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THE WILDLIFE CONSERVATION AND MANAGEMENT ACT

CAP. 376

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Wildlife Conservation and Management Act

Cap. 376

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Wildlife Conservation and Management Act (Cap. 376)
Contents

Part I – PRELIMINARY 1
1. Short title 1
2. Application 1
3. Interpretation 2
4. General principles 6
5. National wildlife conservation and management strategy 6
Part II – ESTABLISHMENT OF THE SERVICE 8
6. Kenya Wildlife Service 8
7. Functions of the Service 8
8. Board of Trustees 9
9. Functions and powers of the Board of Trustees 9
10. Meetings of the Board of Trustees 10
11. Appointment of the Director-General 10
12. Officers of the Service 10
13. Establishment of offices 10
Part III – FINANCIAL PROVISIONS 11
14. Sources of funds of the Service 11
15. Financial year 11
16. Annual estimates 11
17. Accounts and audit 11
Part IV – THE WILDLIFE REGULATION MECHANISMS 12
18. Community Wildlife Conservation Committees 12
19. Functions on Community Wildlife Conservation Committees 12
20. Committee may invite experts 13
21. Remuneration of Committee members 13
22. Bio-prospecting 13
Part V – ESTABLISHMENT OF WILDLIFE ENDOWMENT FUND 14
23. The Wildlife Conservation Trust Fund 14
24. The Wildlife Compensation Scheme 15
25. Compensation for personal injury or death or damage to property 15
Part VI – CONSERVATION, PROTECTION AND MANAGEMENT 16
26. Environment law to apply 16
27. No exemption from environment law to be granted 16
28. Water Act to apply 16

29. Requirement for sustainable use 16
30. Prohibition 16
31. Declaration of protected areas 17
32. Declaration of a national park 17
33. Conservation and management of wetlands 17
34. Variation of boundaries or revocation of a national park or a marine protected area 18
35. Declaration of a national reserve 18
36. Declaration of a marine conservation area 19
37. Variation of boundaries or revocation of a national reserve 19
38. Exchange of part of a national park 20
39. Establishment of conservancy or sanctuary 20
40. Community wildlife associations and wildlife managers 20
41. Functions of community wildlife associations and wildlife managers 21
42. Donations and bequests 21
43. Standards of management 21
44. Management plans 22
45. Consent for mining and quarrying 22
46. Protection of endangered and threatened ecosystems 23
47. Endangered and threatened species 23
48. Restricted activities involving listed species 23
49. Species recovery plans 23
Part VII – ESTABLISHMENT OF THE WILDLIFE RESEARCH AND TRAINING INSTITUTE 24
50. Establishment of the Wildlife Research and Training Institute 24
51. Object and purpose of the Institute 24
52. Functions of the Institute 24
53. Board of the Institute 25
54. Tenure and vacation of office 26
55. Conduct of the meetings of the Board of the Institute 26
56. Disclosure of interest 26
57. Delegation of functions 26
58. Appointment of the Director and other staff 27
59. Research permit 27
60. Establishment of wildlife database 27
61. Director to have access to public records etc. 27
62. Access to wildlife data 28

63. Funds of the Institute 28
64. Monitoring mechanisms 28
Part VIII – CONSERVATION ORDERS, EASEMENTS AND INCENTIVES 29
65. Conservation orders and easements 29
66. Application for wildlife conservation orders and easements 29
67. Proceedings to enforce wildlife conservation orders and easements 30
68. Registration of wildlife conservation orders and easements 30
69. Compensation for wildlife conservation orders and easements 30
70. Incentives and benefit sharing 31
71. Right to reasonable access 31
72. Sustainable utilization and exploitation 31
73. Cabinet Secretary may make regulations 31
74. Migration of wildlife 31
75. Mutual co-existence 31
76. Guidelines on incentives and benefit-sharing 32
Part IX – HUMAN-WILDLIFE CONFLICT 32
77. Problem animals 32
78. Unlawful wounding of animals 32
Part X – LICENSING AND REGULATION 33
79. Licensing 33
80. Wildlife user rights 33
81. Assignment of wildlife user rights 33
82. Withdrawal of wildlife user rights 34
83. Government trophies 34
84. Dealing in trophies 34
85. Application and issuance of a permit 34
86. Revocation of a permit 35
87. Records and registration of permits and licenses 35
Part XI – OFFENCES AND PENALTIES 35
88. Offences relating to management plans 35
89. Offences relating to pollution 36
90. Offences relating to conservation orders and easements 36
91. Offences relating to licenses and permits 36
92. Offences relating to endangered and threatened species 36
93. Offenses relating to invasive species 37

