



Republic of Namibia
Annotated Statutes

Nature Conservation Ordinance 4 of 1975

(OG 3469)

came into force on date of publication: 20 June 1975

Section 34 of Act 27 of 1986 extends the Ordinance to all of South West Africa: “The Ordinance and all amendments thereof as well as all regulations made thereunder, shall, with effect from the date of commencement of this Act, apply also in those territories in which the laws repealed by section 33 [of Act 27 of 1986] were in force immediately before the date of commencement of this Act.” **These areas were Eastern Caprivi, Owambo, Kavango and all other areas reserved for “the sole use and occupation of natives”.**

Section 33 of Act 27 of 1986 is reproduced in the annotation to Schedule 1 of this Act. The laws repealed by that section indicate the areas where the Nature Conservation Ordinance was not in force prior to Act 27 of 1986.

The areas covered by some of the laws repealed by that section are obvious from the names of the laws.

RSA Proc. R.188 of 1976 (RSA GG 5288), which is one of the laws repealed by section 33 of Act 27 of 1986, was issued in terms of section 14(1) of the Development of Self-government for Native Nations in South-West Africa Act 54 of 1968. It repealed Ord. 4 of 1975 in “the areas consisting of land or an area which has been or may be reserved and set apart as is contemplated in section 4 of the South-West Africa Native Affairs Administration Act, 1954 (Act 56 of 1954), excluding the areas referred to in section 2(1)(d), (e) and (f) of the said Development of Self-government for Native Nations in South-West Africa Act, 1968”. Section 4 of the South-West Africa Native Affairs Administration Act 56 of 1954 (SA GG 5302) referred to certain land along the Okavango River described in the Schedule to that Act and “set apart for the sole use and occupation of natives”, as well as “any other land or area in the territory which has at any time prior to the commencement of this Act been so reserved or set apart or which may at any time after such commencement be so reserved or set apart, in terms of any law”. The referenced provisions of the Development of Self-government for Native Nations in South-West Africa Act 54 of 1968 (RSA GG 2100) refer to “Okavangoland”, “Eastern Caprivi” and Owamboland” – all of which were covered by other laws repealed by section 33 of Act 27 of 1986.

as amended by

Government Notice 117 of 1976 (OG 3535)

under the authority of section 25(1)(c);
came into force on date of publication: 1 May 1976

Nature Conservation Amendment Ordinance 4 of 1977 (OG 3603)

came into force on date of publication: 28 March 1977

Government Notice 115 of 1978 (OG 3741)

under the authority of section 25(1)(c);
came into force on date of publication: 1 May 1978

Nature Conservation Amendment Ordinance 16 of 1980 (OG 4166)

came into force on date of publication: 31 May 1980

Government Notice AG 77 of 1985 (OG 5045)

under the authority of section 25(1)(c);
came into force on date of publication: 27 May 1985

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Nature Conservation Amendment Act 27 of 1986 (OG 5294)

came into force on date of publication: 27 November 1986

Government Notice 75 of 1987 (OG 5364)

under the authority of section 25(1)(c) (erroneously written as 25(i)(c));

came into force on date of publication: 14 May 1987

Nature Conservation Amendment Act 6 of 1988 (OG 5538)

came into force on date of publication: 30 April 1988

Government Notice 90 of 1988 (OG 5547)

under the authority of section 25(1)(c) (erroneously written as 25(i)(c));

came into force on date of publication: 23 May 1988

Second Nature Conservation Amendment Act 17 of 1988 (OG 5591)

came into force on date of publication: 16 August 1988

Nature Conservation General Amendment Act 31 of 1990 (GG 133)

came into force on date of publication: 31 December 1990

Government Notice 131 of 1996 (GG 1320)

under the authority of section 25(1)(c) and (3);

came into force on date of publication: 1 June 1996

Nature Conservation Amendment Act 5 of 1996 (GG 1333)

brought into force on 29 April 1997 by GN 78/1997 (GG 1546)

Inland Fisheries Resources Act 1 of 2003 (GG 2962)

brought into force on 6 June 2003 by GN 117/2003 (GG 2992)

Government Notice 18 of 2016 (GG 5936)

under the authority of section 25(2) and (3);

came into force on date of publication: 27 January 2016

Note that there are two versions of GG 5936. The corrected version is not marked

as having been corrected in any way. However, the changes between

the two versions do not affect the amendments to this Ordinance.

Nature Conservation Amendment Act 3 of 2017 (GG 6344)

came into force on date of publication: 28 June 2017

ORDINANCE

To consolidate and amend the laws relating to the conservation of nature; the establishment of game parks and nature reserves; the control of problem animals; and to provide for matters incidental thereto.

(Assented to 19 June 1975)

(English text signed by the Administrator)

(Date of commencement 20 June 1975)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President, in so far as such consent is necessary, previously obtained and communicated to the Assembly by message from the Administrator, as follows:-

[The statement above normally appears below the ARRANGEMENT OF SECTIONS, but it appears above the ARRANGEMENT OF SECTIONS in the Official Gazette publishing this Act.]

ARRANGEMENT OF SECTIONS

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[Act 5 of 1996 directs that the following substitutions be made throughout the Act:

- (a) "Namibia" for "the Territory";
- (b) "Minister" for "Executive Committee", "Cabinet" or "Administrator-General" (although the Act contained no instances of the term "Administrator-General" by this time); and
- (c) "State" for "Government of the Territory or a representative authority" and "Government of the Territory", except in section 28(1)(b) – where the substitution was made by an amendment made by Act 5 of 1996.]

PRELIMINARY

Definitions

1. In this Ordinance, unless the context otherwise indicates -

"adequate fence", in relation to a farm, means -

- (a) a boundary fence which along the whole length thereof is at least 1,22 metres high and has been erected -
 - (i) with straining posts planted in at most 500 metres from each other;
 - (ii) with middle posts of iron or hardwood which -
 - (aa) in the case of iron posts, have a mass of at least four kilograms each; or
 - (bb) in the case of hardwood posts, are at least 100 millimetres in diameter at the thin end; and
 - (cc) are planted in to a depth of at least 600 millimetres and at most 20 metres from the nearest straining post and from each other;
 - (iii) with iron droppers, or droppers of hardwood which are at least 35 millimetres in diameter at the thin end;
 - (iv) with at least five galvanised steel wire strands or, three galvanised steel wire strands and jackal-proof fencing; and
 - (v) with gates which are at least of the same height as the boundary fence and are of such a nature that they do not in any manner impair the efficacy of the boundary fence,

but does not include such a boundary fence in which a game-trap has been constructed or of which any portion has been removed, damaged, cut, flattened or raised or is in such a bad state of repair that the efficacy of such boundary fence is impaired;

- (b) in the case of a dividing line between two farms along which, in the opinion of the Minister, it is impracticable or inexpedient to erect a fence, any indication of the boundary line between the said farms in respect of which the Director has, after agreement by the owners of the farms concerned, with the approval of the Minister, certified that it indicates the boundary line in all respects;

[definition of "adequate fence" substituted by Ord. 4 of 1977 and by Act 27 of 1986]

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[definition of “Administration” deleted by Act 27 of 1986]

“angle” in relation to fish means the use of a line and fish-hook, whether a rod is used or not; and includes the use of a landing or keepnet to land or keep fish caught by means of a line and fish-hook;

“artificial lure or spoon”, for the purposes of Chapter V, means any device which by its simulation of life or by its colour or appearance is designed to delude or entice a fish into seizing such device;

“big game”, in relation to huntable game, means the following species of such game, namely, buffalo, eland, oryx and kudu;

[definition of “big game” inserted by Act 6 of 1988]

“board” means the Nature Conservation Board referred to in section 3;

“catch” and “capture” include the use of any means or method to catch, capture, injure or immobilise fish, game or any other wild animal;

“certificate of competency” means a certificate of competency issued in terms of section 57(3);

“children” means the natural children, step-children and lawfully adopted children of a person, and includes the husband or wife of any such child;

“communal land” means communal land as defined in section 1 of the Communal Land Reform Act, 2002 (Act No. 5 of 2002);

[definition of “communal land” inserted by Act 27 of 1986 and substituted by Act 5 of 1996 and by Act 3 of 2017]

“concession” means the rights, whether full or restricted or shared or exclusive, to conduct tourism activities or to commercially use State-owned wildlife resources on business principles in protected areas and any other State land for a specified period;

[definition of “concession” inserted by Act 3 of 2017]

“conservancy” means any area declared a conservancy in terms of section 24A(2)(ii);

[definition of “conservancy” inserted by Act 5 of 1996]

“conservancy committee” means a conservancy committee recognized as such by the Minister under section 24A(2)(i);

[definition of “conservancy committee” inserted by Act 5 of 1996]

“consumptive use” means the utilisation of individual game by its permanent removal, or removal of its parts, from or within an area;

[definition of “consumptive use” inserted by Act 5 of 1996]

“coyote getter” means the device known as “coyote getter” or a similar device;

“Director” means the Director of Nature Conservation and Recreation Resorts referred to in section 2;

[definition of “Director” amended by Act 27 of 1986]

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“Directorate” means the Directorate of Nature Conservation and Recreation Resorts referred to in section 2;

[definition of “Directorate” inserted by Act 27 of 1986]

[definition of “Executive Committee” deleted by Act 5 of 1996]

“exotic game” means any vertebrate (including any bird, fish or reptile) whether kept or bred in captivity or elsewhere, belonging to a non-domestic species the habit of which is not in the Republic of Namibia;

[The definition of “exotic game” is amended by Act 3 of 2017. The amendment instructions are omitted from the amending Act, but the amendment appears to change the word “habitat” to “habit” in addition to deleting a previous reference to South Africa.]

“fish” includes aquatic fauna in general (excluding mammals and birds) whether indigenous or exotic, as well as the eggs, brood or spawn thereof;

“fisheries” includes all waters and all fish therein;

“fishing tackle” means any fishing tackle, apparatus or device, or any part thereof, commonly used for the catching of fish;

“game” means specially protected game, protected game, huntable game, huntable game birds and exotic game;

“game meat” means the meat of any game, whether fresh, salted, smoked or dried, or in the process of being smoked or dried; includes the bones in, or attached to, such meat; and also comprises the whole carcass of any game which is dead;

“game park” means the Etosha National Park referred to in section 13(1), and any area declared a game park in terms of section 14(1);

“game-proof fence” in relation to any species of game means a fence which complies with the standard prescribed for a game-proof fence in relation to that species of game, but does not include any such fence in which a game-trap has been constructed or of which any portion has been removed, damaged, cut, flattened or raised or is in such a bad state of repair that the efficacy of such fence is impaired;

[definition of “game-proof fence” substituted by Act 27 of 1986]

“game-trap” means any corridor-shaped or funnel-shaped passage in a fence or any other construction in a fence along which any game or other wild animals can pass spontaneously through such a fence or can be lured to pass through such a fence, but not any such passage approved by the Director;

[definition of “game-trap” inserted by Act 27 of 1986]

“honorary nature conservator” means any person appointed as an honorary nature conservator in terms of section 79(2) and includes any person who is an honorary nature conservator in terms of section 79(3);

“hunt” -

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- (a) for the purposes of any provision of this Ordinance, excluding a provision of Chapter IV, means by any means whatsoever to kill or attempt to kill, or to shoot or attempt to shoot at, or to pursue, to search for, to lie in wait for or to drive with intent to kill or to shoot at, or wilfully to disturb;
- (b) for the purposes of any provision of Chapter IV, means to -
- (i) search for, trace, lie in wait for or pursue problem animals;
 - (ii) set a trap, spring-trap, net, drug, poison or any other means or device approved by the Director to capture or kill problem animals;
 - (iii) shoot at, or with dogs to hunt for, problem animals;
 - (iv) kill or capture problem animals in any other manner whatsoever approved by the Director;

“hunnable game” means every species of game mentioned in Schedule 5, or either sex thereof;

“hunnable game birds” means every species of game birds mentioned in Schedule 6 or either sex thereof;

“hunting season” in relation to hunnable game or hunnable game birds means the period determined in terms of section 25 as the hunting season during which such hunnable game or hunnable game birds may be hunted in terms of section 30 or section 32, as the case may be;

“indigenous plant” means any species of plant, shrub or tree which is indigenous to Namibia, irrespective of whether it is or has been cultivated and whether it is no longer growing in a wild state or has for some period not been growing in a wild state and includes the flower, seed, fruit, bulb, tuber, stem or root or any other part of such plant, shrub or tree, but not any plant declared under any law to be a weed;

“keep” means to have game or wild animals in possession or custody, to supervise such game or wild animals and to be in full control thereof;

“lessee” in relation to a farm or land or land on which waters are situated, means the person leasing such farm or land under a written contract with the owner thereof, and who actually resides on such farm or land, but does not include the lessee of a piece of land forming part of communal land, unless such piece of land is a surveyed piece of land which is represented on a diagram approved by the surveyor-general in terms of the Land Survey Act, 1927 (Act 9 of 1927);

[The definition of “lessee” is amended by Act 27 of 1986. The Land Survey Act 9 of 1927 has been replaced by the Land Survey Act 33 of 1993.]

“licensed game dealer” means any person licensed as a game dealer in terms of section 41;

“local authority” means the council of any area declared to be a municipality, town or village under section 3 of the Local Authorities Act, 1992 (Act 23 of 1992);

[definition of “local authority” substituted by Act 5 of 1996]

“Minister” means the Minister of Environment and Tourism;

[definition of “Minister” inserted by Act 5 of 1996]

“nature conservator” means -

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- (a) a nature conservator appointed in terms of section 79(1); and
- (b) any member of the security forces;

[definition of “nature conservator” amended by Act 27 of 1986]

“non-consumptive use” means use not entailing the permanent removal of individual game, but use for recreational, educational, research, cultural, or aesthetic purposes;

[definition of “non-consumptive use” inserted by Act 5 of 1996]

“nursery” means sufficiently enclosed premises on which protected plants are cultivated for commercial purposes: Provided that such premises shall not be less than 45 square metres in extent;

“officer” means any person appointed as an officer under the Government Service Act, 1980 (Act 2 of 1980);

[The definition of “officer” is amended by Act 27 of 1986. The Government Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995; section 38 of Act 13 of 1995 provides that certain expressions relevant to Act 2 of 1980 shall be construed to refer to certain corresponding expressions relevant to Act 13 of 1995, but the term “officer” is not covered.]

“owner” in relation to a farm; land or land on which waters are situated, means

- (a) the person who is registered in a deeds registry as the owner of such farm or land, and includes every director of a company registered in a deeds registry as the owner of such farm or land; or

[paragraph (a) substituted by Ord. 4 of 1977]

- (b) the lawful heir of the owner referred to in paragraph (a) at the death of such owner; or
- (c) where such farm or land is subject to a usufruct, the usufructuary thereof; or

[The word “usufructuary” is misspelt in the *Official Gazette*, as reproduced above.]

- (d) where such farm or land is owned by the State, the Government of Namibia;

[paragraph (d) amended by Act 27 of 1986 and substituted by Act 5 of 1996]

(dA)

[paragraph (dA) inserted by Act 27 of 1986 and deleted by Act 5 of 1996]

- (e) where such farm or land is owned by a local authority, the town clerk or the secretary of such local authority;

“parents” means the parents of whom a person is the natural child, step-child or lawfully adopted child, and includes the husband or wife of any such parent;

“pick” includes to cut off, chop off, pick off, take, gather, uproot, damage or destroy;

[definition of “population group” inserted by Act 27 of 1986 and deleted by Act 5 of 1996]

“prescribed” means prescribed by regulation;

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“private game park” means any area declared a private game park in terms of section 22;

“private nature reserve” means any area declared a private nature reserve in terms of section 22;

“problem animal” means any animal declared a problem animal in terms of section 53;

“proclaimed road” means a proclaimed road as defined in the Roads Ordinance, 1972 (Ordinance 17 of 1972);

“protected area” means a geographical area that has been declared to be a game park or nature reserve under section 14;

[definition of “protected area” inserted by Act 3 of 2017]

“protected game” means every species of game mentioned in Schedule 4, or either sex thereof;

“protected plant” means every species of plant mentioned in Schedule 9;

“public road” means a public road as defined in the Road Traffic Ordinance, 1967 (Ordinance 30 of 1967);

[The Road Traffic Ordinance 30 of 1967 has been replaced by the Road Traffic and Transport Act 22 of 1999.]

“raw” in relation to a skin means a skin which has not been prepared or tanned till it is soft;

“regulation” means a regulation made and in force under this Ordinance;

[definition of “representative authority” inserted by Act 27 of 1986 and deleted by Act 5 of 1996]

“road reserve” in relation to a proclaimed road means the road reserve of such road as defined in the Roads Ordinance, 1972 (Ordinance 17 of 1972);

“Secretary” means the Secretary of Agriculture and Nature Conservation;-

[definition of “Secretary” amended by Act 27 of 1986]

“security forces” means the Namibian Police or the Namibian Defence Force;

[definition of “security forces” inserted by Act 27 of 1986 and substituted by Act 5 of 1996]

“sell” means to sell, barter, offer or expose for sale or offer as valuable consideration;

“set line” means a line and fish-hook which, when used for catching fish, is not under the immediate supervision of a person but is attached to something, but shall not include a line and fish-hook attached to a reel and rod lying loose on the ground;

“skin” includes any portion of a skin;

“small game”, in relation to huntable game, means the following species of such game, namely, bushpig, springbok and warthog;

[definition of “small game” inserted by Act 6 of 1988]

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“specially protected game” means every species of game mentioned in Schedule 3, or either sex thereof;

[definition of “Territory” deleted by Act 5 of 1996]

“this Ordinance” includes any proclamation and any regulation made and in force thereunder;

“trophy” means the skin, shell, feet or head, or any part thereof, of game or any other wild animal, but shall not include any such skin, shell, feet or head, or any part thereof, which has lost its original identity as a result of a *bona fide* manufacturing process;

“waters” includes waters in rivers, streams, creeks, lakes, lagoons, pans, vleis, dams, reservoirs, furrows and ponds;

“weapon” means any fire-arm, spear, assegai, bow-and-arrow, axe, bush-knife, knife or similar object and includes any narcotic rifle, pistol or bow;

“wild animal” -

- (a) for the purposes of any provision of this Ordinance, excluding a provision of Chapter IV, means any vertebrate (including any bird, fish and reptile), whether kept or bred in captivity or elsewhere, belonging to a nondomestic species and the habitat of which is in the Republic of South Africa or Namibia;
- (b) for the purposes of any provision of Chapter IV, means any vertebrate (including any bird, fish and reptile) belonging to a non-domestic species.

[The full stop at the end of this definition should be a semicolon now that it is no longer the last definition in the list.]

“wildlife council” means a wild life council established under section 24B(1).

[definition of “wildlife council” inserted by Act 5 of 1996]

Directorate of Nature Conservation and Recreation Resorts

2. A division of the Department of Agriculture and Nature Conservation, to be known as the Directorate of Nature Conservation and Recreation Resorts, shall be responsible for the regulation, execution and administration of matters concerning the conservation of nature and recreation resorts, and the head of such division shall be an officer having the official title of Director of Nature Conservation and Recreation Resorts appointed by the Minister subject to the provisions of the Government Service Act, 1980 (Act 2 of 1980).

[Section 2 is amended by Act 27 of 1986. The heading of the section is changed without being indicated by amendment markings. The Government Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995; section 38 of Act 13 of 1995 provides that certain expressions relevant to Act 2 of 1980 shall be construed to refer to certain corresponding expressions relevant to Act 13 of 1995, but the terms “Director”, “head of division” and “officer” are not covered.]

CHAPTER I

NATURE CONSERVATION BOARD

Continued existence of Nature Conservation Board

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3. The Nature Conservation Board established in terms of section 58 of the Nature Conservation Ordinance, 1967 (Ordinance 31 of 1967), shall, notwithstanding the repeal of that Ordinance by this Ordinance, continue to exist.

Constitution of board

4. (1) The board shall consist of at least five and not more than ten members appointed by the Minister.

[subsection (1) amended by Act 27 of 1986]

(2) One of the members of the board shall be designated by the Minister as chairman and one as vice-chairman of the board.

(3) Any person who immediately prior to the commencement of this Ordinance is the chairman or another member of the board, shall be deemed to have been designated or appointed in terms of the provisions of this Ordinance as chairman or member of the board, as the case may be, as from the date on which he became the chairman or a member thereof.

