the Baboon – *PAPIO*.

## THIRD SCHEDULE

[Section 11 (f)]

*Genera of which females accompanied by young are protected*

1. Elephant – *LOXODONTA*;
2. All Bovoid Ungulates as in Schedule 2, subsection 1;
3. All Pangolins as in Schedule 2, subsection;

THIRD SCHEDULE—*continued**Genera of which females accompanied by young are protected—continued*

4. All Cercopithecoid Monkeys with the exception of the Baboon – *PAPIO* as in Second Schedule, subsection 3.

## FOURTH SCHEDULE

[Section 11 (h)]

*Genera of which only a limited number may be killed*

1. Carnivora—
  - (a) Ratel or Honey Badger – *MELLIVORA*;
  - (b) Clawless Otter – *AONYX*;
  - (c) Lynx – *CARACAL*;
  - (d) Several Cat – *LEPTAILRUSU*;
  - (e) Golden Cat – *PROFELIS*;
  - (f) Jackal – *THOS*;
  - (g) Cheetah – *ACINONYX (=CYNAELURUS)*.
2. Primates—
  - (a) Lorisiformes of the genera;
    - (i) *DALAGOIDES GALAGO* – Bush Babies;
    - (ii) *PERODICTICUS* – POTTO.
  - (b) Monkeys of the genera;
    - (i) *CERCOCOPITHECUS* – Diana, Spot-nosed, Mona, Green, etc;
    - (ii) *ERYTHROCEBUS* – Patas;
    - (iii) *CERCOCEBUS* – Mangabey.
3. Pholidota—
 

Pangolins of the genus *Manis*  
(*UROMANIS PHANTAGINUS*).
4. Glives—
  - (a) Lagomorpha of the genus *LEPUS* – Togo Hare;
  - (b) Rodents of the genera;
    - (i) *ANOMALURUS* – Flying Squirrel;
    - (ii) *HYSTRIX* – Crested Porcupine;
    - (iii) *ANTHERURA* – Brush Tailed Porcupine.
5. Ungulata—
  - (a) Paeungulata;
    - (i) *PROVABIA DENDROHYRAX* – Tree Bear, Hyrax;
    - (ii) *LOXONDONTA* – Elephant in which the tusks exceed 5 kilogrammes in weight.



FOURTH SCHEDULE—*continued**Genera of which only a limited number may be killed—continued*

- (b) Paraxonia-Suiformes;
- (i) *PHACOCOERUS* – Wart Hog;
  - (ii) *POTAMOCHOERUS* – Bush Pig;
  - (iii) *HYLOCHOERUS* – Forest Hog.
- (c) Paraxonia-Ruminantia-Bovoidea;
- (i) *STREPSICEROS* (= *TRAGELAPHUS*) Bush buck;
  - (ii) *TAUROTRAGUS* – Bongo;
  - (iii) *SYNCERUS* – Bush Cow or Buffalo;
  - (iv) *CEPHALOPHUS* – Black, Bay, Red Flank Duikers, etc;
  - (v) *SYLVICAPRA* – Crowned Duiker;
  - (vi) *PHILTAOMBA* – Maxwell Duiker;
  - (vii) *REDUNCA* – (*CERUICAPRA*) - Reedbuck;
  - (viii) *HIPPOTARGUS* – Roan Antelope;
  - (ix) *ALCEPHALUS* – (= *BUBALIS*) - Hartebeeste;
  - (x) *KOBUS* – Waterbuck;
  - (xi) *ADENOTA* – Kob;
  - (xii) *OUREBIA* – Oribi;
  - (xiii) *NEOTRAGUS* – Royal Antelope;
  - (xiv) *GAZELLA* – Gazelle.

## FIFTH SCHEDULE

[Section 11 (g) and (k)]

*Genera to which measures may be taken to reduce the numbers*

1. Rodents and poisonous snakes not specified in the First to Fourth Schedules to this Act.
2. Any other animal whose numbers rise to a level sufficient to threaten agriculture or to constitute a danger to the human population, may be reduced in numbers at the discretion of the Game Warden.

**Previous legislation** ..... No. 9 of 1934**Ordinance**

- No. 2 of 1901
- No. 10 of 1907
- No. 18 of 1911
- No. 21 of 1915
- No. 13 of 1916

FIFTH SCHEDULE—*continued*

*Genera to which measures may be taken to reduce the numbers—continued*

- No. 1 of 1925
  - No. 23 of 1926
  - No. 32 of 1929
  - No. 30 of 1935
  - No. 13 of 1936
  - No. 3 of 1939
  - No. 10 of 1952
  - No. 9 of 1954
  - No. 13 of 1956
  - No. 3 of 1959
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