94. Offences relating to flying aircraft in wildlife conservation areas 37
95. Offences relating to trophies and trophy dealing 37
95A. Poisoning of wildlife 38
96. Offences relating to sport hunting 38
97. Offenses relating to subsistence hunting 38
98. Offences relating to hunting for bush-meat trade 38
99. Import and export of wildlife species 39
100. Offences relating to compensation 39
101. Offenses relating to failure comply with a lawful order 39
102. Breach of protected area regulations 40
103. Offences by bodies corporate 40
104. General provisions 41
105. Forfeiture 41
106. Commission of offence in the course of duty 41
107. Prosecutorial powers 41
108. Restraint of breaches of the Act 42
Part XII – INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS 42
109. International instruments, conventions and agreements ratified by Kenya 42
Part XIII – ENFORCEMENT AND COMPLIANCE 42
110. Powers of authorized officers 42
111. Erection of a temporary barrier 43
112. Use of firearms 43
Part XIV – MISCELLANEOUS 45
113. The common seal 45
114. Protection from personal liability 45
115. Liability for damage 45
116. Regulations 45
117. Disputes 46
118. Repeal of Cap. 376 46
119. Transitional provisions 46
FIRST SCHEDULE [s. 10] 46
SECOND SCHEDULE [s. 12] 48
THIRD SCHEDULE [s. 25] 51
FOURTH SCHEDULE [s. 34] 52
FIFTH SCHEDULE [s. 44] 52

SIXTH SCHEDULE [s. 47.] 54
SEVENTH SCHEDULE [s. 49(1)] 67
EIGHTH SCHEDULE [s. 80(3)] 70
NINTH SCHEDULE [s. 96(2)] 72
TENTH SCHEDULE [s. 80(4)] 72
ELEVENTH SCHEDULE [s. 119(a)] 73

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CAP. 376

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An Act of Parliament to provide for the protection, conservation, sustainable use and management of wildlife in Kenya and for connected purposes

Part I – PRELIMINARY

1. Short title

This Act may be cited as the Wildlife Conservation and Management Act.

2. Application

This Act shall apply to all wildlife resources on public, community and private land, and Kenya territorial waters.

3. Interpretation

In this Act, unless the context otherwise requires—

"aircraft" means any type of aeroplane, airship, balloon or kite, whether captive, navigable or free, and whether controlled or directed by human agency or not;

"alien species" means a species that is not indigenous to Kenya or an indigenous species translocated to a place outside its natural distribution range in nature and which in its natural habitat is usually found in nature;

"animal" means any species or the young or egg thereof, but does not include a human being or any animal which is commonly considered to be a domestic animal or the young or egg thereof;

"authorized officer" includes a member of, the Service, a forest officer, a fisheries officer, a police officer, a customs officer, an administrative officer, or any person so designated under this Act;

"biodiversity" means the variability among living organisms from all sources including ecosystems and the ecological complexes of which they are a part, compassing ecosystem, species and genetic diversity;

"biological resources" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity;

"bio-piracy" means the exploration of biological resources without the knowledge and non-coercive prior consent of the owners of the resources and without fair compensation and benefit sharing;

"bio-prospecting" means the exploration of biodiversity for commercially valuable genetic and biochemical resources;

"biotechnology" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to wildlife;

"capture" includes any act immediately directed at the taking alive of wildlife or the taking of nests, eggs or young of any wildlife;

"community" means a group of individuals or families who share a common heritage, interest, or stake in unidentifiable land, land based resources or benefits that may derived therefrom;

"community wildlife association" refers to an association established under the provisions of this Act;

"Community Wildlife Compensation Committee" means the committee established under section 18 of this Act;

"community wildlife scout" means a person appointed as such under this Act;

"competent authority" means—

(a) in relation to public land, the National Land Commission;

(b) in relation to any other land, the owner thereof or the person for the time being entitled to the use, rents and profits thereof;

"conservation area" means a tract of land, lake or sea with notable environmental, natural features, biological diversity, cultural heritage, or historical importance that is protected by law against undesirable changes;

"conservation order" means a wildlife conservation order issued under section 65 of this Act.