(4) The Secretary may, subject to the provisions of the Government Service Act, 1980 (Act 2 of 1980), instruct an officer in the Directorate to act as secretary of the board.

[Subsection (4) is amended by Act 27 of 1986. The Government Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995; section 38 of Act 13 of 1995 provides that certain expressions relevant to Act 2 of 1980 shall be construed to refer to certain corresponding expressions relevant to Act 13 of 1995, but the term "officer" is not covered.]

Qualifications and disqualifications of members

5. No person shall be appointed or hold office as a member of the board, if he -

- (a) has at any time been convicted of any offence for which he has been sentenced to imprisonment without the option of a fine, unless he has received a free pardon, or unless the period of imprisonment expired at least three years before the date of his appointment; or
- (b) is of unsound mind and has been so declared by a competent court; or
- (c) is an unrehabilitated insolvent; or
- (d) is under the age of 21 years.

Period of office

6. (1) A member of the board shall be appointed for a period of three years.

(2) Any person whose period of office as a member of the board has expired, shall be eligible for reappointment.

Vacation of office

7. A member of the board shall vacate his office -

- (a) if he ceases to possess the qualifications mentioned in section 5, or becomes subject to the disqualifications mentioned therein;

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- (b) if he is removed from his office in terms of section 8;
- (c) if he resigns as a member.

Termination of membership

8. The Minister may at any time remove any member of the board from his office if such member of the board -

- (a) has in the opinion of the Minister -
 - (i) been guilty of improper conduct; or
 - (ii) regularly neglected his duties as a member of the board; or
 - (iii) become, or becomes incompetent for the execution or performance of his duties as a member of the board; or
- (b) has, without the permission of the chairman of the board, which consent shall not be granted for any period exceeding six consecutive months, been absent from four consecutive meetings of the board.

Filling of vacancies

9. When any member of the board for any reason ceases to hold office, the Minister may, with due observance of the provisions of sections 4(1) and 5 appoint a person to fill the vacancy on the board.

Meetings of the board

10. (1) All ordinary meetings of the board shall be held at the times and places determined by the board: Provided that, if the board has not determined the time and place for its next ordinary meeting at the end of a meeting, the chairman of the board shall determine such time and place.

(2) The chairman of the board shall, when directed by the Minister to do so, and may, when he deems it necessary or expedient, call a special meeting of the board to be held at a time and place determined by the Minister, or by the chairman, as the case may be.

(3) The majority of all the members of the board shall be a quorum for a meeting of the board.

(4) At all meetings of the board the chairman, or if he is absent, the vice-chairman, shall preside and if both the chairman and vice-chairman are absent from a meeting of the board the members present shall from among themselves elect a person to preside at that meeting.

(5) (a) Subject to the provisions of paragraph (b) a decision of the majority of the members of the board present at any meeting of the board, shall constitute a decision of the board, and such a decision of the board shall be final and conclusive.

(b) In the event of an equality of votes in regard to any matter the person presiding at the meeting concerned shall have a casting vote in addition to his deliberative vote.

(6) Minutes shall be kept of all meetings of the board.

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(7) No decision taken by the board or act performed under the authority or on the recommendation of the board shall be invalid by reason only of an interim vacancy on the board or of the fact that a person who is disqualified from being a member of the board sat or acted as a member of the board when the decision was taken or the act was performed or authorised or recommended, if the decision was taken or the act was performed or authorised or recommended by the requisite majority of the members of the board who were present at the time and were entitled to sit and to act as members.

Functions, powers and duties of the board

11. (1) The functions, powers and duties of the board shall be -
- (a) to advise the Minister in relation to the control, management and maintenance, with due observance of the objects mentioned in sections 13(1) and 14(1), of the Etosha National Park and other game parks;
 - (b) to investigate and report on all matters relating to nature conservation referred to the board by the Minister;
 - (c) to make such recommendations to the Minister as it may deem fit on any matter relating to the conservation of nature and the amendment of the laws of Namibia relating to the conservation of nature;
 - (d) at least once in every year to make recommendations to the Minister in respect of applications for game dealers' licences and the prescribing of the levies referred to in section 83(2);
 - (e) to exercise and perform the functions, powers and duties prescribed by regulation;
 - (f) to fulfil those other tasks which fall within the objects of this Ordinance and are entrusted to the board by the Minister.

(2) Any person who hinders, obstructs, resists or disturbs the board as such or any member of the board in the performance of its or his duties, or the exercise of its or his functions or powers, shall be guilty of an offence.

Remuneration, allowances and fees

12. A member of the board shall receive no remuneration, but to those members of the board who are not officers in, or employees of, the government service, shall be paid such allowances and fees as may be determined by the Minister from time to time.

[section 12 amended by Act 27 of 1986]

CHAPTER II

Game Parks, Nature Reserves, Conservancies and Wildlife Councils

[heading of Chapter II substituted by Act 5 of 1996, with capitalisation as reproduced above]

Etosha National Park

13. (1) The area defined in Schedule 2 and known as the Etosha National Park shall be a game park for the propagation, protection, study and preservation therein of wild animal life, wild plant life and objects of geological, ethnological, archaeological, historical and other

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scientific interest and for the benefit and enjoyment of the inhabitants of Namibia and other persons.

- (2) The boundaries of the Etosha National Park shall be amended by ordinance only.
- (3) No emergency grazing shall be allowed in the Etosha National Park.

Establishment and objects of game parks and nature reserves

14. (1) The Minister may declare any area a game park or a nature reserve for the propagation, protection, study and preservation therein of the wild animal life, fisheries, wild plant life and objects of geological, ethnological, archaeological, historical and other scientific interest and for the benefit and enjoyment of the inhabitants of Namibia and other persons.

(2) Any such declaration of an area as a game park or a nature reserve shall be made known by notice in the *Official Gazette*.

Amendment of boundaries of game parks and nature reserves

15. (1) The Minister may from time to time amend the boundaries of any game park (except those of the Etosha National Park) or any nature reserve.

(2) Any such amendment of the boundaries of a game park or nature reserve shall be made known by notice in the *Official Gazette*.

Withdrawal of declaration as a game park or nature reserve

16. (1) The Minister may at any time withdraw the declaration of an area as a game park or a nature reserve.

(2) Any such withdrawal of the declaration of an area as a game park or a nature reserve shall be made known by notice in the *Official Gazette*.

Powers of Minister in relation to game parks, nature reserves and other protected areas**[heading of section 17 substituted by Act 3 of 2017]**

17. (1) The Minister shall control, manage and maintain game parks and nature reserves.

- (2) The Minister may within a game park or a nature reserve -
 - (a) lay out and construct such roads, bridges, buildings, water installations, fences, breakwaters, seawalls, boathouses, landing stages, mooring places and swimming pools and carry out such other works as it may consider necessary for the control, management or maintenance of the game park or nature reserve;
 - (b) take such steps as will ensure the safety of the animal and plant life and fisheries in the game park or nature reserve and the conservation of the game park or nature reserve and the animals, vegetation and fish therein in a natural state;
 - (c) reserve areas as breeding places for animals or fish or nurseries for trees, shrubs, plants and flowers and set aside zones for such purposes as it may deem necessary or desirable;

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- (d) provide accommodation for visitors to the game park or nature reserve and facilities in connection therewith;
- (e) provide meals and refreshments to visitors to the game park or nature reserve against payment of the fees determined by the Minister from time to time, tariffs of which shall be displayed at a prominent place at the restaurant or other place where such meals and refreshments are provided: Provided that the Minister may so determine different tariffs for different game parks and nature reserves;
- (f) carry on any business or trade for the convenience of visitors to the game park or nature reserve;
- (g) supply any other service for the convenience of visitors to the game park or nature reserve;
- (h) establish, erect, equip and maintain any building, structure, depot or premises required in connection with any matter referred to in paragraph (a), (e), (f) or (g), or let any premises required for such a purpose;
- (i) make such charges in connection with any such matter as it may determine;
- (j) authorise any person to carry on, subject to such conditions and the payment of such charges as it may deem fit, any activities which may be carried on by the Minister in terms of paragraph (e), (f) or (g).
- (k) establish a renewable electricity source for the purposes of the management of game parks, nature reserves and other protected areas or protection of the environment or the combating of climate change.

[paragraph (k) inserted by Act 3 of 2017; the full stop after paragraph (j) should accordingly be changed to a semicolon]

- (3) The Minister may grant concessions authorising other persons -
 - (a) to conduct tourism or activities related to the sustainable commercial use of wildlife resources; or
 - (b) provide services related to the conducting of tourism or the use of wildlife resources, on behalf of the State in protected areas or other areas of State land.

[subsection (3) inserted by Act 3 of 2017]

- (4) A concession referred to in subsection (3) -
 - (a) must contribute to the Ministry in meeting its objectives concerning protected areas or wildlife resources under its jurisdiction; and
 - (b) is granted in accordance with this Act and any other relevant law and in the furtherance of State policies and programmes and the objectives outlined in subsection (5).

[subsection (4) inserted by Act 3 of 2017]

- (5) The objectives of granting such concessions shall be to -

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- (a) enhance the conservation of biodiversity and the maintenance of the ecological integrity of protected areas and other State land;
- (b) enhance the ability of the Ministry to effectively manage protected areas and wildlife resources on other State land where applicable and to control and monitor tourism operations and other commercial use of wild animal or plant resources;
- (c) enhance the role of protected areas in sustainable and responsible tourism development in Namibia;
- (d) enhance through concessions the economic empowerment of formerly disadvantaged Namibians and rural communities living in and around protected areas and their entrance into the tourism and other wildlife-based industries;
- (e) promote the allocation of concessions through equitable, competitive and transparent mechanisms that produce tourism products of a high standard;
- (f) diversify tourism options and attractions in protected areas and other State land; and
- (g) generate revenue for employment creation, conservation and poverty reduction.

[subsection (5) inserted by Act 3 of 2017]

(6) In case of concessions awarded on State land that is not a protected area, a right of leasehold from the communal land board concerned is required in terms of Part 2 of the Communal Land Reform Act, 2002 (Act No. 5 of 2002).

[subsection (6) inserted by Act 3 of 2017]

(7) The Minister shall prescribe a process to award concessions on a competitive basis, taking into account such factors as the Minister determines to ensure fairness and the achievement of the objectives specified in subsection (5).

[subsection (7) inserted by Act 3 of 2017]

(8) The Minister may award a concession in a protected area or on other State land directly to a rural community that is resident in such area or on such land or neighboring a protected area, but the award of such concession shall be consistent with the management objectives of the protected area in question.

[subsection (8) inserted by Act 3 of 2017]

(9) The Minister shall appoint a committee of staff members of the Ministry and other persons with appropriate knowledge and expertise to oversee the process of identifying, awarding and monitoring concessions according to the prescribed criteria and procedure.

[subsection (9) inserted by Act 3 of 2017]

(10) The Minister may impose any conditions on an existing or future concession in order to protect the environment.

[subsection (10) inserted by Act 3 of 2017]

(11) No concession shall be transferred, varied or extended without the prior written approval of the Minister who may impose conditions relating to such transfer, variation or extension.

[subsection (11) inserted by Act 3 of 2017]

(12) The Minister shall grant a concession that is in line with the management objectives and management plan of the protected area for which an application for concessions has been made.

[subsection (12) inserted by Act 3 of 2017]

(13) The Minister shall prescribe requirements relating to the administration of concessions, including the conduct of regular rental reviews, the duration of concessions, the period of time after which the concession agreement may be automatically terminated if the concession holder does not operate the concession and charge market related fees for concessions.

[subsection (13) inserted by Act 3 of 2017]

Restriction of right to enter game parks and nature reserves and prohibition of certain acts therein

18. (1) Notwithstanding anything to the contrary in this Ordinance contained, but subject to the provisions of subsection (2) and sections 19 and 21, no person shall without the written permission of the Minister -

- (a) enter or reside in a game park or a nature reserve;
- (b) convey into a game park or a nature reserve or, within the confines thereof be in possession of, any weapon, explosive, trap or poison;
- (c) within a game park or a nature reserve wilfully or negligently injure, capture or disturb any animal or remove or destroy any egg or nest of any bird;
- (d) wilfully or negligently cause any veld fire or any damage to any object of geological, ethnological, archaeological, historical or other scientific interest within a game park or a nature reserve;
- (e) introduce any animal into or permit any live-stock or domestic animal to enter a game park or a nature reserve;
- (f) remove from a game park or a nature reserve any animal, whether dead or alive, or any part of an animal, other than an animal lawfully introduced into such game park or nature reserve;
- (fA) in any waters in a game park or nature reserve -
 - (i) catch or attempt to catch fish, whether or not such person is the holder of a fishing licence issued under any law governing inland fisheries resources; or
 - (ii) place or release any fish;
 - (iii) place or dump any explosive or any poison or other noxious material or substance which may be harmful to fish or their environment"

[paragraph (fA) inserted by Act 1 of 2003]

- (g) pick any indigenous plant in a game park or a nature reserve;

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- (h) chop, cut or destroy any tree in a game park or a nature reserve:

Provided that -

- (i) a member of the security forces acting officially and whose action is directly connected with the exercise of his official duties shall be exempted from the provisions of paragraphs (a), (b) and (e), except those provisions of paragraph (b) relating to the conveyance into or possession in a game park or nature reserve of any trap or poison; and
- (ii) an officer of the Directorate, or a member of the board acting officially and whose action is directly connected with the exercise of his official duties or with the execution of the powers vested in him in terms of this Ordinance shall be exempted from all the provisions of this subsection.

[Subsection (1) is amended by Act 27 of 1986. The word "connected" is misspelt in the *Official Gazette*, as reproduced above. There should be a comma after the word "Ordinance" to properly offset the phrase "or a member of the board acting officially and whose action is directly connected with the exercise of his official duties or with the execution of the powers vested in him in terms of this Ordinance".]

(2) Notwithstanding the provisions of subsections (1) but subject to the conditions, requirements and restrictions prescribed or imposed by or in terms of this Ordinance, any person may -

- (a) travel in a vehicle along a prescribed route through a prescribed game park or nature reserve;
- (b) convey an animal or an object mentioned in subsection (1)(b) in a vehicle along a prescribed route through a prescribed game park or nature reserve.

(3) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any permission granted thereunder shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Purposes for which permission to enter game parks and nature reserves may be granted

19. The permission to enter and reside in a game park or a nature reserve mentioned in section 18(1)(a) may be granted only for the purposes of -

- (a) health, study, recreation or other incidental matters;
- (b) travel or transport along the routes prescribed by regulation; or
- (c) transacting any lawful business.

Prohibition of hunting in game parks and nature reserves

20. (1) Notwithstanding anything to the contrary in this Ordinance contained, no person shall, without the written permission of the Minister, hunt any animal in any game park or any nature reserve: Provided that a dangerous animal may be killed in defence of a human life or to prevent a human being from being injured.

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(2) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of any permission granted thereunder, shall be guilty of an offence and liable on conviction -

- (a) to a fine not exceeding R200 000 or to imprisonment for a period not exceeding twenty years or to both such fine and such imprisonment if such offence relates to the hunting of any elephant or rhinoceros; or
- (b) to a fine not exceeding R20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment if such offence relates to the hunting of any other specially protected game; or
- (c) to a fine not exceeding R16 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment if such offence relates to the hunting of any other animal.

[subsection (2) amended by Act 27 of 1986 and by Act 31 of 1990]

Killing of animals trespassing in game parks or nature reserves

21. A nature conservator may at any time -

- (a) kill any dog found in a game park or a nature reserve, other than any such dog which is in the lawful possession or under the lawful charge of an officer or a member of the security forces or which is being conveyed through such game park or nature reserve in accordance with the provisions of section 18;
- (b) kill any donkey, horse or other riding or pack-animal found in a game park or a nature reserve, other than any such donkey, horse or other riding or pack-animal which is in the lawful possession or under the lawful charge of an officer or a member of the security forces or which is being conveyed through such game park or nature reserve in accordance with the provisions of section 18, and may seize the saddles and bridles thereof, of any;
- (c) with the consent of the Minister, kill any livestock or domestic animal found in a game park or a nature reserve, other than any such livestock or domestic animal which is in the lawful possession or under the lawful charge of an officer or which is being conveyed through such game park or nature reserve in accordance with the provisions of section 18.

[section 21 amended by Act 27 of 1986]

Establishment of private game parks and private nature reserves

22. (1) (a) Subject to the provisions of subsections (2), (3), (4) and (5) the Minister may at any time and subject to such conditions as it may deem necessary or expedient declare any area a private game park or private nature reserve for the period determined by it or until the declaration of the area concerned as a private game park or private nature reserve is withdrawn.
- (b) Any such declaration of an area as a private game park or a private nature reserve shall be made known by notice in the *Official Gazette*.

(2) An area shall only be declared a private game park or a private nature reserve on the written application of the owner of the land concerned.

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- (3) (a) No area shall be declared a private game park or a private nature reserve unless a notice of the application to do so has at least three months previously at the cost of the applicant been published in the *Official Gazette* and in two newspapers circulating in Namibia.
- (b) The notice referred to in paragraph (a) shall request any person who wishes to object to the declaration of the area concerned as a private game park or a private nature reserve to lodge his objections with the person or officer mentioned in the notice within a period mentioned in the notice, which objections shall be submitted to and considered by the Minister together with the application concerned.
- (4) (a) The Minister may at any time withdraw the declaration of an area as a private game park or a private nature reserve.
- (b) Any such withdrawal of the declaration of an area as a private game park or a private nature reserve shall be made known by notice in the *Official Gazette*.
- (5) The declaration of an area as a private game park or a private nature reserve shall in no way derogate from the provisions of Chapter IV and shall apply subject to the provisions of the said Chapter IV.

Prohibition of hunting in private game parks

23. (1) Notwithstanding anything to the contrary in this Ordinance contained, but subject to the provisions of Chapter IV, no person shall without the written approval of the Minister hunt any game or any other wild animal or bird in a private game park: Provided that the owner of the land concerned may at any time hunt any game or any other wild animal or bird on such land, except specially protected and protected game.

(2) The Minister shall not grant any approval in terms of subsection (1) unless the owner of the land concerned has granted his permission thereto.

(3) The approval referred to in subsection (1) shall be granted subject to the conditions, requirements and restrictions imposed by the Minister with due allowance for the permission of the owner of the land concerned.

(4) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of any approval granted in terms of this section shall be guilty of an offence and liable on conviction -

- (a) to a fine not less than one thousand one hundred and fifty rand and not exceeding two thousand five hundred rand or to imprisonment for a period of not less than two years and not exceeding six years or to both such fine and such imprisonment if such offence relates to the hunting of specially protected game;
- (b) to a fine not less than seven hundred and fifty rand and not exceeding one thousand five hundred rand or to imprisonment for a period of not less than twelve months and not exceeding three years or to both such fine and such imprisonment if such offence relates to the hunting of any other game or wild animal.

Prohibition of picking of indigenous plants in private nature reserves

24. (1) No person shall without the written approval of the Minister pick any indigenous plant, or any portion of an indigenous plant, in a private nature reserve: Provided that

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the owner of the land concerned may at any time pick any indigenous plant, other than a protected plant, on such land.

(2) The Minister shall not grant any approval in terms of subsection (1) unless the owner of the land concerned has granted his permission thereto.

(3) The approval referred to in subsection (1) shall be granted subject to the conditions, requirements and restrictions imposed by the Minister with due allowance for the permission of the owner of the land concerned.

(4) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of any approval granted in terms of this section, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Conservancies

24A. (1) Any group of persons residing on communal land and which desires to have the area which they inhabit, or any part thereof, to be declared a conservancy, shall apply therefor to the Minister in the prescribed manner, and such application shall be accompanied by -

- (a) a list of the names of the persons who are members of a committee established for the purpose of being recognised by the Minister under subsection (2)(ii) as the conservancy committee for the conservancy applied for;
- (b) the constitution of such committee;
- (c) a statement setting out the boundaries of the geographic area in respect of which the application is made; and
- (d) such other documents or information as the Minister may require.

