



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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of the Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 161

2017

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 3 of 2017: Nature Conservation Amendment Act, 2017.

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EXPLANATORY NOTE:

- _____ Words underlined with a solid line indicate insertions in existing provisions.
- [] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Nature Conservation Ordinance, 1975, so as to insert and substitute certain definitions; to provide for a proper administrative, legal and procedural framework for tourism concessions in protected areas and other State land; to control the import and export of live game or animal, and to increase the penalties; and to provide for incidental matters.

(Signed by the President on 9 June 2017)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Amendment of section 1 of Ordinance No. 4 of 1975, as amended by section 1 of Ordinance No. 4 of 1977, section 1 of Act No. 27 of 1986, section 1 of Act No. 6 of 1988 and section 1 of Act No. 5 of 1996

1. Section 1 of the Nature Conservation Ordinance, 1975 (in this Act referred to as “the Ordinance”) is amended by -

- (a) the substitution for the definition of “communal land” of the following definition:

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

- (b) by the insertion after the definition of “communal land” of the following definition:

““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;”; and

- (c) “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 [South Africa or] Namibia;

- (d) by the insertion after the definition of “proclaimed road” of the following definition:

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

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Amendment of section 17 of Ordinance No. 4 of 1975, as amended by section 12 of Act No. 5 of 1996

2. Section 17 of the Ordinance is amended -
- (a) by the substitution for the heading of section 17 of the following heading:
- “Powers of Minister in relation to game parks, nature reserves and other protected areas”;**
- (b) by the addition after subparagraph (j) of subsection (2) of the following subparagraph:
- “(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.” ;
- (c) by the addition after subsection (2) of the following subsections:
- “(3) The Minister may grant concessions authorising other persons -
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| <p>(a) to conduct tourism or activities related to the sustainable commercial use of wildlife resources; or</p> <p>(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.</p> <p>(4) A concession referred to in subsection (3) -</p> <p>(a) must contribute to the Ministry in meeting its objectives concerning protected areas or wildlife resources under its jurisdiction; and</p> <p>(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).</p> <p>(5) The objectives of granting such concessions shall be to -</p> <p>(a) enhance the conservation of biodiversity and the maintenance of the ecological integrity of protected areas and other State land;</p> <p>(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;</p> |
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- (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.
- (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).
- (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).
- (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.
- (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.
- (10) The Minister may impose any conditions on an existing or future concession in order to protect the environment.
- (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.
- (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.
- (13) The Minister shall prescribe requirements relating to the administration of concessions, including the conduct of regular

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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.”.

Amendment of section 26 of Ordinance No. 4 of 1975, as amended by section 8 of Act No. 27 of 1986, section 2 of Act No. 31 of 1990 and section 12 of Act No. 5 of 1996

3. Section 26 of the Ordinance is amended by the substitution for subsection (3) of the following subsection -

“(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 [**R200 000**] N\$25 000 000 or to imprisonment for a period not exceeding [**twenty**] 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 [**R20 000**] N\$10 000 000 or to imprisonment for a period not exceeding [**five**] 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.”.

Amendment of section 27 of Ordinance No. 4 of 1975, as amended by section 9 of Act No. 27 of 1986 and section 12 of Act No. 5 of 1996

4. Section 27 of the Ordinance is amended -

(a) by the substitution for subsection (3) of the following subsection -

“(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 [**R4 000**] N\$500 000 or to imprisonment for a period not exceeding [**four**] five years, or to both such fine and such imprisonment.”; and

(b) by the insertion of subsection (3A) after subsection (3) of the following subsection -

“(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.”.

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Amendment of section 30 of Ordinance No. 4 of 1975, as amended by section 2 of Act No. 6 of 1988 and section 12 of Act No. 5 of 1996

5. Section 30 of the Ordinance is amended -
- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph -
- “(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 [**R2 000**] N\$500 000 or to imprisonment for a period not exceeding [**two**] five years, or to both such fine and such imprisonment.”; and
- (b) by the insertion of the following paragraph after paragraph (c) of subsection (1) -
- “(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.”.

Amendment of section 38 of Ordinance No. 4 of 1975, as amended by section 12 of Act No. 5 of 1996

6. Section 38 of the Ordinance is amended -
- (a) by the substitution for subsection (2) of the following subsection -
- “(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 [**five hundred rand**] N\$500 000 or to imprisonment for a period not exceeding [**six months**] five years, or to both such fine and such imprisonment.”; and
- (b) by the addition of the following subsection after subsection (2) -
- “(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.”.

Amendment of section 49 of Ordinance No. 4 of 1975, as amended by section 12 of Act No. 5 of 1996

7. Section 49 of the Ordinance is amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- “(a) The Minister may [**at any time in its discretion,**] place a prohibition on the import into Namibia or the export from Namibia of the prepared

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or tanned skin, any product manufactured therefrom, of any species of game or wild animal, or live game or animal, or impose the conditions which he or she **[it may in its discretion]** may determine in respect of the import into Namibia or the export from Namibia of any such **[skin or product]** skin, product or live game or animal;”.

Substitution of section 87 of Ordinance No. 4 of 1975

8. The Ordinance is amended by the substitution for section 87 of the following section:

General Penalty

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 **[two hundred and fifty rand]** N\$6 000 or to imprisonment for a period not exceeding **[three]** 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 **[five hundred rand]** N\$12 000 or to imprisonment for a period not exceeding **[six]** 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),

(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,

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

Short title

9. This Act is called the Nature Conservation Amendment Act, 2017.