"corridor" means an areas used by wild animals when migrating from one part of the ecosystem to another periodically;

"County Wildlife Conservation and Compensation Committee" means the committee established under section 18 of this Act;

"cropping" means harvesting of wildlife for a range of products;

"culling" means selective removal of wildlife based on ecological scientific principles for management purposes;

"deal" means—

(a) to sell, purchase, distribute, barter, give, receive, administer, supply, or otherwise in any manner deal with a trophy or live species;

(b) to cut, carve, polish, preserve, clean, mount or otherwise prepare a trophy or live species;

(c) to transport or convey a trophy or live species;

(d) to be in possession of any trophy or live species with intent to supply to another; or

(e) to do or offer to do any act preparatory to, in furtherance of, or for the purpose of, an act specified above; and

"Department" means the State Department for the time being responsible for matters relating to wildlife;

"devolution" means the transfer of rights, authority and responsibilities by the national wildlife agencies to the local delimited geographic and functional domains;

"Director-General" means the Director-General of the Service appointed under section 11;

"dispersal" areas means areas adjacent to or surrounding protected wildlife conservancies and sanctuaries into which wild animals move during some periods of the year;

"domestic animal" includes any dog, sheep, pig, goat, cat, guinea pig, donkey, horse, camel, European rabbit, bull, cow, ox, ram or the young of such animal;

"domestic bird" means any chicken, duck, goose, turkey, rock pigeon, or the eggs or young thereof;

"ecosystem" means a dynamic complex of plant, animal, micro-organism communities and their non-living environment interacting as a functional unit;

"endangered ecosystem" means an ecosystem of exceptional biodiversity value or a habitat of endangered or endemic species which has undergone severe degradation;

"endangered species" means any wildlife specified in the Fourth Schedule of this Act or declared as such by any other written law or any wildlife specified in Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);

"endemic species" means species of plants or animals that are found only in Kenya or in only one locality in Kenya, and not in any other place;

"environment impact assessment" has the meaning assigned to it under the Environmental Management and Co-ordination Act (Cap. 387);

"*ex-situ* conservation" means conservation outside the natural ecosystem and habitat of the biological organism;

"forest officer" shall have the meaning assigned to it under the Forest Conservation and Management Act (Cap. 385);

"game farming" means the rearing of wildlife in an enclosed and controlled environment for wildlife conservation, trade and recreation;

"game ranching" means the keeping of wildlife under natural extensive conditions with the intention of engaging in wildlife conservation, recreation and trade;

"government trophy" means a trophy declared to be a Government trophy by or under the provisions of this Act;

"habitat" means a place or site where wildlife naturally occurs and which provides food, cover and water on which wildlife depend directly or indirectly;

"harvesting" means the felling, trimming, docking, splitting, debarking, extracting or uprooting of any plant or plant substance;

"hazardous substance" means any chemical, waste, gas, medicine, drug, plant, animal or micro-organism which is likely to be injurious to human health or the environment;

"honorary warden" means a honorary warden appointed by the Cabinet Secretary under section 12(5);

"hunt" means and includes—

(a) to kill, injure, shoot at;

(b) wilfully disturb or molest by any method;

(c) lie in wait for, or search for, with intent to kill, injure or shoot at, molest a nest or eggs of, any wild animal;

"*in-situ* conservation" means conservation within the natural ecosystem and habitat of the biological organism;

"Inspector-General of Police" means Inspector-General within the meaning of the National Police Service Act (Cap. 84);

"inter-generational" means the conscious endeavour by the present generation, in the exercise of its right to beneficial use of wildlife resources, to enhance and maintain them for the benefit of future generations;

"intra-generational equity" means the right of the people within the present generation to benefit equitably from the exploitation of wildlife resources;

"invasive species" means a non-indigenous species trans-located to a place outside its natural distribution range in nature and which dominates other indigenous species or takes over the habitat;

"land" has the meaning assigned to it by the Constitution of Kenya;

"licensing officer" means a person appointed by the Cabinet Secretary, by notice in the *Gazette*, to be a licensing officer for the purposes of this Act;

"marine park" means a protected marine area where no fishing, construction work or any disturbance is allowed unless with written permission of the Director-General;

"marine protected area" means any park or reserve covering the area of intertidal or sub-tidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law, and includes any dry land found within the gazetted boundary;

"marine reserve" means a marine protected area where subsistence fishing is permitted;

"meat" means the fat, flesh or tissue of any wild species whether fresh or dry, pickled or otherwise preserved or processed;

"member" of the uniformed and disciplined cadre means a member of the Service holding any of the ranks specified in paragraph 1 (2)(a) Part 1 of the Second Schedule;

"motor vehicle" includes a vehicle of the type commonly known as a hovercraft;