(2) If the Minister is satisfied in respect of an application made in terms of subsection (1) that -

- (a) the relevant committee is representative of the community residing in the area to which the application relates;
- (b) the constitution of such committee provides for the sustainable management and utilization of game in such area;
- (c) such committee has the ability to manage funds and has an appropriate method for the equitable distribution, to members of the community, of benefits derived from the consumptive and non-consumptive use of game in such area;
- (d) the geographic area to which the application relates has been sufficiently identified, taking into account also the views of the Regional Council of that area;

[The word "geographic" is misspelt in the *Official Gazette*, as reproduced above.]

- (e) the area concerned is not subject to any lease or is not a proclaimed game park or nature reserve; and
- (f) any other prescribed requirements have been complied with,

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the Minister shall -

- (i) in writing to the committee in question and on such conditions as he or she may determine in addition to any prescribed condition or restriction, recognize that committee as the conservancy committee for the conservancy concerned; and

[The word "committee" is misspelt in its second use in paragraph (i), as reproduced above.]

- (ii) by notice in the *Gazette* declare the area to which the application relates as a conservancy, and such notice shall set out the geographic boundaries of the area in respect of which the conservancy is being declared.

- (3) (a) The Minister may, subject to paragraphs (b) and (c), at any time -

- (i) withdraw his or her recognition of a conservancy committee given under subsection (2)(i);

- (ii) amend or withdraw any condition imposed under subsection (2)(i); or

- (iii) amend or withdraw any notice made under subsection (2)(ii).

- (b) Before the Minister under paragraph (a) withdraws the recognition of a conservancy committee or amends or withdraws any condition or notice, he or she shall in writing -

- (i) inform the conservancy committee of his or her intention to do so;

- (ii) furnish the conservancy committee with the reasons for the intended withdrawal or amendment, in question; and

- (iii) call upon the conservancy committee to show cause within a period specified, why the withdrawal or amendment in question should not be effected.

- (c) After considering any representations received within the specified period from the conservancy committee concerned by virtue of the provisions of paragraph (b)(iii), the Minister may in his or her discretion -

- (i) proceed in terms of paragraph (a) with the withdrawal or amendment in question; or

- (ii) refrain from taking any steps in terms of paragraph (a),

and the Minister shall in writing inform the conservancy committee concerned of his or her decision in terms of this paragraph.

(4) Notwithstanding section 28 and subject to subsection (5) of this section, a conservancy committee shall on behalf of the community in a conservancy or in respect of which a conservancy has been declared have rights and duties with regard to the consumptive and non-consumptive use and sustainable management of game in such conservancy, in order to enable the members of such community to derive benefits from such use and management.

(5) The provisions of Part III shall *mutatis mutandis* apply to a conservancy committee insofar as it confer rights and privileges and imposes duties and obligations on an owner or a lessee of land in relation to game on such land, except that no requirement of any such provision

with regard to any fence or the extent of any land or any provision classifying land for a prescribed type of fence shall apply to any conservancy.

[section 24A inserted by Act 5 of 1996]

Wildlife councils

24B. (1) The Minister may, after consultation with a community residing on communal land and if all the prescribed requirements have been met, establish a wildlife council for the area, or any part thereof, in which such community resides on such conditions as he or she may determine in addition to any prescribed condition or restriction: Provided that no such area shall include any conservancy, any land subject to any lease, or any proclaimed game park or nature reserve.

(2) The Minister shall give notice in the *Gazette* of any wildlife council established under subsection (1), and such notice shall set out the geographic boundaries of the area in respect of which the wildlife council has been so established.

- (3) (a) The Minister may, subject to paragraphs (b) and (c), at any time -
- (i) dissolve a wildlife council;
 - (ii) amend or withdraw any condition imposed under subsection (1); or
 - (iii) amend or withdraw any notice made under subsection (2).
- (b) Before the Minister under paragraph (a) dissolves a wildlife council or amends or withdraws any condition or notice, he or she shall in writing -
- (i) inform the wildlife council of his or her intention to do so;
 - (ii) furnish the wildlife council with the reasons for the intended dissolution, amendment or withdrawal in question; and
 - (iii) call upon the wildlife council to show cause within a period specified, why the dissolution, amendment or withdrawal in question should not be effected.
- (c) After considering any representations received within the specified period from the wildlife council concerned by virtue of the provisions of paragraph (b)(iii), the Minister may in his or her discretion -
- (i) proceed in terms of paragraph (a) with the dissolution, amendment or withdrawal in question; or
 - (ii) refrain from taking any steps in terms of paragraph (a),

and the Minister shall in writing inform the wildlife committee concerned of his or her decision in terms of this paragraph.

(4) Notwithstanding section 28 and subject to subsection (5) of this section, a wildlife council shall on behalf of the community in the area for which such council has been established have rights and duties with regard to the consumptive and non-consumptive use and sustainable management of game in such area, in order to enable the members of such community to derive benefits from such use and management.

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(5) The provisions of Part III shall *mutatis mutandis* apply to a wildlife council insofar as it confer rights and privileges and imposes duties and obligations on an owner or a lessee of land in relation to game on such land, except that no requirement of any such provision with regard to any fence or the extent of any land or any provision classifying land for a prescribed type of fence shall apply to any wildlife council.

[section 24B inserted by Act 5 of 1996]

CHAPTER III

WILD ANIMALS

Powers of Minister in relation to hunting seasons and classification of game

25. (1) The Minister may from time to time -

- (a) in any year determine hunting seasons during which game mentioned in Schedule 5 or 6 or Schedules 5 and 6 or any species or sex thereof may be hunted in terms of the provisions of section 30 or 32 or sections 30 and 32, as the case may be, but subject to the other provisions of this Ordinance;
- (b) restrict the number of any species or sex of game which may be hunted during a hunting season;
- (c) amend Schedules 3, 4, 5 and 6 by deleting the name of any species or sex of game or by transferring such name from any such schedule to another or by adding to any such schedule the name of any species or sex of wild animal which is not included in any of the said schedules.

(2) Any determination of a hunting season, restriction of a species or sex of game which may be hunted during a hunting season or amendment of Schedule 3, 4, 5 or 6 in terms of subsection (1) shall be made known by notice in the *Official Gazette*.

(3) Any hunting season or amendment of any such schedule may, subject to the provisions of subsection (4), be made applicable to the entire Territory or to any part or parts of Namibia defined in such notice.

[Act 5 of 1996 makes a global substitution of "Namibia" for "the Territory", but this substitution does not apply to subsection (3) which uses the phrase "the entire Territory" rather than "the Territory".]

(4) No amendment of such schedules whereby the name of any species or sex of game is transferred from Schedule 5 or Schedule 6 to Schedule 3 or Schedule 4 or whereby the name of any species or sex of wild animal is added to Schedule 3 or Schedule 4 shall be applicable in respect of -

- (a) any farm; or
- (b) any piece of land

which is not less than one thousand hectares in extent and is enclosed with a game-proof fence.

[There is no punctuation mark at the end of paragraph (b) in the *Official Gazette*.]

Hunting of specially protected game

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26. (1) No person other than the lawful holder of a permit granted by the Minister shall at any time hunt any specially protected game.

(2) A permit granted in terms of this section authorises the lawful holder thereof subject to the conditions, requirements and restrictions imposed by or under this Ordinance to hunt the number and species of specially protected game mentioned therein at the time and place mentioned therein.

(3) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of a permit granted in terms of this section, shall be guilty of an offence and liable on conviction -

- (a) to a fine not exceeding N\$25 000 000 or to imprisonment for a period not exceeding 25 years, or to both such fine and such imprisonment if such offence relates to the hunting of any elephant or rhinoceros; or
- (b) to a fine not exceeding N\$10 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment if such offence relates to the hunting of any other specially protected game,

but if such person has been previously convicted of an offence referred to in paragraph (a) or (b), he or she is liable to a fine not exceeding N\$50 000 000 or to imprisonment for a period not exceeding 40 years, or to both such fine or such imprisonment.

**[subsection (3) amended by Act 27 of 1986 and by Act 31 of 1990,
and substituted by Act 3 of 2017]**

- (4) (a) No provision contained in this section shall prohibit the owner or lessee of land or the occupier of communal land from killing specially protected game on such land in defence of a human life or to prevent a human being from being injured or to protect the life of any livestock, poultry or domestic animal of such owner, lessee or occupier whilst the life of such livestock, poultry or domestic animal is actually being threatened.

[paragraph (a) amended by Act 27 of 1986]

- (b) Any person who kills specially protected game in terms of the provisions of this subsection shall report it in writing to the nearest nature conservator or at the nearest police office within ten days thereafter.
- (c) Any person who fails or neglects to comply with the provisions of paragraph (b) shall be guilty of an offence.

(5) Any person who hunts specially protected game under a permit granted in terms of this section, shall at all times have such permit in his possession while he is so hunting.

[subsection (5) inserted by Act 27 of 1986]

(6) Any person who has hunted any specially protected game under a permit granted in terms of this section, shall endorse -

- (a) the species of specially protected game and the number of each of such species which he has hunted under such permit;
- (b) the date on which he has so hunted it; and

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- (c) the name of the farm or a description of the land on which he has so hunted it,

on such permit in ink or indelible pencil and shall sign it before he leaves the farm or land on which he has hunted such specially protected game.

[subsection (6) inserted by Act 27 of 1986]

- (7) Any person who contravenes or fails to comply with any provision of subsection (5) or (6), shall be guilty of an offence.

[subsection (7) inserted by Act 27 of 1986]

Hunting of protected game

27. (1) No person other than the lawful holder of a permit granted by the Minister shall at any time hunt any protected game.

(2) A permit granted in terms of this section authorises the lawful holder thereof subject to the conditions, requirements and restrictions imposed by or under this Ordinance to hunt the number and species of protected game mentioned therein at the time and place mentioned therein.

(3) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of a permit granted in terms of this section, shall be guilty of an offence, and liable on conviction to a fine not exceeding N\$500 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

[subsection (3) amended by Act 27 of 1986 and substituted by Act 3 of 2017]

(3A) If the person referred to in subsection (3) has been previously convicted of an offence referred to in that subsection, he or she is liable to a fine not exceeding N\$1 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment.

[subsection (3A) inserted by Act 3 of 2017]

(4) Notwithstanding anything to the contrary in this Ordinance contained, the owner or lessee of a farm or piece of land which is not less than one thousand hectares in extent may, if such farm or piece of land is enclosed with jackal-proof fencing, at any time and by any means whatsoever kill any antbear or honey badger found on such farm or piece of land and any steenbok which is lawfully on such farm or piece of land shall be deemed to be huntable game to which such owner or lessee shall have the right of ownership: Provided that -

- (a) for the purposes of the provisions of this subsection “owner” shall not include a town clerk or the secretary of a local authority;
- (b) for the purposes of the provisions of this subsection relating to steenbok, “lessee” shall not include the lessee of a farm or land, who is not the owner of the huntable game, huntable game birds and exotic game on such farm or land.
- (5) (a) No provision contained in this section shall prohibit the owner or lessee of land or the occupier of communal land from killing protected game on such land in defence of a human life or to prevent a human being from being injured or to protect the life of any livestock, poultry or domestic animal of such owner, lessee or occupier whilst the life of such livestock, poultry or domestic animal is actually being threatened.

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[paragraph (a) amended by Act 27 of 1986]

- (b) Any person who kills protected game in terms of the provisions of this subsection shall report it in writing to the nearest nature conservator or at the nearest police office within ten days thereafter.
- (c) Any person who fails or neglects to comply with the provisions of paragraph (b) shall be guilty of an offence.
- (6) Any person who hunts protected game under a permit granted in terms of this section, shall at all times have such permit in his possession while he is so hunting.

[subsection (6) inserted by Act 27 of 1986]

- (7) Any person who has hunted any protected game under a permit granted in terms of this section, shall endorse -
 - (a) the species of protected game and the number of each of such species which he has hunted under such permit;
 - (b) the date on which he has so hunted it; and
 - (c) the name of the farm or a description of the land on which he has so hunted it,

on such permit in ink or indelible pencil and shall sign it before he leaves the farm or land on which he has hunted such protected game.

[subsection (7) inserted by Act 27 of 1986]

- (8) Any person who contravenes or fails to comply with any provision of subsection (6) or (7), shall be guilty of an offence.

[subsection (8) inserted by Act 27 of 1986]**Hunting on State land**

- 28. (1) (a) Subject to the provisions of sections 24A and 24B and Chapter IV, no person shall without the written permission of the Minister hunt any huntable game, huntable game bird or exotic game or any other wild animal on any land, including communal land, owned by the State.
- (b) For the purpose of paragraph (a) land leased by the Government of Namibia shall, unless an intention to the contrary appears from the lease, and unless, in the case of communal land, the land leased is an unsurveyed piece of land, be deemed not to be land owned by the State.
- (c) Any person who contravenes or fails to comply with any provision of paragraph (a) or any condition, requirement or restriction of any written permission granted thereunder, shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

[subsection (1) amended by Act 5 of 1996; not all punctuation changes are indicated by amendment markings]

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- (2) (a) Any person who hunts any huntable game, huntable game bird or exotic game or any other wild animal under the written permission of the Minister granted in terms of this section, on land, including communal land, owned by the State, shall at all times have such written permission in his possession while he is so hunting.
- (b) Any person who contravenes or fails to comply with any provision of paragraph (a) shall be guilty of an offence.

[section 28 amended by Act 27 of 1986; heading changed
without being indicated by amendment markings]

Right of ownership to huntable game, huntable game birds and exotic game

29. (1) The owner of -
- (a) a farm which is enclosed with a game-proof fence or an adequate fence;
- (b) any piece of land which is not less than one thousand hectares in extent and enclosed with a game-proof fence,

shall, subject to the provisions of this Ordinance, be the owner of all huntable game, huntable game birds and exotic game on such farm or piece of land as long as such huntable game, huntable game birds and exotic game are lawfully on such farm or piece of land and as long as such farm or piece of land remains to be enclosed in that manner.

- (2) The lessee of -
- (a) a farm which is enclosed with a game-proof fence or an adequate fence;
- (b) any piece of land which is not less than one thousand hectares in extent and enclosed with a game-proof fence,

shall, subject to the provisions of this Ordinance, and unless the contract under which he leases such farm or piece of land specifically provides otherwise, be the owner of all huntable game, huntable game birds and exotic game on such farm or piece of land as long as such huntable game, huntable game birds and exotic game are lawfully on such farm or piece of land and as long as such farm or piece of land remains to be enclosed in that manner.

Hunting of huntable game under owner's authority

30. (1) (a) Save as is otherwise provided in this Ordinance, no person other than the lawful holder of a permit granted by the Minister shall hunt any huntable game.

[paragraph (a) amended by Act 6 of 1988]

- (aA) Subject to the provisions of this Ordinance, a permit for the hunting of huntable game shall be granted -
- (i) only if the person who applies for such a permit produces a written authority granted to him in accordance with the provisions of paragraph (b); and
- (ii) only in respect of the hunting of such species of huntable game, and the number of each such species, mentioned in the written authority referred to in paragraph (b), but in no case in respect of huntable game exceeding the one or the other of the following numbers of such game, namely:

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- (aa) three head of big game; or
- (bb) two head of big game and four head of small game; or
- (cc) one head of big game and eight head of small game; or
- (dd) twelve head of small game:

Provided that the limitations mentioned in sub-paragraph (ii)(aa), (bb), (cc) and (dd) shall not apply in the case where a permit is granted for the hunting of huntable game on a farm which is enclosed with a game-proof fence.

[paragraph (aA) inserted by Act 6 of 1988]

- (b) The written authority referred to in paragraph (aA) -

[introductory phrase of paragraph (b) substituted by Act 6 of 1988]

- (i) shall be granted only by the owner or lessee of a farm which is enclosed with a game-proof fence or an adequate fence or by the owner or lessee of a piece of land which is not less than one thousand hectares in extent and enclosed with a game-proof fence;
- (ii) shall be granted by such owner or lessee only in respect of the hunting of huntable game which is on such farm or piece of land and of which he is the owner in terms of this Ordinance: Provided that such owner shall not grant any such authority in respect of the hunting of any such huntable game of which he is the owner but has leased the right to hunt it;
- (iiA) shall be granted by such owner or lessee only in respect of the hunting of huntable game not exceeding the one or the other of the following numbers of such game, namely:
 - (aa) three head of big game; or
 - (bb) two head of big game and four head of small game; or
 - (cc) one head of big game and eight head of small game; or
 - (dd) twelve head of small game:

Provided that the provisions of this subparagraph shall not apply to the owner or lessee of a farm which is enclosed with a gameproof fence;

[subparagraph (iiA) inserted by Act 6 of 1988; "gameproof" is spelt with a hyphen as "game-proof" elsewhere in the Ordinance]

- (iii) shall be in ink or indelible pencil and shall contain -
 - (aa) the name and full residential address of the person by whom such authority is granted;
 - (bb) the name and full residential address of the person to whom such authority is granted;

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- (cc) the date or dates within the hunting season on which hunting under such authority is authorised;
- (dd) subject to the provisions of subparagraph (iiA), the species of huntable game, and the number of each such species, which may be hunted under such authority; and
- (ee) the name of the farm or a description of the piece of land on which may be hunted under such authority,

and shall be signed by the person granting such authority.

[subparagraph (iii) amended by Act 6 of 1988]

- (bA) The permit referred to in paragraph (a) shall authorise the person to whom it is granted, subject to the conditions, requirements and restrictions prescribed or imposed by or under this Ordinance, to hunt on the date or dates within the hunting season mentioned therein, the species of huntable game, and the number of each such species mentioned therein, on the farm or farms mentioned therein or the piece of land described therein.

[subparagraph (iv) amended by Act 6 of 1988 to become paragraph (bA)]

- (c) Any person who contravenes or fails to comply with any provision of paragraph (a) or (bA) or any condition, requirement or restriction of any permit granted in terms of this subsection, shall be guilty of an offence and liable on conviction to a fine not exceeding N\$500 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

**[paragraph (c) amended by Act 27 of 1986 and Act 6 of 1988,
and substituted by Act 3 of 2017]**

- (d) If the person referred to in paragraph (c) has been previously convicted of an offence referred to in that paragraph, he or she is liable to a fine not exceeding N\$1 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment.

[paragraph (d) inserted by Act 3 of 2017]

(2) Any person who hunts huntable game under any permit granted in terms of this section shall at all times have such permit in his possession while he is so hunting.

[subsection (2) amended by Act 6 of 1988]

(3) Any person who has hunted any huntable game under a permit granted in terms of this section, shall endorse-

- (a) the species of huntable game, and the number of each such species, which he has hunted under such permit;
- (b) the date on which he has so hunted it; and
- (c) the name of the farm or a description of the land on which he has so hunted it,

on such permit in ink or indelible pencil and shall sign it before he leaves the farm or piece of land on which he has hunted such huntable game.

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[subsection (3) amended by Act 6 of 1988]

(4) Any person who contravenes or fails to comply with any provision of subsection (2) or (3), shall be guilty of an offence.

(5) Notwithstanding the provisions of section 47, any person who grants a written authority in terms of this section, may claim and recover the amount (if any) agreed upon with the person to whom such written authority was granted, from such person in respect of any huntable game hunted under such written authority.

(6) Subject to the provisions of the proviso to subparagraph (aA) of subsection (1), no permit or permits shall be granted to any person in terms of that subsection which would result in such person being authorised to hunt in any given hunting season in total more than the one or the other of the following numbers of huntable game, namely:

- (a) three head of big game; or
- (b) two head of big game and four head of small game; or
- (c) one head of big game and eight head of small game; or
- (d) twelve head of small game.

[subsection (6) inserted by Act 6 of 1988]**Hunting of huntable game by owner or lessee of land**

31. (1) Notwithstanding anything to the contrary in this Ordinance contained, the owner or lessee of a farm which is enclosed with a game-proof fence or an adequate fence or of a piece of land which is not less than one thousand hectares in extent and enclosed with a game-proof fence may hunt any huntable game on such farm or piece of land throughout the year without a permit referred to in section 30(1)(a).

[subsection (1) amended by Act 6 of 1988]

(2) The owner or lessee of a farm or piece of land referred to in subsection (1) may exercise the rights granted to him by the said subsection personally and also through his wife or one or more of his children and his parents as well as through any employee permanently employed by him and resident on such farm or piece of land, provided such employee has his written permission: Provided that if such owner or lessee is by reason of physical disability unable to exercise such rights and neither his wife, nor his children, parents or employees as mentioned above are available to do so, the Minister may, on application by such owner or lessee, authorise any officer or other person whom it considers competent in writing to exercise such fights for and on behalf of such owner or lessee.

[subsection (2) amended by Act 27 of 1986]

- (2A) (a) The owner or lessee of a farm or piece of land referred to in subsection (1), shall not later than the last day of November of every year provide the Director with a return stating the species of huntable game, and the number of each such species, which have been hunted by him personally, or for and on his behalf, on such farm or piece of land during the preceding period of twelve months in terms of the provisions of this section.
- (b) Any person who fails or neglects to comply with the provisions of paragraph (a) shall be guilty of an offence.

[subsection (2A) inserted by Act 6 of 1988]

- (3) For the purposes of this section -
- (a) “owner” shall not include the town clerk or the secretary of a local authority;

[paragraph (a) amended by Act 27 of 1986 and by Act 5 of 1996]

- (b) “lessee” shall not include the lessee of a farm or land, who is not the owner of the huntable game on such farm or land.

Hunting of huntable game birds under owner’s authority

32. (1) (a) Save as is otherwise provided in this Ordinance, no person other than the lawful holder of a written authority granted in accordance with the provisions of this section, shall hunt any huntable game birds.

- (b) The written authority referred to in paragraph (a) -

- (i) shall be granted only by the owner or lessee of a farm which is enclosed with a game-proof fence or an adequate fence or by the owner or lessee of a piece of land which is not less than one thousand hectares in extent and enclosed with a game-proof fence;

- (ii) shall be granted by such owner or lessee only in respect of the hunting of huntable game birds which is on such farm or piece of land and of which he is the owner in terms of this Ordinance: Provided that such owner shall not grant any such authority in respect of the hunting of any such huntable game birds of which he is the owner but has leased the right to hunt it;

- (iii) shall be in ink or indelible pencil and shall contain -

- (aa) the name and full residential address of the person by whom such authority is granted;

- (bb) the name and full residential address of the person to whom such authority is granted;

- (cc) the date or dates on which hunting under such authority is authorised;

- (dd) the species of huntable game birds, and the number of each such species which may be hunted under such authority; and

- (ee) the name of the farm or a description of the piece of land on which may be hunted under such authority,

and shall be signed by the person granting such authority before it is handed by him to the person to whom it is granted.

- (iv) shall authorise the person to whom it is granted subject to the conditions, requirements and restrictions imposed by or under this Ordinance, to hunt on the date or dates mentioned therein (which date or dates shall not be outside the hunting season) the species of huntable game, and the number of each such species mentioned therein, on the farm or farms mentioned therein or the piece of land described therein.

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(2) Any person who hunts huntable game under any written authority granted in terms of this section shall at all times have such written authority in his possession while he is so hunting: Provided that any person who is so hunting need not at all times have such written authority in his possession while he is so hunting if the person who has granted him such written authority accompanies him at all times while he is so hunting.

(3) Any person who has hunted any huntable game birds under a written authority granted in terms of this section, shall endorse -

- (a) the species of huntable game birds, and the number of each such species, which he has hunted under such authority;
- (b) the date on which he has so hunted it; and
- (c) the name of the farm or a description of the land on which he has so hunted it,

on such authority in ink or indelible pencil and shall sign it before he leaves the farm or the piece of land on which he has hunted such huntable game birds.

(4) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any written authority granted in terms of this section, shall be guilty of an offence.

(5) Notwithstanding the provisions of section 47, any person who grants a written authority in terms of this section, may claim and recover the amount (if any) agreed upon with the person to whom such written authority was granted, from such person in respect of any huntable game birds hunted under such written authority.

Hunting of huntable game birds by owner or lessee of land

33. (1) Notwithstanding anything to the contrary in this Ordinance contained, the owner or lessee of any land may -

- (a) if such land is enclosed in such a manner that the boundaries thereof are clearly indicated, throughout the year hunt any huntable game birds on any part of such land;
- (b) if such land is not enclosed in such a manner that the boundaries thereof are clearly indicated, throughout the year on any cultivated lands and in any gardens on such land hunt any huntable game birds which destroy or damage crops or plants on such cultivated lands or in such gardens.

(2) The owner or lessee of land referred to in subsection (1) may exercise the rights granted to him by the said subsection personally and also through his wife or one or more of his children or his parents as well as through any employee permanently employed by him and resident on such land provided such employee has his written permission: Provided that, if such owner or lessee is by reason of physical disability unable to exercise such rights and neither his wife, nor his children, parents or employees as mentioned above are available to do so, the Minister may on application by such owner or lessee authorise any officer or other person whom it considers competent in writing to exercise such rights for and on behalf of such owner or lessee.

[subsection (2) amended by Act 27 of 1986]

- (3) For the purposes of this section -

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- (a) “owner” shall not include the town clerk or the secretary of a local authority;

[paragraph (a) amended by Act 27 of 1986 and by Act 5 of 1996]

- (b) “lessee” shall not include the lessee of a farm or land, who is not the owner of the huntable game birds on such farm or land.

Hunting of exotic game and other wild animals

34. (1) Save as is otherwise provided in this Ordinance, no person shall hunt any exotic game, unless he is the lawful owner thereof, or has the written permission of the lawful owner thereof, or is the owner of the land on which such game trespasses.

(2) Save as is otherwise provided in this Ordinance, no person shall hunt any wild animal which is not game as defined in section 1 on any land, unless he has the written permission of the owner or lessee of such land.

(3) Any person who hunts any exotic game or any wild animal referred to in subsection (2) under a written permission granted in terms of subsection (1) or (2), shall at all times have such written permission in his possession while he is so hunting: Provided that any person who is so hunting need not at all times have such written authority in his possession while he is so hunting if the person who has granted him such written authority accompanies him at all times while he is so hunting.

(4) Any person who contravenes or fails to comply with any provision of subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine not less than seven hundred and fifty rand and not exceeding one thousand five hundred rand or to imprisonment for a period of not less than twelve months and not exceeding three years or to both such fine and such imprisonment.

Lease of hunting rights

35. (1) The owner of a farm or land, who, in terms of this Ordinance, has the right to hunt huntable game, huntable game birds and exotic game on such farm or land may lease that right to any other person, in which case no other person than the lessee of such right shall have the right to hunt huntable game, huntable game birds or exotic game on such farm or land.

(2) Any contract in terms of which the right to hunt huntable game, huntable game birds or exotic game is leased, shall -

- (a) be a written contract;
- (b) be entered into for a period of at least six months; and
- (c) indicate explicitly whether such right refers to huntable game, huntable game birds, exotic game, or two or more thereof.

[subsection (2) substituted by Ord. 16 of 1980]

(3) Any lease in terms of subsection (1) of the right to hunt huntable game, huntable game birds or exotic game on a farm or land, shall lapse on the sale of the farm or land in respect of which it was leased.

Hunting for the sake of trophies and possession and export of trophies

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36. (1) (a) Notwithstanding anything to the contrary in this Ordinance contained, the Minister may allow any person from any country or territory under a permit granted by the Minister to hunt the species of game, and the number (but not exceeding two) of each such species determined by the Minister and mentioned in such permit, in Namibia for the sake of trophies.
- (b) For the purposes of paragraph (a) any game that has been shot at by virtue of a permit granted under that paragraph, and that was wounded when thus being shot at, shall in all respects be regarded as having been hunted by virtue of such permit.

[subsection (1) substituted by Ord. 16 of 1980 and amended by Act 27 of 1986]

(2) Subject to the provisions of section 49 no person shall without the written permission of the Minister import any trophies into Namibia or export any trophies from Namibia.

- (2A) (a) No person shall manufacture any articles either wholly or partially from a trophy or trophies for the purpose of sale unless he is licensed under this section as a manufacturer of articles from trophies.
- (b) No person shall sell, offer for sale or display for the purpose of sale any trophies or adapted trophies unless he is licensed under this section as a seller of trophies and adapted trophies.
- (c) The licences contemplated in paragraphs (a) and (b) shall be issued by the Minister in the prescribed form and against payment of the prescribed fees.
- (d) The licences required under this subsection shall not be in lieu of but supplementary to any other permit, licence, registration, approval, permission or exemption required by law.

[subsection (2A) inserted by Ord. 16 of 1980]

(3) No person, other than the lawful holder of a permit granted by the Minister, shall be in possession of any elephant tusk or rhinoceros horn or any portion of an elephant tusk or rhinoceros horn: Provided that the provisions of this subsection shall not prohibit any person from being in possession of -

- (a) the tusk of any elephant or the horn of any rhinoceros which he has lawfully hunted or imported into Namibia in accordance with the provisions of this Ordinance;
- (b) any portion of an elephant tusk or rhinoceros horn which has lost its original identity as a result of a *bona fide* manufacturing process.

(4) Any elephant tusk or rhinoceros horn found in Namibia as *res nullius* shall be the property of the State and shall be disposed of as the Minister may determine from time to time.

[subsection (4) amended by Act 27 of 1986]

(5) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of a permit, licence or permission granted in terms of this section, shall be guilty of an offence.

[subsection (5) substituted by Ord. 16 of 1980]

Hunting of game to protect grazing, cultivated lands and gardens

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37. (1) (a) Notwithstanding anything to the contrary in this Ordinance contained -
- (i) the owner or lessee of land or any employee in the permanent service of such owner or lessee, authorised thereto in writing by such owner or lessee, may hunt any game, excluding elephant, hippopotami and rhinoceros, destroying or damaging crops or plants on any cultivated land on such land: Provided that no game shall be hunted in accordance with the provisions of this subparagraph during the period from half an hour after sunset on any day to half an hour before sunrise on the following day, unless such cultivated land is not less than one hundred hectares in extent and enclosed with a game-proof fence prescribed in respect of kudu;

[The word “excluding” is misspelt in the *Official Gazette*, as reproduced above.]

- (ii) any occupier of communal land may hunt any game, excluding elephant, hipopotami and rhinoceros, destroying or damaging crops or plants on any cultivated land on such communal land which has been laid out and is being cultivated by such occupier, provided such cultivated land is enclosed with a fence approved by the Director.

[Paragraph (a) is amended by Act 27 of 1986. The word “hippopotami” is misspelt in the *Official Gazette*, as reproduced above.]

- (b) Any person who kills any game in terms of the provisions of this subsection shall report it in writing to the nearest nature conservator or at the nearest police office within ten days thereafter.
- (c) Any person who fails or neglects to comply with the provisions of paragraph (b) shall be guilty of an offence.
- (2) (a) Whenever the Minister is convinced that it is necessary to protect grazing on a farm or any other land it may grant a permit to the owner or lessee of such farm or land authorising him, notwithstanding anything to the contrary in this Ordinance contained but subject to the conditions, requirements and restrictions which is imposed when such permit is granted, within the period mentioned in such permit to hunt on such land the species of game, and the number thereof, mentioned in such permit: Provided that -
- (i) if a company is the owner or lessee of such farm or land, such permit shall be issued to a director of such company or any other person nominated by such company;
- (ii) if a local authority is the owner or lessee of such farm or land, such permit shall be issued to a person nominated by the council or board of such local authority;
- (iii) if the lessee of such farm or land applies for permission to hunt huntable game, huntable game birds or exotic game in terms of such permit, the Minister shall grant such permit only after consultation with the owner of such huntable game, huntable game birds or exotic game.
- (b) Any person to whom a permit referred to in paragraph (a) was granted, who contravenes or fails to comply with any condition, requirement or restriction of such permit, shall be guilty of an offence.

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(3) If at the trial of a person on a charge for the contravention of section 30 or section 32, it appears from the evidence that the game, the subject of the charge, was lawfully killed in terms of the provisions of subsection (1), but that the accused failed or neglected to report the killing thereof in accordance with the said subsection (1) such person may be convicted of a contravention of the said subsection (1).

(4) Any game killed lawfully in terms of this section, shall be the lawful property of the person who so killed it.

Hunting at night

38. (1) Subject to the provisions of section 37 and Chapter IV, no person shall without the permission of the Minister hunt any game or other wild animal, other than a problem animal

- (a) with the aid of artificial light;
- (b) during the period from half an hour after sunset on any day to half an hour before sunrise on the following day.

(2) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any permission granted in terms of this section, shall be guilty of an offence and liable on conviction to a fine not exceeding N\$500 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

[subsection (2) substituted by Act 3 of 2017]

(3) If the person referred to in subsection (2) has been previously convicted of an offence referred to in that subsection, he or she is liable to a fine not exceeding N\$1 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine or such imprisonment.

[subsection (3) inserted by Act 3 of 2017]

Powers of land owners in regard to persons found hunting and dogs

39. (1) Whenever -

- (a) the owner or lessee of land; or
- (b) the lessee of the right to hunt huntable game, huntable game birds and exotic game on a farm or land; or
- (c) any other person authorised thereto in writing by any owner or lessee referred to in paragraph (a) or (b),

comes across a person who is engaged in hunting game on such farm or land he may request the person who is so engaged in hunting immediately to produce his permit, authority or permission to hunt such game on such farm or land, and if the person who is so engaged in hunting refuses or fails immediately to produce such permit, authority or permission, he may be ordered by the first-mentioned person to furnish his true name and address and immediately to leave the farm or land, and any person who refuses or fails to obey such order, may be arrested by the person who gave the order.

(2) Whenever -

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- (a) the occupier of land owned by the State; or
- (b) any other person authorised thereto in writing by the Minister,

comes across any person who is engaged in hunting game or any other wild animal (other than a problem animal) on such land, he may request the person who is so engaged in hunting such game or wild animal immediately to produce his permit or permission to hunt such game or wild animals on such land, and if the person so engaged in hunting such game or wild animal refuses or fails immediately to produce such permit or permission, he may be ordered by the first-mentioned person to furnish his true name and address and immediately to leave the land concerned, and any person who refuses or fails to obey such order may be arrested by the person who gave the order.

[subsection (2) amended by Act 27 of 1986]

(3) The occupier of land owned by the State and the owner or lessee of any other land may immediately destroy any dog chasing game or any other wild animal on such land (except a dog chasing such game or wild animal in accordance with the provisions of Chapter IV) as well as any dog which is found on such farm or land and which is not under the proper control of an adult, or cause any such dog to be destroyed.

[subsection (3) amended by Act 27 of 1986]

- (4) Any person who -
 - (a) contravenes or fails to comply with any provision of this section;
 - (b) refuses or fails immediately to produce any permit, authority or permission when requested in terms of subsection (1) or (2) to do so;
 - (c) refuses or fails to furnish his true name and address, or furnishes a name or address which is not his true name or address when ordered in terms of subsection (1) or (2) to furnish his true name and address;
 - (d) refuses or fails immediately to leave the farm or land concerned when ordered in terms of subsection (1) or (2) to do so,

shall be guilty of an offence.

Catching, capturing and killing of game and wild animals

- 40.** (1) (a) Subject to the provisions of this Ordinance, no person shall without a permit granted by the Minister intentionally -
- (i) kill game or any other wild animal by any means other than by shooting with a firearm;
 - (ii) capture game or any other wild animal by means of a snare, pitfall, trap, springtrap, net, birdlime, drug or any other device or means whatsoever or by any method whatsoever;
 - (iii) keep game or any other wild animal.
- (b) The provisions of this subsection shall by no means prohibit the owner or lessee of land from killing or capturing wild animals not being game as defined in section 1, on such land for any purpose whatsoever.

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- (c) The provisions of this subsection shall not apply to the killing and capturing of reptiles and rodents not being game as defined in section 1: Provided that no person other than a licensed game dealer shall capture any such reptiles or rodents for commercial or scientific purposes without the written permission of the Minister.
- (d) The Minister may, in his or her discretion grant exemption from any or all the provisions of this subsection to the owner or lessee of a farm which is enclosed with a game-proof fence or of a piece of land which is not less than one thousand hectares in extent and which is enclosed with a game-proof fence, or to a licensed game dealer or to any member or the members of any particular group residing on the communal land of the group concerned.

[paragraph (d) amended by Act 27 of 1986 and by Act 5 of 1996]

- (e) (i) The Minister may, in its discretion, exclude any species of exotic game from the provisions of this subsection relating to the keeping of game.
- (ii) The name of any species of exotic game which is so excluded from the provisions of this subsection, shall be made known by notice in the *Official Gazette*.

(2) Notwithstanding anything to the contrary contained in subsection (1) and section 41, but otherwise subject to all the provisions of this Ordinance and any other law in force in Namibia relating to the care for and the keeping, transport, sale and export of game, the owner or lessee of a farm or any piece of land not being less than one thousand hectares in extent may with the aid of helpers under his personal supervision, for any purpose whatsoever capture and keep game on such farm or piece of land, provided such farm is enclosed with a game-proof fence or an adequate fence or such piece of land is enclosed with a game-proof fence and the Director has previously in writing approved the method whereby and the equipment with which such owner or lessee intends to capture such game: Provided that -

- (i) the Minister may at any time in its discretion direct that any such owner or lessee shall only capture such game under the supervision of an officer of the Directorate;
- (ii) such owner or lessee may engage any person approved by the Minister (whether in general or for that specific case) to capture such game in such manner.

[subsection (2) amended by Act 27 of 1986]

- (3) (a) The Minister may in its discretion and in respect of such game, wild animals, birds and reptiles as it may determine, grant exemption from any or all of the provisions of this section to a person who is the holder of a licence authorising him to sell pets.
- (b) An application for the exemption referred to in paragraph (a) shall be made in a form approved by the Secretary and shall be submitted to the Director.

(4) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any permit, approval, permission or exemption granted or any instruction given in terms of this section, shall be guilty of an offence.

(5) For the purposes of the provisions of this section excluding the provisions of subsection (1)(b), "lessee" shall not include the lessee of a farm or land, who is not the owner of the huntable game, huntable game birds and exotic game on such farm or land.

Driving or luring of game from another person's land or removal or damaging of a fence to allow game to pass is an offence

- 40A.** Any person who, whether personally or through any other person -
- (a) without the consent of the owner or lessee of a farm or piece of land, drives or in any other manner forces or lures any game or other wild animals to trek from such farm or piece of land to any other farm or piece of land;
 - (b) removes, damages, cuts, flattens or raises any game-proof fence or adequate fence or constructs a game-trap in such a fence or allows a game-trap to exist therein, with intent to drive or lure any game or other wild animals from any farm or piece of land, without the consent of the owner or lessee of such farm or piece of land, to any other farm or piece of land or to allow game or other wild animals to pass or escape from such first-mentioned farm or piece of land to such other farm or piece of land,

shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

[section 40A inserted by Act 27 of 1986 and amended by Act 6 of 1988]

Capturing, transport and keeping of game for commercial purposes

41. (1) Subject to the provisions of sections 40(1)(b) and 40(2) no person shall capture, transport or keep game or any other wild animal for commercial purposes unless he is licensed as a game dealer: Provided that the provisions of this subsection shall by no means prohibit any person who has captured or is keeping game or any other wild animal for commercial purposes in terms of the provisions of section 40(1)(b) or 40(2), from transporting such game for commercial purposes.

(2) Application for a game dealer's licence shall be made in the form set out in Schedule 7.

(3) A game dealer's licence shall be granted by the Minister, and shall be issued in the form set out in Schedule 8.

- (4) A game dealer's licence -
- (a) shall be valid for the period from the first day of April in any year or, if it is issued after that day, from the day of issue, up to and including the thirty-first day of March following that day: Provided that a game dealer's licence which was issued for the calendar year 1975 in terms of an ordinance repealed by section 90, shall remain valid up to and including the thirty-first day of March, 1976;

[The word "calendar" is misspelt in the *Official Gazette*, as reproduced above.]

- (b) may be renewed annually; and
- (c) shall not be transferable.

(5) An amount of one hundred rand shall be payable at the issue of every new game dealer's licence and at any renewal of a game dealer's licence.

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(6) Every licensed game dealer shall keep a register in the form and in the manner prescribed by regulation, of all game and other wild animals which he captures, buys, sells, breeds, exchanges or barter and disposes of, and which dies..

(7) (a) The Minister may in its discretion grant exemption from any or all of the provisions of this section to any person who is the holder of a licence authorising him to sell pets, in regard to such game and other wild animals as it may determine and which shall be mentioned in such exemption.

(b) An application for the exemption referred to in paragraph (a) shall be made in a form approved by the Secretary and shall be submitted to the Director.