"multilateral environmental agreement" means an agreement involving three or more parties regarding sustainable environmental management;

"National Land Commission" means the Commission established under Article 67 of the Constitution;

"national park" means an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means;

"national reserve" means an area of community land declared to be a national reserve under this Act or under any other applicable written law;

"poaching" means illegal hunting, illegal capturing and illegal harvesting of any wildlife but does not include the control of species widely and commonly regarded as pests or vermin, as listed in a schedule of this Act;

"problem animal" means any wildlife which has caused or is causing damage to or harm to human life or property;

"protected area" means a clearly defined geographical space, recognized, dedicated and managed through legal or other effective means, to achieve long- term conservation of nature with associated ecosystem services and cultural values;

"public participation" means active involvement by the citizenry in decision making processes through, inter alia, use of the national media, relevant consultative mechanisms and public hearings;

"ranger" means a member of the Service in the uniformed and disciplined cadre and includes corporal, sergeant, senior sergeant and sergeant major;

"sanctuary" means an area of land or of land and water set aside and maintained by government, community, individual or private entity for the conservation and protection of one or more species of wildlife;

"Service" means the Kenya Wildlife Service established by section 6 of this Act;

whatsoever of that animal or plant whether processed, added to or changed by the work of man or not, which is recognizable as such.

"Warden" means an officer of the Service above the rank of Sergeant Major;

"weapon" means a tool, implement, firearm, ammunition or any item that may be used to injure or kill a wild animal for any reason;

"wetlands" means areas of marsh, fen, peat land, or water, whether natural or artificial, permanent or temporary, with water is static or flowing, fresh, brackish, salt, including areas of marine water the depth of which does not exceed six meters at low tide;

"wildlife" means any wild and indigenous animal, plant or microorganism or parts thereof within its constituent habitat or ecosystem on land or in water, as well as species that have been introduced into or established in Kenya;

"wildlife conservancy" means land set aside by an individual landowner, body corporate, group of owners or a community for purposes of wildlife conservation in accordance with the provisions of this Act;

"wildlife conservation area" means a tract of land, lake or sea that is protected by law for purposes of wildlife and biological diversity conservation and may include a national park, national reserve, game reserve or sanctuary;

"wildlife manager" means any person registered with the Service for the purpose of managing a wildlife conservancy or sanctuary;

"wildlife user rights" includes user rights exercised by an individual landowner, body corporate, group of owners or a community under the provisions of the Act.

[Act No. 18 of 2018, Sch.]

4. General principles

The implementation of this Act shall be guided by the following principles—

(a) Wildlife conservation and management shall be devolved, wherever possible and appropriate to those owners and managers of land where wildlife occurs;

(b) Conservation and management of wildlife shall entail effective public participation;

(c) Wherever possible, the conservation and management of wildlife shall be encouraged using an ecosystem approach;

(d) Wildlife conservation and management shall be encouraged and recognized as a form of land use on public, community and private land;

(e) Benefits of wildlife conservation shall be derived by the land user in order to offset costs and to ensure the value and management of wildlife do not decline;

(f) Wildlife conservation and management shall be exercised in accordance with the principles of sustainable utilization to meet the benefits of present and future generations;

(g) Benefits accruing from wildlife conservation and management shall be enjoyed and equitably shared by the people of Kenya.

5. National wildlife conservation and management strategy

(1) The Cabinet Secretary shall, subject to subsection (5), formulate and publish in the *Gazette* a national wildlife conservation and management strategy at least once every five years, in accordance with which wildlife resources shall be protected, conserved, managed and regulated.

(2) The national wildlife conservation and management strategy shall prescribe the principles, objectives, standards, indicators, procedures and incentives for the protection, conservation,

management sustainable utilization and control of wildlife resources and shall, in particular prescribe—

(a) measures for the protection of wildlife species and their habitats and ecosystems;

(b) norms and standards for ecosystem-based conservation plans;

(c) measures facilitating community-based natural resources management practices in wildlife conservation and management;

(d) priority areas for wildlife conservation and projections on increasing designated wildlife conservation areas in form of national parks, national reserves, conservancies and sanctuaries;

(e) innovative schemes and incentives to be applied in securing identified critical wildlife migratory routes, corridors and dispersal areas for sustainable wildlife conservation and management;

(f) clear targets indicating projection in terms of specific percentage of landscape and seascape to be brought under protected areas, conservancies and sanctuaries over the next five years;

(g) national wildlife research and monitoring priorities and information systems, including—