(8) Any person who contravenes or fails to comply with any provision of this section, or any provision, restriction or condition of a licence or an exemption granted in terms of this section, shall be guilty of an offence.

Restrictions in regard to fire-arms and capturing apparatus

42. (1) No person shall use a revolver, pistol or automatic fire-arm when hunting game or use a fire-arm of which the bullet has an energy at the muzzle of the barrel which is lower than the following when hunting the species of game indicated thereunder:

- (a) 5400 joules:
Buffalo.
- (b) 2700 joules:
Eland
Kudu
Oryx
Wildebeest
Hartebeest
All species of exotic game.
- (c) 1350 joules:
Springbok
Duiker:

Provided that the Minister may for the purposes of this subsection by regulation differentiate between the calibre of different fire-arms in respect of different species of game.

(2) No person shall when hunting the species of game mentioned in subsection (1)(b) or (c) use cartridges with bullets commonly known as "solid".

(3) No person shall convey any fire-arm otherwise than in a securely fastened case or cover along any public road in Namibia unless such person is the owner or lessee of the land upon which such road is situated or has the right to hunt game or any other wild animal on such land.

(4) Subject to the provisions of Chapter IV no person shall -

(a) bring or cause to be brought, or be in possession of, any snare, trap, springtrap, net, birdlime or any other device or means whatsoever, intended or suitable for the capture of any game or other wild animal or, subject to the provisions of subsection (3), a fire-arm;

(b) make any pitfall,

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onto, or on, any land on which any game or other wild animals may presumably be found, unless such person is the owner or lessee of such land or unless such owner or lessee has previously given permission in writing to the person concerned to bring the article concerned onto such land or to make a pitfall on such land, and the said owner or lessee may destroy or render harmless any such article as aforementioned, which may have been brought onto such land without his permission: Provided that the provisions of paragraph (a) shall not apply to any stocks held by a licensed game dealer.

(5) Any person who contravenes or fails to comply with any provision of this section, shall be guilty of an offence.

Use of vehicles and aircraft when hunting and capturing game

43. (1) Any person who, during a hunting expedition shoots at game out of or from a moving motor vehicle or an aircraft, or who, for any purpose whatsoever, including that of filming or photography, wilfully drives game by means of a motor vehicle or an aircraft, shall be guilty of an offence: Provided that the Minister may grant exemption from the provisions of this section prohibiting him from using motor vehicles and aircraft so to capture, to drive away or to shoot at game, to -

- (a) the owner or lessee of a farm or land -
 - (i) desiring to drive away or shoot at game in accordance with the provisions of section 37(1);
 - (ii) desiring to capture game on such farm or land in accordance with the provisions of section 40(1) or (2);
- (b) a licensed game dealer desiring to capture game in accordance with the provisions of this Ordinance.

(2) Any exemption referred to in subsection (1) may be granted in general or to a specific person or in respect of a specific occasion.

Eggs of game birds

44. (1) No person other than the lawful holder of a permit granted by the Minister shall at any time remove, disturb, destroy, sell, hawk or purchase the eggs of huntable game birds or those protected birds mentioned in Schedule 4(ii): Provided that if an owner or lessee of land may hunt such birds without a permit, he may remove the eggs of such birds without a permit for his own use.

(2) A permit issued in terms of this section shall state the kind of egg and the number thereof which may be removed, disturbed, destroyed, sold, hawked or purchased thereunder.

(3) Any person who contravenes or fails to comply with any provision of this section, or any condition, requirement or restriction of a permit issued in terms of this section, shall be guilty of an offence.

Game for scientific purposes

45. (1) Whenever the Minister is satisfied that any species of game or wild animal is required by a public museum, zoological garden or scientific institution, or that any species of game or wild animal is required for scientific purposes or for domestication or acclimatisation, it

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may grant a permit to any person authorising him to hunt, kill, capture or keep such game or wild animal at the time, place or locality mentioned in such permit, notwithstanding anything to the contrary contained in this Ordinance, but subject to the conditions, requirements and restrictions mentioned in such permit.

(2) On granting any permit referred to in subsection (1) the Minister may also determine the method by means of which such game or wild animal or any product derived from such game or wild animal, may or shall be disposed of.

(3) Any person who contravenes or fails to comply with any condition, requirement or restriction of any permit granted in terms of this section, shall be guilty of an offence and liable on conviction -

- (a) in the case of a permit concerning specially protected or protected game, to a fine not less than two hundred and fifty rand and not exceeding one thousand five hundred rand or to imprisonment for a period of not less than three months and not exceeding three years or to both such fine and such imprisonment;
- (b) in the case of a permit concerning huntable game or any other game or wild animal except huntable game birds, to a fine not less than one hundred rand and not exceeding five hundred rand or to imprisonment for a period of not less than one month and not exceeding six months or to both such fine and such imprisonment;
- (c) in the case of a permit concerning huntable game birds, to the penalties prescribed by section 87.

Donation of game and game meat

46. (1) (a) No person shall donate any game or game meat to any other person: Provided that -
- (i) the owner or lessee of a farm or a piece of land or any other person who has lawfully captured or who is lawfully keeping game in accordance with the provisions of this Ordinance may at any time donate any game which he has so captured or which he is so keeping in accordance with the provisions of this Ordinance to any other person who is the owner or lessee of a farm or land in Namibia or to whom a permit or licence has been granted in terms of this Ordinance authorising him to keep such game or to export it from Namibia;
 - (ii) the owner or lessee of a farm which is enclosed with a game-proof fence, or a piece of land which is not less than one thousand hectares in extent and which is enclosed with a game-proof fence may at any time donate the game meat of any game which he has lawfully hunted in accordance with the provisions of this Ordinance on such farm or piece of land, to a single person above the age of eighteen years or to the head of a family (irrespective of the size of the family) or to any church denomination, association, institution, organisation, society or body approved by the Minister;
 - (iii) the owner or lessee of any other farm or land may, during the hunting season only donate the game meat of any game which he has lawfully hunted in accordance with the provisions of this Ordinance on such farm or land, to a single person above the age of eighteen years or to the head of a family (irrespective of the size of the family), or to a church denomination, association, institution, organisation, society or body approved by the Minister;

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(iv) any person who has lawfully acquired game meat from someone else in accordance with the provisions of this Ordinance may, in the hunting season only, donate such game meat to a single person above the age of eighteen years or to the head of a family (irrespective of the size of the family), or to a church denomination, association, institution, organisation, society or body approved by the Minister.

(b) Not more game meat than the meat of -

(i) one eland, oryx, kudu or buffalo; or

(ii) four springbok, warthogs or bushpigs; or

(iii) twelve huntable game birds

in any period of thirty days, shall be donated in terms of the provisions of paragraph (iii) or (iv) of the proviso to paragraph (a), by any person to any other person to whom he may so donate it.

(c) Any person who contravenes or fails to comply with any provision of paragraph (a) or (b), shall be guilty of an offence.

(2) (a) No person shall receive any game or game meat as a gift from any person other than a person who may donate it to him in terms of this Ordinance.

(b) Any person who contravenes or fails to comply with any provision of paragraph (a), shall be guilty of an offence.

(3) (a) Any person who donates any game or game meat to any other person or to a church denomination, association, institution, organisation, society or body, shall at the time of delivering or handing over such game or game meat, hand to the person to whom it is so delivered or handed over, a document in which -

(i) the name and the residential address of the donor;

(ii) the date on which and the place at which such game or game meat is delivered or handed over;

(iii) a description of the game or game meat so donated;

(iv) the name of the person, church denomination, association, institution, organisation, society or body to whom or to which such game or game meat is so donated;

(v) the name and the residential address of the person to whom such game or game meat is being delivered or handed over; and

(vi) the signature of the donor,

is indicated fully in ink or indelible pencil.

(b) Any person who contravenes or fails to comply with any provision of paragraph (a), shall be guilty of an offence.

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(4) Any person who is in possession of game or game meat as a result of a donation without being in possession of a document referred to in subsection (3), shall be guilty of an offence.

(5) The provisions of subsections (1) up to and including (4) shall not apply in respect of -

- (i) a gift of game or game meat made to his parents or children by the owner or lessee of a farm or land;
- (ii) to a gift of game meat, other than the meat of huntable game birds, of less than ten kilograms.

(6) Any person who furnishes false information in respect of any provision of this section, or who makes a false entry in a document referred to in subsection (3), shall be guilty of an offence.

(7) For the purposes of this section "lessee" shall not include the lessee of a farm or land, who is not the owner of the huntable game, huntable game birds and exotic game on such farm or land.

Sale of game, game meat and the skins of game

47. (1) No person shall sell -

- (a) any game or game meat; or
- (b) the skins of any game which is obviously under the age of one year:

Provided that -

- (i) the owner or lessee of a farm which is enclosed with a game-proof fence or a piece of land which is at least one thousand hectares in extent and which is enclosed with a game-proof fence, may sell any game or game meat or any such skins originating from that farm or that piece of land;
- (ii) the owner or lessee of a farm which is enclosed with an adequate fence may sell any game or game meat or any such skins originating from that farm with the written permission of the Minister, which permission may be granted subject to the conditions determined by the Minister, including in the case where such game is to be hunted for commercial purposes, a condition indicating the person or persons by whom such game shall be hunted;
- (iii) any licensed butcher may, with the written permission of the Minister, sell any game meat which he has acquired from the owner or lessee of a farm or land in terms of the provisions of paragraph (i) or (ii) of this proviso;

[paragraph (iii) amended by Act 27 of 1986]

- (iv) any licensed game dealer may sell any game which he has in his possession in accordance with the provisions of this Ordinance;
- (v) any church denomination, association, institution, organisation, society or body approved by the Minister may, with the written permission of the Minister, sell any game or game meat which such church denomination,

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association, institution, organisation, society or body has obtained in terms of the provisions of this Ordinance, at a public function.

- (2) No person shall purchase -
 - (a) game or game meat; or
 - (b) the skins of game obviously under the age of one year,

knowing it to be game or game meat or such skins: Provided that nothing in this subsection contained shall prohibit any person from purchasing -

- (i) from the owner or lessee of a farm or a piece of land any game or game meat or skins; or
- (ii) from a licensed butcher any game meat; or
- (iii) from a licensed game dealer any game; or
- (iv) from any church denomination, association, institution, organisation, society or body any game or game meat

which such owner or lessee of a farm or piece of land, licensed butcher, licensed game dealer, church denomination, association, institution, organisation, society or body may sell to him in terms of this Ordinance.

- (3) (a) Any person who sells any game, game meat or the skin of game obviously under the age of one year to any other person or to a church denomination, association, institution, organisation, society or body shall, at the time of delivering or handing over such game, game meat or skin, hand to the person to whom it is so delivered or handed over, a document in which -
 - (i) the name and the residential address of the seller;
 - (ii) the date on which and the place at which such game, game meat or skin is delivered or handed over;
 - (iii) a description of the game, game meat or skin so sold;
 - (iv) the name and the residential address of the purchaser;
 - (v) the name and the residential address of the person to whom such game, game meat or skin is being delivered or handed over; and
 - (vi) the signature of the seller

is indicated fully in ink or indelible pencil.

[There is no punctuation mark at the end of subparagraph (vi) in the *Official Gazette*.]

- (b) Any person who contravenes or fails to comply with any provision of paragraph (a), shall be guilty of an offence.

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- (c) Any person who, as a result of the purchase thereof, is in possession of game, game meat or the skin of game obviously under the age of one year without being in possession of a document referred to in paragraph (a), shall be guilty of an offence.
- (4) No person shall, in any newspaper or otherwise, advertise the sale of -
 - (a) any game or game meat; or
 - (b) the skins of game obviously under the age of one year:

Provided that nothing in this subsection contained shall prohibit -

- (i) the owner or lessee of a farm or a piece of land from advertising the sale of any game, game meat or such skins;
- (ii) any licensed butcher from advertising the sale of any game meat;
- (iii) any licensed game dealer from advertising the sale of any game;
- (iv) any church denomination, association, institution, organisation, society or body from advertising the sale of any game or game meat

which such owner or lessee of a farm or piece of land, licensed butcher, licensed game dealer, church denomination, association, institution, organisation, society or body may sell in terms of this Ordinance.

- (5) For the purposes of this section -
 - (a) "lessee" shall not include the lessee of a farm or a piece of land, who is not, in terms of this Ordinance, the owner of the game on such farm or piece of land;
 - (b) "game" shall not include exotic game.

(6) Any person who contravenes or fails to comply with any provision of subsection (1), (2) or (4) or any condition, requirement or restriction of any permission granted thereunder shall be guilty of an offence and liable on conviction to a fine not less than one hundred rand and not exceeding one thousand five hundred rand or to imprisonment for a period of not less than one month and not exceeding three years or to both such fine and such imprisonment.

(7) Any person who contravenes, or fails to comply with, the provisions of subsection (3) or who furnishes false information in respect of any provision of this section, or who makes a false entry in a document referred to in subsection (3), shall be guilty of an offence.

Transport of game and game meat

- 48. (1) No person shall transport game or game meat unless he -
 - (a) is the holder of a permit, written authority or written permission granted and issued in terms of this Ordinance, authorising him to hunt, capture, or keep such game, or to import such game into Namibia or to export such game from Namibia, and has such permit, written authority or written permission on his person at the time of such transport;
 - (b) is the holder of a game dealer's licence issued in terms of this Ordinance;

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- (c) is the holder of a document handed to him in accordance with the provisions of section 46 or 47 and has such document on his person at the time of such transport;
- (d) has been commanded in writing by the owner or lessee of a farm or land who may lawfully donate game or game meat in terms of this Ordinance, to transport game or game meat which is so donated to another person for such other person and deliver it to him and has such command as well as the document referred to in paragraph (c) on his person at the time of such transport.

(2) The provisions of subsection (1) shall not apply to -

- (a) the owner or lessee of a farm or land, who transports any game or the game meat of any game lawfully hunted or captured on such farm or land in accordance with the provisions of this Ordinance;
- (b) the parent or child of any owner or lessee of a farm or land who transport the game meat of any game which such parent or child has lawfully hunted on such farm or land in accordance with the provisions of this Ordinance;
- (c) the employee of any owner or lessee of a farm or land who transports the game meat of any game which such employee has lawfully hunted on such farm or land in accordance with the provisions of this Ordinance, provided such employee shall have the written permission referred to in section 31(2) on his person at the time of such transport if he transports it on any place other than the farm or land of his employer;

[paragraph (c) amended by Act 27 of 1986]

- (d) any person who transports game meat other than the meat of huntable game birds, of less than ten kilograms donated to him.

(3) Any person who contravenes or fails to comply with any provision of this section, shall be guilty of an offence.

Import and export of game and wild animals and their skins

49. (1) No person shall import into Namibia or export from Namibia any game or wild animal or the raw skin or raw meat of any game or wild animal except under a permit granted by the Minister: Provided that the provisions of this subsection shall not apply in respect of -

- (a) the raw skin of any game or wild animal imported into Namibia from the Republic of South Africa;
- (b) the raw skin on any game carcass which is imported into Namibia or exported from Namibia under a permit granted in terms of this subsection or in accordance with the provisions of paragraph (c);
- (c) the raw meat of any game or wild animal imported into Namibia by any person for his own consumption or which has in accordance with the provisions of this Ordinance been lawfully hunted or purchased by or donated to the person so exporting it for his own consumption.

[subsection (1) amended by Act 27 of 1986]

- (2) (a) The Minister may place a prohibition on the import into Namibia or the export from Namibia of the prepared or tanned skin, any product manufactured therefrom,

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of any species of game or wild animal, or live game or animal, or impose the conditions which he or she may determine in respect of the import into Namibia or the export from Namibia of any such skin, product or live game or animal.

[Subsection (2) is substituted by Act 3 of 2017. The amendment markings are incomplete. The word "or" appears to have been inadvertently removed from the phrase "...of the prepared or tanned skin, or any product manufactured therefrom...".]

- (b) Any prohibition or condition imposed under paragraph (a) shall be made known by notice in the *Official Gazette*.

(3)

[subsection (3) amended by Act 27 of 1986 and deleted by Act 17 of 1988]

(4) Any person who contravenes or fails to comply with any provision of this section, or any condition, requirement or restriction of any permit granted thereunder or a prohibition or condition imposed under this section, shall be guilty of an offence.

Prohibition of the removal of game found dead

50. (1) Subject to the provisions of subsection (2) no person other than the owner or lessee of land on which any game is found dead shall remove such game or any part thereof from the place where it is found dead, unless it was killed in accordance with the provisions of this Ordinance by the person removing it.

(2) Any game found dead or any part thereof may -

(a) if it is found -

(i) on a proclaimed road,

(ii) within the boundaries of the road reserve of a proclaimed road and constitutes a danger to traffic on such proclaimed road,

be removed by any person from the place where it is so found to the boundary of the said road reserve which is nearest to the place where it is so found.

(b) if it obstructs any route other than a proclaimed road, be removed by any person as far as is necessary to open the route which is so obstructed.

(3) Any person who, in accordance with the provisions of subsection (1) or (2), removes any specially protected game or protected game which is found dead, from the place where it is found dead, shall report such removal to the Director in writing within ten days thereafter.

(4) Any person who contravenes or fails to comply with any provision of this section, shall be guilty of an offence.

Possession of skins of specially protected and protected game

50A. No person shall be in possession of any raw skin of specially protected or protected game unless he is the lawful holder of -

(a) a permit granted by the Minister under section 26, 27 or 36 authorising him to hunt such specially protected or protected game; or

- (b) a permit granted by the Minister authorising him to be in possession of such skin.

[section 50A inserted by Ord. 4 of 1977]

Inability to give satisfactory account of possession

51. Any person found in possession of any game or wild animal or any game meat or the egg of any game or a wild animal in respect of which a reasonable suspicion exists that it has been hunted or obtained or is possessed contrary to the provisions of this Ordinance, and who is unable to prove that he has hunted or acquired or possesses such game or wild animal or game meat or egg lawfully in accordance with the provisions of this Ordinance, shall be guilty of an offence.

CHAPTER IV

PROBLEM ANIMALS

Application of Chapter

52. No provision of this Chapter shall be applicable within a game park: Provided that the Minister may in its discretion declare that any one or more of the provisions of this Chapter shall be applicable within any game park, or any part of a game park, designated by it.

Declaration as problem animal

53. (1) The Minister may declare any wild animal a problem animal throughout Namibia or within such part or parts of Namibia as it may in its discretion determine.

(2) Whenever the Minister declares any wild animal a problem animal in terms of the provisions of subsection (1), the name of such wild animal and a definition of the part or parts of Namibia within which such wild animal is declared a problem animal shall be made known by notice in the *Official Gazette*.

Hunting of problem animals

54. (1) Notwithstanding anything to the contrary in this Ordinance contained but subject to the provisions of this Chapter, the owner or lessee of land may -

- (a) at any time hunt any problem animal found on such land;
- (b) engage or request any other person at any time to hunt, or assist in the hunting of, any problem animal found on such land

as long as such problem animal is on such land.

[There is no punctuation mark at the end of paragraph (b) in the *Official Gazette*.]

(2) Notwithstanding anything to the contrary in this Ordinance contained, any nature conservator, or any other person authorised or instructed thereto by the Minister, may at any time hunt any problem animal and for that purpose such nature conservator or other person may enter upon any land without the consent of the owner or lessee thereof: Provided that whenever possible notice of such person's presence on such land shall be given to the occupier thereof or any other person apparently in charge thereof.

Compulsory control of black-backed jackal

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55. (1) (a) Whenever black-backed jackal are found in such large numbers on any land situated in the small stock area that, in the opinion of the Minister, they constitute a nuisance or may possibly cause damage on any adjoining land which is also situated in the small stock area, the Minister may, in writing, order the owner or lessee of the land on which the said black-backed jackal are so found, to exterminate the said black-backed jackal on such land, or to reduce their numbers to the satisfaction of the Minister within a period specified by the Minister.

(b) For the purposes of paragraph (a) "small stock area" means the whole of Namibia excluding that part of Namibia which is situated to the north of the twenty-third degree of latitude and to the east of the sixteenth degree of longitude.

(2) An order referred to in subsection (1) shall be deemed to have been served on the owner or lessee of any land -

(a) if delivered to him;

(b) if left in the care of an adult person who apparently inhabits or occupies his last-known dwellingplace or such land, or who is employed there;

(c) if sent to his last-known postal address by registered post.

(3) If any owner or lessee of land on whom an order referred to in subsection (1) has been served, fails to exterminate the black-backed jackal occurring on such land, or to reduce their numbers to the satisfaction of the Minister, within the period stipulated by the Minister, or any extension of such period which the Minister may in its discretion allow, the Minister may cause the said black-backed jackal to be hunted by any nature conservator or any other person authorised or instructed thereto by the Minister, and for that purpose such nature conservator or other person may enter upon such land without the consent of the owner or lessee thereof: Provided that whenever possible, notice of such person's presence on such land shall be given to the occupier thereof or any other person apparently in charge thereof.

(4) The owner or lessee of any land on which black-backed jackal are killed in terms of the provisions of subsection (3) shall -

(a) if the land on which the black-backed jackal are so killed is situated within an area in respect of which contributions towards the cost of jackal-proof fencing have been declared obligatory in terms of the Fencing Proclamation Amendment Ordinance 1957 (Ordinance 6 of 1957), pay an amount of two hundred rand; or

(b) if the land on which the black-backed jackal are so killed is not situated within an area in respect of which contributions towards the cost of jackal-proof fencing have been declared obligatory in terms of the Fencing Proclamation Amendment Ordinance 1957 (Ordinance 6 of 1957), pay an amount of fifty rand,

to the State in respect of every black-backed jackal killed on such land in terms of the provisions of subsection (3).

[Subsection (4) is amended by Act 27 of 1986. The Fencing Proclamation Amendment Ordinance 6 of 1957 supplements the Fencing Proclamation 57 of 1921 and is appended thereto in the annotated statutes.]

(5) An amount payable to the State in terms of subsection (4) shall be deemed to be a debt due to the State and may be recovered from the person by whom it has to be paid in terms of the said subsection in any competent court.

[subsection (5) amended by Act 27 of 1986]

Provision of aids

56. The Minister may on the conditions and at the prices determined by it provide any person, authorised by or in terms of this Chapter to hunt problem animals, with any apparatus and aids (including poison) which can be applied for or in connection with the hunting of problem animals.

Training of hunters

57. (1) The Minister may train nature conservators and other persons or cause them to be trained to hunt problem animals and to use any apparatus or aid which can be applied for or in connection with the hunting of problem animals and may for that purpose present any courses, or cause any courses to be presented, on such conditions (including the payment of fees) as it may determine.

(2) Notwithstanding the provisions of section 59 the Minister may supply any apparatus and aids needed at the presentation of any course referred to in subsection (1).

(3) The Director shall issue every person who has completed a course in the use, placing and setting of the coyote getter, jackal cannon or gun trap and who is, to his satisfaction, competent to use, to place and to set a coyote getter, jackal cannon or gun trap, with a certificate of competency authorising him to use, to place and to set a coyote getter, jackal cannon or gun trap subject to the conditions mentioned in such certificate: Provided that the Director may issue any person who has not completed a course in the use, placing and setting of the jackal cannon or gun trap with a certificate of competency authorising him to use, to place and to set a jackal cannon or gun trap subject to the conditions mentioned in such certificate if such person proves to the satisfaction of the Director that he is competent to use, to place and to set a jackal cannon or gun trap.

Trade in coyote getters

58. (1) No person shall, without the written permission of the Minister, import into Namibia, manufacture, sell or offer or possess for sale any coyote getter or cartridges therefor.

(2) Any person to whom permission has been granted in terms of subsection (1) to import into Namibia, manufacture, sell or offer or possess for sale coyote getters or cartridges therefor, shall keep the register prescribed by regulation.

(3) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any permission referred to in subsection (1), shall be guilty of an offence and liable in subsection (1), shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[The phrase "in subsection (1), shall be guilty of an offence and liable" is repeated in the *Official Gazette*, as reproduced above.]

Prohibition of the supply of coyote getters to incompetent persons

59. (1) Subject to the provisions of section 57, no person shall sell, donate or in any other manner whatsoever supply a coyote getter or cartridges therefor to any other person unless such other person -

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- (a) is the holder of a certificate of competency; and
- (b) produces such certificate of competency to him at the time of such sale, donation or supply.

(2) Any person who sells, donates or supplies a coyote getter or cartridges therefor to any other person contrary to the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Prohibition of the obtaining of coyote getters by incompetent persons

- 60.** (1) Subject to the provisions of section 58, no person shall -
- (a) purchase, receive or in any other manner whatsoever acquire or obtain a coyote getter or cartridges therefor;
 - (b) have a coyote getter or cartridges therefor in his possession

unless he is the holder of a certificate of competency.

[There is no punctuation mark at the end of paragraph (b) in the *Official Gazette*.]

(2) Any person who purchases, receives, acquires, obtains or possesses a coyote getter or cartridges therefor contrary to the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Use of poison and coyote getters

61. (1) Subject to any provisions to the contrary in any law contained, no person shall set or lay any poison other than poison approved by the Minister on any land.

- (2) No person shall -
- (a) use, set or place a coyote getter, jackal cannon or gun trap -
 - (i) except under the authority of and in accordance with the conditions of a certificate of competency issued to him; and
 - (ii) unless warning sign boards of a design and with the wording approved by the Director have previously been erected at all entrances to the land on which such coyote getter, jackal cannon or gun trap is set or placed or is to be set or placed;
 - (b) set or place a coyote getter, jackal cannon or gun trap -
 - (i) between any fence erected nearer than two hundred metres to the centre line of a proclaimed road, and such road;
 - (ii) at any place nearer than two hundred metres to the centre line of a proclaimed road, unless there is a fence between the place where the said coyote getter, jackal cannon or gun trap has been set or placed, and such road;

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(c) use any poison which has not been approved by the Minister in a coyote getter.

(3) Any person who contravenes or fails to comply with any provision of subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period of not exceeding six months or to both such fine and such imprisonment.

[The word “of” in the phrase “for a period of not exceeding” is superfluous.]

Research in regard to problem animals

62. (1) The Minister may instruct any nature conservator or other officer and authorise any other person to do research in connection with the control of problem animals, subject to the conditions determined by it

(2) Any person instructed or authorised in terms of subsection (1) to do research in connection with the control of problem animals may, notwithstanding anything to the contrary in this Ordinance contained, but subject to the provisions of this Chapter and the conditions imposed by the Minister, hunt any problem animals or capture or kill any problem animals by any chemical, mechanical and biological means.

(3) In the exercise of the powers or the performance of the functions or duties granted to or imposed on him by or in terms of this section, any person may, subject to the conditions determined by the Minister, enter upon any land without the consent of the owner or lessee thereof: Provided that whenever possible notice of such person’s presence on such land shall be given to the occupier thereof or any other person apparently in charge thereof.

Obstruction of persons in the performance of their duties

63. Any person who -

- (a) hinders, impedes or obstructs a nature conservator or the owner or lessee of land or any other officer or person in the exercise of the powers or the performance of the functions or duties granted to or imposed on him by or in terms of this Chapter;
- (b) injures or kills a dog, horse or any other animal lawfully used in the course of or in connection with the hunting of problem animals in terms of this Chapter;
- (c) damages, destroys or disfigures any apparatus, device or other property used in the course of or in connection with the hunting of problem animals in terms of this Chapter;
- (d) is the owner or lessee of land and fails to render any reasonable assistance requested from him by a nature conservator or other officer acting in the exercise of any power or the performance of any function or duty in accordance with or in terms of the provisions of this Chapter,

shall be guilty of an offence.

Limitations in relation to damages

64. If any person sustains damages as a result of the exercise or performance by a nature conservator or any other person of any power, function or duty granted to or imposed on such nature conservator or other person by or in terms of this Chapter, no person shall be compelled to compensate the damages concerned unless the person claiming the damages proves that the

damages concerned was wantonly or negligently caused by such nature conservator or other person.

CHAPTER V

FISH IN INLAND WATERS

65.

[section 65 deleted by Act 1 of 2003]

66.

[section 66 deleted by Act 1 of 2003]

67.

[section 67 substituted by Act 27 of 1986, amended by Act 5 of 1996 and deleted by Act 1 of 2003]

68.

[section 68 amended by Act 27 of 1986 and by Act 5 of 1996 and deleted by Act 1 of 2003]

69.

[section 69 deleted by Act 1 of 2003]

70.

[section 70 deleted by Act 1 of 2003]

71.

[section 71 deleted by Act 1 of 2003]

CHAPTER VI

INDIGENOUS PLANTS

Powers of Minister in regard to indigenous plants

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72. (1) (a) The Minister may from time to time amend Schedule 9 by deleting therefrom or adding thereto the name of any species of indigenous plant.
- (b) Any such amendment of Schedule 9 shall be made known by notice in the *Official Gazette*.
- (2) (a) The Minister may from time to time exempt any species of indigenous plant in any area determined by it, from any or all of the provisions of this Ordinance.
- (b) Whenever the Minister has in terms of paragraph (a) exempted any species of indigenous plant from any provision or provisions of this Ordinance, the name of that species of indigenous plant, the provision or provisions of this Ordinance from which it has been so exempted, and a definition of the area in which it has been so exempted shall be made known by notice in the *Official Gazette*.

Picking and transport of protected plants

73. (1) No person other than the lawful holder of a permit granted by the Minister shall at any time pick or transport any protected plant: Provided that -
- (a) the owner of a nursery licensed under section 75 may without such permit pick and transport any protected plant cultivated on the premises of such nursery and cause any such protected plant to be picked and transported;
- (b) the owner or lessee of land may on that land without such permit pick the flower of a protected plant for use as a decoration in his home;
- (c) the owner or lessee of land may without such permit pick a protected plant on that portion of such land -
- (i) which he needs for cultivated lands, the erection of a building, the construction of a road or airfield or any other development which necessitates the removal of vegetation; or
- (ii) on which such protected plant has been specially cultivated.

[subsection (1) amended by Ord. 4 of 1977]

- (2) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of a permit granted thereunder shall be guilty of an offence and liable on conviction to a fine not less than one hundred rand and not exceeding seven hundred and fifty rand or to imprisonment for a period of not less than one month and not exceeding twelve months or to both such fine and such imprisonment.

Sale, donation, export and removal of protected plants

74. (1) No person other than the lawful holder of a permit granted by the Minister shall sell, donate or export or remove from Namibia, any protected plant: Provided that the owner of a nursery licensed under section 75 may without such permit sell or donate and export and remove from Namibia any protected plant cultivated on the premises of such nursery.

[subsection (1) substituted by Ord. 4 of 1977]

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(2) Any person who contravenes or fails to comply with any provision of subsection (1) or any condition, requirement or restriction of a permit granted thereunder shall be guilty of an offence.

Nursery licences

75. (1) Any person desiring to obtain a nursery licence shall apply therefor in writing to the Minister.

(2) A nursery licence -

(a) shall be valid for the period from the first day of April in any year or, if it is issued after that day, from the day of issue, up to and including the thirty-first day of March following that day;

(b) may be renewed annually by applying to the Director in writing for such renewal not less than six months before the expiry of the period of validity of the licence concerned; and

(c) shall not be transferable.

(3) An amount of fifty rand shall be payable at the issue and every renewal of a nursery licence.

[section 75 substituted by Ord. 4 of 1977]

Receipt of protected plants

76. (1) Subject to any provisions to the contrary in this Ordinance contained, no person shall purchase a protected plant, or in any manner whatsoever come into possession thereof, or offer to purchase it or to come into possession thereof, except from a person who may lawfully sell it in terms of this Ordinance.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1), shall be guilty of an offence.

Picking and transport of indigenous plants

77. (1) Subject to any provisions to the contrary in this Ordinance contained, no person shall pick any indigenous plant on land of which he is not the owner or lessee, unless he has the written permission thereto from the owner or lessee of the land.

(2) Any person who picks any indigenous plant under a written permission granted in terms of this section, shall at all times have such written permission in his possession while he is engaged in picking or transporting such indigenous plant.

(3) The provisions of this section shall not apply to the parent, spouse or child of or white employee permanently employed by the owner or lessee of land on which indigenous plants are being picked.

[The phrase "the parent, spouse or child of or white employee" is grammatically problematic. The word "or" may have been intended to be "a", or there may be some words missing.]

(4) Any person who contravenes or fails to comply with any provision of this section, shall be guilty of an offence.

CHAPTER VII

GENERAL

General powers of Minister

78. The Minister may -
- (a) provide for the acquisition or lease of movable or immovable property, servitudes or other rights thereon, for -
 - (i) the establishment, erection, extension or improvement of game parks, fisheries and nurseries;
 - (ii) the preservation of nature or any part of nature;
 - (b) take the measures which it may deem necessary or desirable in connection with the propagation and preservation of wild animals, exotic game, fish and plants;
 - (c) take the measures which it may deem necessary or desirable for the destruction, decrease or elimination, whether in general or in any particular area, of any problem animal or any other species of wild animal, exotic game, fish or plant, which may be harmful or detrimental to the existence of any other species of wild animal, fish or indigenous plant or which, in its opinion, may present a threat from the point of view of farming or stock diseases;
 - (d) take the measures which it may deem necessary or desirable for the import or transfer from one area to another of wild animals, exotic game, fish and plants and the acclimatisation of such wild animals, exotic game, fish and plants in the area to which they have so been imported or transferred;
 - (e) take the measures which it may deem necessary or desirable for the capture of wild animals or exotic game, the catching of fish or the collection of plants;
 - (f) take the measures which it may deem necessary or desirable for the purchase and sale of wild animals, exotic game, fish and plants, whether alive or dead;
 - (g) take any measures whatsoever which it may deem necessary or desirable for research in connection with wild animals, exotic game, fisheries and plants;
 - (h) take the measures which it may deem necessary or desirable for the making of surveys and the conducting of investigations in connection with wild animals, exotic game, fish and plants;
 - (i) take the measures which it may deem necessary or desirable for the collection and publication of statistics and information in connection with nature conservation;
 - (j) take the measures which it may deem necessary or desirable for the control of aquatic vegetation in waters;
 - (k) render any assistance, whether financial or otherwise, to any body, society or person which or who in its opinion promotes the preservation of wild animals, fish, indigenous plants or nature in general;

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- (kA) take the measures which it may deem necessary or desirable for the payment of monetary rewards to persons furnishing information in connection with contraventions of the provisions of this Ordinance.

[paragraph (kA) inserted by Act 27 of 1986]

- (l) take the measures which it may deem necessary or desirable for the better carrying out of the provisions or purposes of this Ordinance in general without limitation of the generality thereof by matters mentioned specifically in this section.

Appointment of nature conservators and honorary nature conservators

79. (1) The Minister may, subject to the provisions of the Government Service Act, 1980 (Act 2 of 1980), appoint the persons whom it may deem necessary and suitable, as nature conservators for the whole of Namibia or for a part of Namibia or for a magisterial district.

[Subsection (1) is amended by Act 27 of 1986. The Government Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995.]

- (2) (a) The Minister may appoint one or more persons whom it may deem suitable as honorary nature conservators for the whole of Namibia or for a part of Namibia or for a magisterial district for a period not exceeding three years at a time: Provided that the Minister may in its discretion appoint any person as honorary nature conservator for life.
- (b) The Minister may at any time withdraw the appointment of a person as an honorary nature conservator and appoint any other person whom it may deem suitable as honorary nature conservator in the place of such person.
- (3) Any person who is a member of the board shall be an honorary nature conservator for as long as he holds such office.
- (4)

[subsection (4) deleted by Act 27 of 1986]

Certificate of appointment

80. Every nature conservator, except a member of the security forces, and every honorary nature conservator shall be furnished by the Director with a certificate of appointment and a badge and shall when exercising any power or performing any function or duty in terms of this Ordinance, produce such certificate for inspection if requested to do so.

[section 80 amended by Act 27 of 1986]

Powers, functions and duties of nature conservators and honorary nature conservators

81. (1) A nature conservator may exercise and perform all those powers, duties and functions granted to or imposed on him by or in terms of this Ordinance and may, in addition thereto -

- (a) at any time conduct any investigation which he deems necessary in order to determine whether the provisions of this Ordinance are being complied with;
- (b) at any time without warrant and without permission enter upon any land, premises, waters, building, tent, camping or other place, vehicle, vessel, boat, raft, aircraft or

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other means of conveyance and there conduct the investigation and inspection (including an investigation and inspection of any container or other thing found thereon or therein) which he deems necessary in order to determine whether the provisions of this Ordinance are being complied with;

- (c) at any time without warrant and without permission enter upon any land, premises, waters, building, tent, camping or other place, vehicle, vessel, boat, raft, aircraft or other means of conveyance or container of whatever description, and there conduct a search if he reasonably suspects that there is anything thereon or therein which -
- (i) is being used or has been used for the purpose of, or in or in connection with;
 - (ii) in his opinion forms or has formed an element in;
 - (iii) in his opinion will, or may furnish proof of
- the commission of an offence in terms of this Ordinance;

[There is no punctuation mark at the end of subparagraph (iii) in the *Official Gazette*.]

- (d) at any time in the course of any investigation or inspection which he conducts or intends conducting in terms of this Ordinance, without warrant and without permission demand that any vehicle, vessel, boat, raft, aircraft or other means of conveyance be brought to a standstill and remain stationary until he has completed his investigation or inspection and has given permission that it may depart or continue its journey;
- (e) at any time without warrant seize anything -
- (i) in respect of which he reasonably suspects that it is being used or has been used for the purpose of or in or in connection with;
 - (ii) in his opinion forms or has formed an element in;
 - (iii) in his opinion will, or may furnish proof of
- the commission of an offence in terms of this Ordinance;

[There is no punctuation mark at the end of subparagraph (iii) in the *Official Gazette*.]

- (f) at any time question any person who in his opinion may possibly be able to furnish any information which he requires in connection with the enforcement of any provision of this Ordinance, and for that purpose, without warrant and without permission demand that any vehicle, vessel, boat, raft, aircraft or other means of conveyance be brought to a standstill and remain stationary until he has completed his questioning and has given permission that it may depart or continue its journey;
- (g) at any time order any person who in his opinion may possibly have information which is material in connection with a contravention of this Ordinance, to furnish him with such information as such person may be able to give;
- (h) demand the name and address of any person -
- (i) who has committed an offence in terms of this Ordinance, or who is reasonably suspected of having committed such an offence;

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- (ii) who is reasonably considered to be able to give evidence in connection with an offence committed in terms of this Ordinance, or is reasonably suspected of having been so committed;
- (i) remove any snare, trap, springtrap, pitfall, holding pen, trap-cage, net, birdlime, fish-trap, set line, fishing tackle, gun trap, jackal cannon or coyote getter or cartridges therefor, poison or any other like article, means or contrivance which is being used or which is suspected of being used unlawfully to hunt or catch game or any wild animal or fish, from the place where it is found, or if such removal is impossible or dangerous or difficult, destroy or render it harmless;
- (j) at any time demand from any person who performs or has performed an act, or in respect of whom it is reasonably suspected that he is performing or has performed an act, for which a licence, permit, exemption, written authority or permission or any other document is necessary in terms of this Ordinance, that he shall produce, such licence, permit, exemption, written authority or permission or other document;
- (k) at any time demand from any person who is required in terms of this Ordinance to keep a register, to produce such register, and inspect such register;
- (l) without warrant seize and confiscate any game, wild animal, fish or plant which is found in possession of, or held in captivity by any person if -
 - (i) such person fails, at the demand of such nature conservator, to produce a permit, licence, exemption, written authority or permission or any other document authorising such possession or captivity:
 - (ii) such game, wild animal, fish or plant is in possession of or is being kept in captivity by such person contrary to any condition specified in a permit, licence, exemption, written authority or permission or any other document produced by such person authorising such possession or keeping;
- (m) having been instructed thereto by the Minister, and with or without the permission of the owner or lessee of the land on which it is found, capture and transport to a game park any game or other wild animal which, owing to its scarcity, runs the risk of being exterminated;
- (n) having been instructed thereto by the Minister, and with the permission of the owner or lessee of the land concerned, capture or destroy on such land any game or wild animal -
 - (i) destroying or damaging crops or plants on cultivated lands, or cultivated trees on such land;
 - (ii) found in such numbers on such land that, in the opinion of the Minister, they will damage or may probably damage the grazing on such land;
 - (iii) which is or may possibly be a danger to human beings;
- (o) whenever it is necessary for the proper exercise of his powers, or for the proper performance of his functions or duties, and whether for scientific or any other purposes -
 - (i) hunt, capture or keep any game or wild animal;

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- (ii) catch any fish irrespective of the species or size thereof;
- (iii) pick any indigenous or protected plant,

on any land or in any inland waters owned by the State and, with the permission of the owner or lessee thereof, also on land not owned by the State: Provided that, for the purposes of this paragraph, "lessee" shall not include the lessee of land who is not the owner of the huntable game, huntable game birds and exotic game on such land;

[paragraph (o) amended by Act 27 of 1986]

- (p) if it is necessary for the exercise of his powers or the performance of his functions or duties, or if he deems it necessary therefor carry a fire-arm on his person even if he is on land which is not owned by the State;

[paragraph (p) amended by Act 27 of 1986]

- (q) for the better exercise of any power or the better performance of any function or duty, take with him an interpreter or an assistant who shall be an officer, and such interpreter or assistant shall, while acting under the lawful command and supervision of such nature conservator, have the same powers, duties and functions as such nature conservator.

(2) In so far as offences in terms of this Ordinance are concerned, every nature conservator shall have all the powers of a peace officer to arrest any person without warrant which peace officers have under section 22 of the Criminal Procedure Ordinance, 1963 (Ordinance 34 of 1963).

[The Criminal Procedure Ordinance 34 of 1963, with the exception of sections 300(3) and 370, has been replaced by the Criminal Procedure Act 51 of 1977.]

(3) When a nature conservator who has under subsection (2) been authorised to arrest any person who has contravened any provision of Chapter II or who, on reasonable grounds is suspected of the contravention thereof, attempts to arrest such person and that person flees or offers resistance and cannot be arrested and prevented from escaping in any other manner than by killing the person so fleeing or offering resistance, such homicide shall legally be held to be justifiable homicide.

(4) An honorary nature conservator shall have the power granted to a nature conservator by subsection 1(a) and shall in addition thereto -

[introductory phrase of subsection (4) amended by Act 27 of 1986]

- (a) at the request of the Director, in the manner and at the times determined by the Director, or at any time of his own accord, report to the Director in relation to malconditions, malpractices, abuses and other matters in connection with the protection of game, other wild animals, fish and indigenous and protected plants in the area for which he has been appointed;

[paragraph (a) amended by Act 27 of 1986]

- (b) as soon as possible after it has come to his notice report, or cause to be reported, to the nearest nature conservator any offence in terms of this Ordinance or any other

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law relating to the conservation of game, wild animals or nature in force in the area for which he has been appointed;

- (c) at least once per year, at the time and place and in the manner determined by the Director, report to the Director in connection with the game, wild animals, fish and indigenous and protected plants in his area and in such report provide information in relation to -
- (i) any noticeable decrease or increase in the numbers of any particular species of game or wild animal, and the possible or probable reasons for such decrease or increase;
 - (ii) prominent movements of game or wild animals such as migration from one farm or area to another and the possible or probable reasons therefor;
 - (iii) epidemics or diseases occurring amongst game, wild animals, fish or indigenous or protected plants;
 - (iv) particular difficulties caused by game or wild animals;
 - (v) comments on the hunting, capturing and keeping of game, the catching of fish and the picking of indigenous and protected plants in his area or any part thereof;
 - (vi) proposals in connection with the hunting regulations for the next hunting season;
 - (vii) proposals in connection with the amendment of this Ordinance or any regulations made and in force thereunder or any other law containing provisions relating to nature or game conservation and which is in force in his area;
 - (viii) comments on the control and development of game parks;
 - (ix) comments on any matter relating to nature conservation.

[paragraph (c) amended by Act 27 of 1986]

(5) Any person who assaults or resists or hinders or impedes a nature conservator, an honorary nature conservator or the assistant or interpreter of a nature conservator in the exercise of his powers or the performance of his functions or duties, or wilfully interferes with such nature conservator, honorary nature conservator, assistant or interpreter, shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

[subsection (5) amended by Act 27 of 1986]

- (6) A person who -
- (a) falsely pretends to be a nature conservator or the assistant or interpreter of a nature conservator or an honorary nature conservator;
 - (b) refuses or fails to comply forthwith with any order, direction, requirement or request given or put to him by a nature conservator, an honorary nature conservator or the assistant or interpreter of a nature conservator in the exercise of any power or the

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performance of any function or duty in terms of this Ordinance, or who furnishes untrue or misleading information when complying with such order, direction, requirement or request,

shall be guilty of an offence.

Disposal of article seized in terms of this Ordinance

81A. (1) A nature conservator who seizes anything (hereinafter referred to as an article) under this Ordinance -

- (a) may, if the article is a perishable, with due regard to the interests of the persons concerned, dispose of the article in such manner as the circumstances may require; or
- (b) shall, if the article is not disposed of in terms of the provisions of paragraph (a), give it a distinctive identification mark and deliver it to a policeman, who shall retain it in police custody or make such other arrangements with regard to the custody thereof as the circumstances may require, whereupon the provisions of sections 50D, 50E, 50F and 50G of the Criminal Procedure Ordinance, 1963 (Ordinance 34 of 1963), shall apply *mutatis mutandis* with reference to any such article and such article shall for the purposes of the said sections be deemed to be an article referred to in section 50C(c) of the said Ordinance: Provided that any such article which may be forfeited in terms of any of the said sections, shall be forfeited to the State.

[Subsection (1) is amended by Act 27 of 1986. The Criminal Procedure Ordinance 34 of 1963, with the exception of sections 300(3) and 370, has been replaced by the Criminal Procedure Act 51 of 1977.]

(2) Any article so forfeited to the State may be disposed of by the Minister and the proceeds obtained therefrom shall be paid into the Central Revenue Fund.

[subsection (2) amended by Act 27 of 1986]

[section 81A inserted by Ord. 4 of 1977]

Exemptions

82. The Minister may, if it is of the opinion that it is or will be in the interests of nature conservation, exempt any person from any or all of the provisions of this Ordinance.

Conditions in relation to permits, licences, registrations, approvals, permissions and exemptions

83. (1) No person shall be entitled to claim that he has a right to obtain any permit, licence, registration, approval, permission or exemption which is required or may be issued or granted in terms of this Ordinance and the Minister shall not be obliged to furnish any reasons for the refusal by it to grant or issue any such permit, licence, registration, approval, permission or exemption.

(2) Every permit, licence, registration, approval, permission or exemption granted by the Minister in terms of this Ordinance shall be issued against payment of the fees, if any, prescribed for such permit, licence, registration, approval, permission, or exemption by this Ordinance or by regulation: Provided that the Minister may, subject to the provisions of this Ordinance, decrease such fees or grant exemption from the payment of such fees if he or she is of the opinion that good and sufficient reasons therefor exists.

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[subsection (2) amended by Act 27 of 1986 and substituted by Act 5 of 1996]

(3) Every permit, licence, registration, approval, permission or exemption granted by the Minister in terms of this Ordinance shall be subject to the conditions, requirements and restrictions prescribed by regulation, whether in general or for the particular permit, licence, registration, approval, permission, or exemption and, in addition thereto, to the conditions, requirements and restrictions which the Minister may in every particular case deem necessary or expedient to impose.

[subsection (3) amended by Act 27 of 1986 and substituted by Act 5 of 1996]

(4) Every permit, licence, registration, approval, permission or exemption granted by the Minister in terms of this Ordinance shall, subject to the provisions of this Ordinance, be valid for the period determined by the Minister.

- (5) (a) The Minister may, subject to the provisions of paragraph (e), at any time, without furnishing any reasons therefore -
- (i) withdraw any permit, licence, registration, approval, permission or exemption granted by it in terms of this Ordinance;
 - (ii) amend, change or withdraw the conditions, requirements and restrictions to which a permit, licence, registration, approval, permission or exemption so granted by it is subject;
 - (iii) add any further conditions, requirements and restrictions to the conditions, requirements and restrictions to which such permit, licence, registration, approval, permission or exemption is subject.

[paragraph (a) amended by Act 27 of 1986]

- (b) Whenever the Minister exercises any of the powers granted to it by paragraph (a), it shall inform the holder of the permit, licence, registration, approval, permission or exemption concerned thereof and such holder shall forthwith return such permit, licence, registration, approval, permission or exemption to the Director.
- (c) Any person who refuses or fails so to return such permit, licence, registration, approval, permission or exemption shall be guilty of an offence.
- (d) If any person suffers damages as a result of the exercise by the Minister of any of the powers granted to it by this subsection, the State shall not be obliged to pay any compensation to such person for any damages which he suffered as a result of the exercise of the power concerned.

[paragraph (d) amended by Act 27 of 1986]

(e)

[paragraph (e) inserted by Act 27 of 1986 and deleted by Act 5 of 1996]

- (6) (a) Any permit, licence, registration, approval, permission or exemption issued or granted contrary to the provisions of this Ordinance shall be invalid, and the holder of any such permit, licence, registration, approval, permission or exemption or any other person who is in possession thereof shall, at the request of the Minister,

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forthwith return such permit, licence, registration, approval, permission or exemption to the Director.

- (b) Any person who contravenes or refuses or fails to comply with the provisions of paragraph (a) shall be guilty of an offence.

(7)

[subsection (7) inserted by Act 27 of 1986 and deleted by Act 5 of 1996]

Regulations

84. (1) The Minister may make regulations in relation to -
- (a) any matter which is required or permitted to be prescribed in terms of this Ordinance;
 - (b)
 - (i) the conditions on which permission to enter a game park or a nature reserve or to reside therein may be granted and the periods or times during which a game park or nature reserve or any part thereof shall be open to the public;
 - (ii) the conditions on which any person entering, passing through or sojourning within a game park or nature reserve, may obtain the services or attendance of officers and the fees to be paid for such services or attendance;
 - (iii) the fees, if any, to be paid for permission to enter or reside in a game park or a nature reserve, the admission of motor vehicles, aircraft, vessels or other vehicles to and the taking of photographs in a game park or a nature reserve or for any other matter connected with the use and enjoyment of a game park or a nature reserve;
 - (iv) the protection and preservation of a game park or a nature reserve and of the animals, fish, birds, vegetation or any other object or property therein;
 - (v) the regulation of traffic and the carriage of passengers in a game park or a nature reserve, the places at which persons may enter and the routes by which they may pass through a game park or a nature reserve;
 - (vi) generally for the efficient control and management of a game park or a nature reserve;
 - (c) the administration and control of private game parks and private nature reserves, the protection of wild animal life and wild vegetation therein and the requirements to be complied with before any area may be declared a private game park or a private nature reserve or before the declaration of any area as a private game park or a private nature reserve shall be withdrawn;
 - (d) the circumstances under which any permit, licence, registration, approval, permission or exemption shall be granted by the Minister in terms of this Ordinance and the form in which any such permit, licence, registration, approval, permission or exemption shall be issued;
 - (e) the keeping of registers relating to the obtaining, processing, sale or export of the skins of game or wild animals by licensed game dealers, dealers dealing in skins of game or wild animals, tanneries and other persons or bodies interested in the obtaining, processing, sale or export of the skins of game or wild animals;

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- (f) the removal, disturbance or destruction of the eggs of any species of bird which is a wild animal or of any product or offal derived or obtained from any species of bird which is a wild animal and the levying of any royalties and monies in connection therewith;

[paragraph (f) substituted by Ord. 4 of 1977]

- (g) the keeping in captivity, transport or removal from one place to another of any game or wild animal;
- (h) the requirements to be complied with by any person when he has wounded any game or wild animal;
- (i) the immobilisation of game or wild animals;
- (j) research in connection with problem animals and other animals which may possibly be declared problem animals;
- (k) the registers to be kept by any person who imports or sells or offers for sale or is, for the purpose of selling it, in possession of coyote getters and cartridges therefor;
- (l) the regulation, control and prohibition of the throwing or laying of poison;
- (m) the payment of a reward for the destruction or extermination of problem animals, whether in general or in any specific area, the conditions on which such reward shall be paid and the proof to be submitted in connection with the payment of such reward;

(n)

[paragraph (n) deleted by Act 1 of 2003]

(o)

[paragraph (o) deleted by Act 1 of 2003]

(p)

[paragraph (p) deleted by Act 1 of 2003]

- (q) the sale of cultivated indigenous plants;
- (r) the control and regulation of the possession of any protected plant;
- (s) the regulation of the import, cultivation and control of any plant, whether it is an indigenous plant or not, which, in the opinion of the Minister, may be detrimental to, or create less favourable conditions for, any wild animal, fish or indigenous plant;
- (t) the recognition and registration of succulent associations, including the requirements which shall be satisfied by a succulent association in order to be registered, the restrictions and conditions to which such registration shall be subject, the privileges to which such registration shall entitle a succulent association and the cancellation of such registration;
- (u) the recognition and registration of cage-bird associations, including the requirements which shall be satisfied by a cage-bird association in order to be registered, the

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restrictions and conditions to which such registration shall be subject, the privileges to which such registration shall entitle a cage-bird association and the cancellation of such registration;

- (v) the recognition and registration of any other association which has the protection or conservation of nature or any aspect thereof, or of any game, wild animals, fisheries or plants as its object, including the requirements which shall be satisfied by such association in order to be registered, the restrictions and conditions to which such registration shall be subject, the privileges to which such registration shall entitle such association and the cancellation of such registration;
- (w)
 - (i) control over the hunting of game for the sake of trophies;
 - (ii) control over advertising in relating to the hunting of game for the sake of trophies;
 - (iii) the periods during which and the places where game may or may not be hunted for the sake of trophies;
 - (iv) the registration of hunting farms, including the requirements which shall be satisfied by a farm in order to be registered as a hunting farm, the conditions and restrictions to which such registration shall be subject, the fees to be paid at such registration and the withdrawal of any such registration;
 - (v) control over hunting farms and the running thereof as well as control over the services rendered and facilities provided by or on hunting farms;
 - (vi) the registration of professional hunters, including the requirements which shall be satisfied by any person in order to be registered as a professional hunter, the conditions and restrictions to which such registration shall be subject, the fees to be paid at such registration and the withdrawal of any such registration;
 - (viA) the registration of master hunting guides, including the requirements which shall be satisfied by any person in order to be registered as a master hunting guide, the conditions and restrictions to which such registration shall be subject, the fees to be paid at such registration and the withdrawal of any such registration;
[subparagraph (viA) inserted by Act 6 of 1988]
 - (vii) the registration of hunting guides including the requirements which shall be satisfied by any person in order to be registered as a hunting guide, the conditions and restrictions to which such registration shall be subject, the fees to be paid at such registration and the withdrawal of any such registration;
 - (viii) the training of persons as professional hunters, master hunting guides and hunting guides;
[subparagraph (viii) amended by Act 6 of 1988]
 - (ix) the testing of any person in order to determine whether he satisfies the requirements for registration as a professional hunter, master hunting guide or hunting guide;

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[subparagraph (ix) amended by Act 6 of 1988]

- (x) the preservation of game, wild animals, fish and indigenous plants in general or any species of game, wild animal, fish or indigenous plant;
- (xA) the requirements to be complied with for the recognition of conservancy committees and the declaration of conservancies, and any restrictions and conditions to which a conservancy committee shall be subject;

[paragraph (xA) inserted by Act 5 of 1996]

- (xB) the requirements to be complied with for the establishment of wildlife councils, and any restrictions and conditions to which a wildlife council shall be subject;

[paragraph (xB) inserted by Act 5 of 1996]

- (y) generally any matter which the Minister may deem necessary or desirable to prescribe in order to achieve the aims and objects of this Ordinance and to ensure the effective execution of the provisions thereof.

(2) Different regulations may be made in terms of subsection (1)(b) in relation to different game parks or nature reserves.

(3) The power to make regulations in relation to any matter mentioned in subsection (1) shall include the power to prohibit anything, either absolutely or conditionally, in connection with that matter.

(4) All regulations made in terms of this section shall, subject to the provisions of this Ordinance be applicable in general and throughout Namibia: Provided that the Minister may determine that any regulations so made shall be applicable only to that game, wild animal, fish or indigenous plant or exotic plant or to that part of Namibia which it determines and which is made known by notice in the *Official Gazette*.

(5) Any person who contravenes or fails to comply with the provisions of any regulation made in terms of this section shall be guilty of an offence.

Presumptions

85. (1) Whenever in any prosecution against any person upon a charge alleging that he committed upon any particular piece of land an offence in terms of the provisions of this Ordinance, it is proved that any act, forming part of such offence, was committed in or near the locality wherein such piece of land is situated, such act shall be deemed to have been committed on such piece of land, unless it is proved -

- (a) that it was committed on another piece of land; and
- (b) that the person who committed such act had the right to commit it on such other piece of land.

(2) Whenever any person performs an act and he would commit or have committed an offence by performing that act if he had not been the holder of a licence, registration, permit, exemption, document, written permission or written or other authority or power (hereinafter in this section called the necessary authority) to perform such act, he shall, if charged with the commission of such offence, be deemed not to have been the holder of the necessary authority, unless the contrary is proved.

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(3) In any prosecution for an offence in terms of the provisions of this Ordinance in connection with the unlawful keeping in captivity of any live wild animal or exotic game, any person against whom it is proved that he possesses or has possessed a live animal or exotic game, shall be deemed to keep in captivity or to have kept in captivity such wild animal or exotic game, unless the contrary is proved.

(3A) Whenever in any prosecution for an offence in terms of the provisions of section 40A it is proved that a person has removed, damaged, cut, flattened or raised any game-proof fence or adequate fence between any farm or piece of land and any other farm or piece of land of which he is not the owner or lessee or that he has constructed a game-trap in such a fence or allowed a game-trap to exist therein, it shall be deemed, unless the contrary is proved, that such person has removed, damaged, cut, flattened or raised such game-proof fence or adequate fence or that he has constructed or retained the said game-trap therein with intent to drive or lure game or other wild animals from such other farm or piece of land onto the first-mentioned farm or piece of land or to allow game or other wild animals to pass or escape from such other farm or piece of land to such first-mentioned farm or piece of land.

[subsection (3A) inserted by Act 27 of 1986 and amended by Act 6 of 1988]

(4) In any prosecution for a contravention of the provisions of section 40(1) or the provisions of section 42(4) any person caught in the act of removing any game or other wild animal from any snare, pitfall, trap, springtrap, net, bird lime or other device or in the act of capturing such game or other wild animal by any means whatsoever shall, unless the contrary is proved, be deemed to have brought or to have made such article, device or means on the land on which he was so caught and to have caught such game or other wild animal by means of such article, device or means.

(5) In any prosecution for an offence in terms of the provisions of section 42, any person in whose possession a weapon or ammunition mentioned in that section is found under circumstances indicating that game has been or is being hunted or presumably was or is being hunted with such weapon or ammunition, shall be deemed to have used such weapon or ammunition contrary to the provisions of the said section, unless the contrary is proved.

(6) Every person found in possession of the game meat or trophy obviously not older than seven days, of any specially protected game, protected game, huntable game or huntable game birds shall be deemed to have hunted such specially protected game, protected game, huntable game or huntable game birds unless the contrary is proved.

(7) Whenever the game meat or the trophy of any specially protected game, protected game, huntable game or huntable game birds is found on a vehicle, vessel, boat, raft or aircraft or other means of conveyance, or at a camping or other place or in a house, every person on or at such vehicle, vessel, boat, raft, aircraft or other means of conveyance or at such camping or other place or house shall be deemed to be in possession of such game meat or trophy, unless the contrary is proved.

[The word "conveyance" is misspelt in the *Official Gazette*, as reproduced above.]

(8) Whenever in any prosecution for an offence in terms of this Ordinance it is alleged that an offence was committed in connection with or in respect of any species of game, wild animal, fish or indigenous or protected plant or either sex or particular class thereof, such species, sex or class shall be deemed to be correct until the contrary is proved.

(9) If any person found in possession of game meat in respect of which it is reasonably suspected that it is the meat of game hunted contrary to the provisions of this Ordinance, alleges that he has received such meat as a gift, the game referred to shall -

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- (a) if the person in whose possession the game meat concerned has been found or the person who he alleges has given it to him refuses or fails at the request of a nature conservator forthwith to point out the place where the game referred to has been killed to such nature conservator; or
- (b) if the place where the game referred to has allegedly been killed, is so pointed out to a nature conservator but no clear evidence that game has been killed there is being found at that place,

in any prosecution for an offence in terms of this Ordinance, unless the contrary is proved, be deemed to have been hunted at a place other than the place where the person in whose possession the game meat has been found or the person who he alleges has given it to him, alleges it was hunted.

General offence

86. Any person who contravenes or fails to comply with any provision of this Ordinance or an instruction given thereunder or a requirement put thereunder or any condition, requirement or restriction of a permit, licence, registration, approval, permission or exemption issued or granted thereunder shall be guilty of an offence.

General Penalty

[capitalisation of heading of section 87 changed by Act 3 of 2017]

87. (1) Any person who is convicted of an offence in terms of this Ordinance for which no penalty is expressly provided shall be liable on conviction -

- (a) to a fine not exceeding N\$6 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment if such person has not previously been convicted of such offence or, in the opinion of the court, a similar offence in terms of the provisions of any other law; or
- (b) to a fine not exceeding N\$12 000 or to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment, if such person has previously been convicted of an offence referred to in paragraph (a),

[The comma at the end of paragraph (b) should be a full stop.
There is no other text following that paragraph.]

- (2) Despite any law to the contrary -
 - (a) a court that convicts a foreign national under this Ordinance shall by order declare the foreign national a prohibited immigrant; and
 - (b) after the foreign national contemplated in paragraph (a) has -
 - (i) served his or her period of imprisonment;
 - (ii) paid a fine; or
 - (iii) paid and served both such fine and such period of imprisonment,

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the Minister responsible for immigration must forthwith deport the foreign national in terms of the Immigration Control Act, 1993 (Act No. 7 of 1993).

[section 87 substituted by Act 3 of 2017]

Continuous offences

88. Any person convicted of an offence in terms of this Ordinance who after such conviction persists in the conduct or omission constituting such offence shall be guilty of a continuous offence and liable on conviction to a fine not exceeding ten rand in respect of every day he so persists.

Forfeiture and other orders

89. (1) Whenever any person is convicted of an offence in terms of this Ordinance -

(a) the court convicting such person shall, subject to the provisions of this Ordinance, declare any game or wild animal or game meat or the skin, horn, tooth or tusk, egg, shell, ears, feet or head of any game or wild animal or any fish or indigenous plant which is found in the possession of such person and which was used for the purpose of or in connection with the commission of such offence or in respect of which such offence has been committed, to be forfeited to the State;

[paragraph (a) amended by Act 27 of 1986]

(b) the court convicting such person shall issue an order directing any licence or permit issued in terms of this Ordinance to the person so convicted to be withdrawn and cancelled;

(c) the court convicting such person may, subject to the provisions of this Ordinance, declare any weapon or ammunition, lamp, battery, fishing tackle, device or article referred to in section 42, animal or any other article or object which was used for the purpose of or in connection with the commission of such offence to be forfeited to the State;

[paragraph (c) amended by Act 27 of 1986]

(d) the court convicting such person may, subject to the provisions of this Ordinance, declare any vehicle, vessel, raft, or aircraft used for the purpose of or in connection with the commission of such offence or for the purpose of conveying or removing any game or wild animal hunted or captured contrary to the provisions of this Ordinance, to be forfeited to the State.

[paragraph (d) amended by Act 27 of 1986]

(2) Any forfeiture in terms of the provisions of subsection (1)(c) or (d) shall, notwithstanding anything to the contrary contained in any law, be ordered by the court irrespective of any rights which any person other than the convicted person has in respect of the forfeited weapon, ammunition, lamp, battery, fishing tackle, device or article referred to in section 42, animal or any other article or object, vehicle, vessel, raft or aircraft.

(3) A forfeiture or an order in terms of the provisions of subsection (1) shall be made or given in addition to any penalty, forfeiture or order that shall or may be imposed, made or given by the court in terms of this Ordinance.

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(4) Anything forfeited in terms of the provisions of this section may be disposed of by the Minister and the proceeds obtained therefrom shall be paid into the Central Revenue Fund.

[subsection (4) amended by Act 27 of 1986]

Jurisdiction of magistrates' courts in respect of punishments

89A. Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any punishment prescribed by this Ordinance.

[section 89A inserted by Ord. 4 of 1977]

Repeal of laws

90. (1) Subject to the provisions of subsections (2) and (3) the laws mentioned in Schedule 1 are hereby repealed to the extent set out in the third column thereof.

(2) Any proclamation, regulation, notice, order, prohibition, authority, permit, licence, registration, approval, permission, exemption or document promulgated, issued, made, ordered, published, imposed, given or granted and any other act performed in terms of the provisions of any law repealed by subsection (1) shall, if not inconsistent with the provisions of this Ordinance, be deemed to have been promulgated, issued, made, ordered, published, imposed, given, granted or performed in terms of the corresponding provisions of this Ordinance.

(3) Any person appointed in terms of the provisions of an ordinance repealed by subsection (1) or a proclamation or regulation promulgated thereunder to perform duties similar to those duties required of a person appointed in terms of this Ordinance shall be deemed to have been appointed in terms of the provisions of this Ordinance.

Short title

91. This Ordinance shall be called the Nature Conservation Ordinance, 1975.

SCHEDULE 1

LAWS REPEALED

Number and Year of Law	Short title	Extent to which repealed
Ordinance 6 of 1935.	Extermination of Vermin Ordinance, 1935.	The whole.
Ordinance 10 of 1949.	Extermination of Wild Dogs Amendment Ordinance, 1949.	The whole.
Proclamation 43 of 1949.	Vermin Extermination Amendment Proclamation, 1949.	The whole.
Ordinance 11 of 1958.	Extermination of Vermin Amendment Ordinance, 1958.	The whole.
Ordinance 23 of 1965.	Extermination of Vermin Amendment Ordinance, 1965.	The whole.
Ordinance	Nature Conservation Ordinance, 1967.	The whole.

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31 of 1967.		
Ordinance 3 of 1968.	Nature Conservation Amendment Ordinance, 1968.	The whole.
Ordinance 12 of 1969.	Nature Conservation Amendment Ordinance, 1969.	The whole.
Ordinance 29 of 1969.	Nature Conservation Further Amendment Ordinance, 1969.	The whole.
Ordinance 21 of 1970.	Nature Conservation Amendment Ordinance, 1970.	The whole.
Ordinance 21 of 1971.	Nature Conservation Amendment Ordinance, 1971.	The whole.
Ordinance 6 of 1972.	Nature Conservation Amendment Ordinance, 1972.	The whole.
Ordinance 8 of 1973.	Nature Conservation Amendment Ordinance, 1973.	The whole.
Government Notice 74 of 1972.		The whole.

[Act 27 of 1986 provides for the repeal of some additional laws:

“Repeal of laws

33. (1) Subject to the provisions of subsections (2) and (3), the laws mentioned in the Schedule are hereby repealed to the extent set out in the third column thereof.

(2) Any proclamation, regulation, notice, order, prohibition, authority, permit, licence, registration, approval, permission, exemption or document promulgated, issued, made, ordered, published, imposed, given or granted and any other act performed in terms of the provisions of any law repealed by subsection (1), shall, if not inconsistent with the provisions of the Ordinance, be deemed to have been promulgated, issued, made, ordered, published, imposed, given, granted or performed in terms of the corresponding provisions of the Ordinance.

(3) Any person appointed in terms of the provisions of an act, ordinance or proclamation repealed by subsection (1) or regulation promulgated thereunder to perform duties similar to those duties required of a person appointed in terms of the Ordinance shall be deemed to have been appointed in terms of the provisions of the Ordinance.”

SCHEDULE

LAWS REPEALED

No. and year	Short title	Extent to which repealed
Ordinance 5 of 1927	Game Preservation Ordinance 1927	The whole in so far as it is still in force in Eastern Caprivi
Ordinance 19 of 1937	Fauna and Flora Protection Ordinance, 1937	The whole in so far as it is still in force in Eastern Caprivi
Proclamation R.1023 of 1973	Owambo Nature Conservation Enactment, 1973	The whole
Act 4 of 1974 of the Kavango Legislative Council	Kavango Nature Conservation Act, 1974	The whole

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Proclamation R.188 of 1976 Nature Conservation in Certain Native Areas in South West Africa Proclamation, 1976 The whole

SCHEDULE 2

DEFINITION OF THE BOUNDARIES OF THE ETOSHA NATIONAL PARK

From a point where the southern boundary of the magisterial district of Owambo intersects the western road reserve boundary of trunk road 1, section 10, south-eastwards along the said road reserve boundary, but excluding the adjoining airfield, to a point where the said road reserve boundary intersects the northern boundary of the farm Cordonia 1067, situated in Registration Division "B"; thence westwards along the northern boundaries of the farms Cordonia 1067 and Onguma 314 to the north-western corner beacon of the last-mentioned farm; thence generally southwards along the boundaries of but excluding the following farms in succession, all situated in Registration Division "B", namely Onguma 314, Vergenoeg 942, Kleinbegin 941, Leeudrink 940, Farm 858, Nadubib 1083, Heliodor 857, Obab 856, Mara 840, Lynplaas 436, Vrede 435, Olifantslaagte 433, Nooitgedag 418 and Hestria 417 to the north-western corner beacon of the last-mentioned farm; thence generally westwards along the boundaries of, but excluding the following farms in succession, all situated in Registration Division "A", namely Renex 494, Grensplaas 473, Tsabis 470, Werda 469, Nuchas 468, Elandsfontein 463, Mooiplaas 462, Koppies 457, Oberland 455, Montebello 456, Leeupoort 441, Margo 438, Tiervlei 436, Sonop 434, Burgershof 432, Avondvrede 439, Stillerus 429, Willina 427, Volouiga 424, Moesamoeroep 421, Safari 663, Leeurante 660, Seringetti 659, Farm 656, Grenswag 655, Vlakwater 652, Helaas 649, Pionier 648, Robyn 647 and Ermo 646 to the north-western corner beacon of the last-mentioned farm; thence southwards along the western boundary of the said farm Ermo 646 to the south-western corner beacon thereof; thence eastwards along the northern boundaries of the following properties in succession namely Portion 4 of the farm Kaross 237 and Portion 2 of the farm Kaross 237 to the north-eastern corner beacon of the last-mentioned property; thence southwards along the boundary of the said property, Portion 2 of the farm Kaross 237, to the south-eastern corner beacon thereof; thence westwards along the boundaries of the following properties in succession namely Portion 2 of the farm Kaross 237, Portion 4 of the farm Kaross 237, Portion 3 of the farm Kaross 237 and the farm Swartskamp 640 to a point on the southern boundary of the last-mentioned farm where the said boundary intersects the eastern road reserve boundary of main road 67; thence northwards along the eastern boundary of the said road reserve to a point where it intersects the northern boundary of the farm Kowares 276; thence north-eastwards in a straight line to a point 5 kilometres due east of the waterhole Onaiso; thence north-westwards in a straight line to the south-eastern corner beacon of Quarantine Station 740; thence generally northwards along the boundary of but excluding the said Quarantine Station 740 to the south-western corner beacon of Quarantine Station 742; thence eastwards along the southern boundary of the last-mentioned Quarantine Station to the south-eastern corner beacon thereof; thence generally eastwards to a point south-east of Otjivalunda East Salt Pan; thence generally north-eastwards in a straight line, but excluding the said pan, to a point where the said straight line meets the southern boundary of the magisterial district of Owambo; thence eastwards along the southern boundary of the said magisterial district to a point where the said boundary intersects the western road reserve boundary of trunk road 1, section 10, being the point of beginning.

SCHEDULE 3

[Schedule 3 is amended by Government Notice 115 of 1978 and by Government Notice 75 of 1987, substituted by Act 31 of 1990 and amended by Government Notice 18 of 2016.
The *Gazettes* do not italicise the Latin names.]

SPECIALLY PROTECTED GAME

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Mountain Zebra (*Equus zebra hartmannae*)
 Giraffe (*Giraffa camelopardalis*)
 Klipspringer (*Oreotragus oreotragus*)
 Elephant (*Loxodonta africana*)
 Rhinoceros: (*Diceros bicornis*)
 (*Ceratotherium simum*)
 Impala (*Aepyceros melampus*)
 Hippopotamus (*Hippopotamus amphibius*)
 Black-faced Impala (*Aepyceros petersi*)
 Sebra (*Equus burchelli* species)
 [The word "Sebra" should be "Zebra".]
 African Wild Dog (*Lycaon*)
 [applicable to the whole of Namibia]

[Government Notice 18 of 2016 (GG 5936) states that it is amending Schedule 3. However, it states that it is adding "African Wild Dog (*Lycaon*)" to the list of animals in subparagraph (i). There is no subparagraph (i) in Schedule 3, raising a question as to whether this amendment was perhaps intended to apply to subparagraph (i) of Schedule 4.]

SCHEDULE 4

PROTECTED GAME

(i) *Animals*

[Schedule 4(i) is amended by Government Notice 117 of 1976, Government Notice 75 of 1987, Government Notice 90 of 1988 and Government Notice 131 of 1996. The *Gazettes* do not italicise the Latin names in most cases.]

Aardwolf (*Proteles cristatus*)
 Bat-eared Fox (*Otocyon megalotis*)
 Roan Antelope (*Hippotragus equinus*)
 Tsesseby (*Damaliscus lunatus*)
 Dikdik (*Madoqua kirki damarensis*)
 Blue Wildebeest (*Connochaetes taurinus*)
 Bushbuck (*Tragelaphus scriptus*)
 Duiker (*Sylvicapra grimmia*)
 Antbear (*Orycteropus afer*)
 Clawless Otter (*Aonyx capensis*)
 Scaly Anteater (*Manis temmincki*)
 Cheetah (*Acinonyx jubatus*)
 Spotted-necked Otter (*Lutra maculicollis*)
 Hedgehog (*Erinaceus frontalis*)
 Monitor (*Veranus niloticus*; *V. albigularis*)
 Leopard (*Panthera pardus*)
 Pythons (*Python sebae*, *Python anchietae*)
 Bush Baby (*Galago senegalensis*)
 Oribi (*Ourebia ourebi*)
 Honey Badger (*Mellivora capensis*)
 Reedbuck (*Redunca arundinum*)
 Red Hartebeest (*Alcelaphus buselaphus*)
 Silver Jackal (*Vulpes chama*)
 Tortoises (*Testudinidae*)
 Steenbok (*Rhaphicercus campestris*)
 Sable Antelope (*Hippotragus niger*)
 Waterbuck (*Kobus ellipsiprymnus*)

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Sitatunga (*Tragelaphus spekei*)
 Lechwe (*Kobus leche*)
 Crocodile (*Crocodylus niloticus*)
 Puku (*Kobus vardoni*)
 Sharp's grysbok (*Rhaphicerus sharpei*)
 Eland (*Taurotragus oryx*)
 [applicable to the whole of Namibia]
 Cape hunting dog (*Lycaon pictus*)
 [applicable to the whole of Namibia]
 Lion (*Panthera Leo*)
 [applicable to the whole of Namibia]

[Government Notice 18 of 2016 (GG 5936) states that it is amending Schedule 3. However, it states that it is adding "African Wild Dog (*Lycaon*)" to the list of animals in subparagraph (i). There is no subparagraph (i) in Schedule 3, raising a question as to whether this amendment was perhaps intended to apply to subparagraph (i) of Schedule 4.]

(ii) *Birds*

All species of birds except the huntable game birds mentioned in Schedule 6 and the following birds:

Weavers (All *Ploceus* spp.)
 Sparrows (All *Passet* spp.)
 Mousebirds (*Colius colius*; *Urocolius indicus*)
 Redheaded Quelea (*Quelea quelea*)
 Bulbul (*Pycnonotus nigricans*; *P. barbatus*)
 Pied Crow (*Corvus albus*).

SCHEDULE 5

[Schedule 5 is amended by Government Notice 117 of 1976. The *Gazettes* do not italicise the Latin names.]

HUNTABLE GAME

Bushpig (*Potamochoerus porcus*)
 Buffalo (*Syncerus caffer*)
 Oryx (*Oryx gazella*)
 Kudu (*Tragelaphus strepsiceros*)
 Springbok (*Antidorcas marsupialis*)
 Warthog (*Phacochoerus aethiopicus*).

SCHEDULE 6

[Schedule 6 is amended by Government Notice AG 77 of 1985. The *Gazettes* do not italicise the Latin names.]

HUNTABLE GAME BIRDS

Guinea Fowl (*Numida meleagris*)
 Namaqua Sandgrouse (*Pterocles namaqua*).
 Kurrichane buttonquail (*Turnix sylvatica*)
 Common quail (*Coturnix coturnix*)
 Harlequin quail (*Coturnix delagorguei*)
 Crested francolin (*Francolinus sephaena*)
 Redbilled francolin (*Francolinus adspersis*)

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Swainson's francolin (*Fringilla swainsonii*)
Orange River francolin (*Fringilla levaillantoides*)
White faced duck (*Dendrocygna viduata*):
Egyptian goose (*Alopochen aegyptiacus*):
Cape teal (*Anas capensis*):
Hottentot teal (*Anas hottentota*)
Redbilled teal (*Anas erythrorhyncha*)
Turtle dove (*Streptopelia capicola*)
Laughing dove (*Streptopelia senegalensis*)
Rock pigeon (*Columba guinea*)
Burchell's sandgrouse (*Pterocles burchelli*)
Doublebanded sandgrouse (*Pterocles bicinctus*)

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SCHE DULE 8

ADMINISTRASIE — S.W.A. — ADMINISTRATION

WILDHANDELAARSLISENSIE/GAME DEALER'S LICENCE

(Ordonnansie op Natuurbewaring, 1975/Nature Conservation Ordinance, 1975)

VERVALDATUM DATE OF EXPIRY

Uitgereik aan: Issued to:

Lisensichouer Licence Holder

Adres Address

Lisensiegeld betaal, ontvangs waarvan hierby erken word: Licence fee paid, receipt of which is hereby acknowledged:

RAND RAND

SENT CENT

R

Besonderhede van lisensie Particulars of licence

Ligging van grond waar wild of wilde diere aan- gehou sal word (Situation of land on which game or wild animals will be kept

LISENSIEBEAMPTTE/LICENCING OFFICER.

SCHEDULE 9

[The Official Gazette does not italicise the Latin names.]

PROTECTED PLANTS

Common name.	Scientific name.
AIZOACEAE	
Vygies	Aridaria noctiflora Astridia all species Cephalophyllum all species Chasmatophyllum musculinum Cheiridopsis all species Conophytum all species Dinteranthus all species
Mountain Vygie	Ebracteola all species
Window plant, yellow	Fenestraria aurantiaca
Window Plant, white	Fenestraria rhopalophylla
Herero Vygie	Hereroa all species
Jensenobotrya	Jensenobotrya lossowiana
Juttadinteria	Juttadinteria all species
Vygie	Lapidaria margaretae Lithops all species
Plains Vygie	Nananthus aloides
Vygie	Ophthalmophyllum all species Psammophora all species
Rusch's Vygies	Ruschia all species
Vygie	Schwantesia all species Stoeberia all species
Kalk Vygie	Titanopsis all species
Vygie	Trichodiadema all species

APOCYNACEAE

Bottle tree	Pachypodium lealii
Elephant's trunk	Pachypodium namaquanum

ASCLEPIADACEAE

Carrion-flower species	Caralluma all species Ceropegia all species Decabelone barklyi Duvalia all species Hoodia all species Huernia all species Huerniopsis all species Piaranthus all species Stapelia all species
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Tavaresia: sec Decabelone
species

Ghaap species

Trichocaulon all species

CRASSULACEAE

Adromischus all species
Crassula all species

LILIACEAE

	Aloe all species
Small Aloe	Chortolirion bergerianum
Variegated Aloe	Gasteria (ernesti-ruschii) pillansii
Gloriosa	Gloriosa virescens
Small Haworthia	Haworthia tessellata var. engleri

MORINGACEAE

Moringa	Moringa ovalifolia
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ORCHIDACEAE

Orchids	Orchidaceae all genera and species
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PORTULACACEAE

	Anacampseros all species
Small Elephant's Foot	Portulacaria pygmaea

VITACEAE

Butter Tree species	Cyphostemma (Cissus)
Stem Succulent species	

WELWITSCHIACEAE

Welwitschia	Welwitschia mirabilis.
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