(i) research priorities;

(ii) the collection and management of data and information regarding the status of wildlife resources;

(iii) procedures for gathering wildlife data and the analysis and dissemination of wildlife information;

(iv) wildlife management information system;

(h) measures necessary to ensure equitable sharing of benefits;

(i) guidelines for granting and monitoring wildlife user rights;

(j) criteria for listing and measures for protection and management of endangered and threatened species;

(k) innovative measures for mitigating human wildlife conflict;

(l) framework for capacity development and training for effective wildlife management;

(m) measures for wildlife disease surveillance and control;

(n) adaptation and mitigation measures to avert adverse impacts of climate change on wildlife resources and its habitats;

(o) reflection on regional co-operation and common approaches for enhancing protection, conservation and management of shared wildlife resources; and

(p) any other matter that the Cabinet Secretary considers necessary to enhance protection, conservation and management of wildlife, resources in the country.

(3) The Cabinet Secretary shall periodically review the national wildlife conservation and management strategy and may, by notice in the *Gazette*, publish a revised national wildlife conservation and management strategy.

(4) The Cabinet Secretary and all relevant public bodies shall, when exercising or performing any statutory function, take into account and give effect to the national wildlife conservation and management strategy.

(5) The Cabinet Secretary shall, when formulating a national wildlife conservation and management strategy under subsection (1), consult the public in accordance with the Fourth Schedule.

Part II – ESTABLISHMENT OF THE SERVICE

6. Kenya Wildlife Service

(1) There is established a uniformed and disciplined Service to be known as the Kenya Wildlife Service.

(2) The Service shall be a body corporate with perpetual succession and a common seal and capable, in its corporate name, of—

(a) suing and being sued;

(b) purchasing, holding and disposing of movable and immovable property; and

(c) doing all such other things as may be done by a body corporate;

(d) doing all such other things as may be done by a body corporate.

[Act No. 18 of 2018, Sch.]

7. Functions of the Service

The functions of the Service shall be to—

(a) conserve and manage national parks, wildlife conservation areas, and sanctuaries under its jurisdiction;

(b) provide security for wildlife and visitors in national parks, wildlife conservation areas and sanctuaries;

(c) set up a county wildlife conservation committee in respect of each county;

(d) promote or undertake commercial and other activities for the purpose of achieving sustainable wildlife conservation;

(e) collect revenue levies and charges due to the national government from wildlife and, as appropriate, develop mechanisms for benefit sharing with communities living in wildlife areas;

(f) develop mechanisms for benefit sharing with communities living in wildlife areas;

(g) advise the Cabinet Department on matters pertaining to wildlife policy, strategy and legislation;

(h) coordinate the preparation and implementation of ecosystem plans;

(i) prepare and implement national park management plans;

(j) assist and advise in the preparation of management plans for community and private wildlife conservancies and sanctuaries;

(k) undertake and conduct enforcement activities such as anti-poaching operations, wildlife protection, intelligence gathering, investigations and other enforcement activities for the effective carrying out of the provisions of this Act;

(l) conduct and co-ordinate, all research activities in the field of wildlife conservation and management and ensure application of research findings in conservation planning, implementation and decision making;

(m) advise the National Land Commission, the Cabinet Secretary and the Council on the establishment of national parks, wildlife conservancies and sanctuaries;

(n) promote and undertake extension service programmes intended to enhance wildlife conservation, education and training;

(o) identify user rights and advise the Cabinet Secretary thereon;

(p) grant permits;

(q) establish forensic laboratories;

(r) monitor the compliance of terms and conditions of licences; and

(s) perform such other functions as the Board may assign the Service or as are incidental or conducive to the exercise by the Service of any or all of the functions provided under this Act.

[Act No. 18 of 2018, Sch.]

8. Board of Trustees

(1) The Service shall be managed by a Board of Trustees appointed under subsection (2).

(2) The members of the Board of Trustees shall comprise—

(a) a chairperson appointed by the President;

(b) the Principal Secretary in the State Department for the time being responsible for matters relating to wildlife, or a designated representative;

(c) the Principal Secretary in the State Department for the time being responsible for finance, or a designated representative;

(d) the Principal Secretary in the State Department responsible for matters relating to county governments or a designated representative;

(e) the Inspector-General of Police;

(f) five other persons with both local and international technical experience in either fundraising, law, wildlife, finance, business or investment matters appointed by the Cabinet Secretary, one of whom shall be from local community wildlife areas;

(g) the Director-General of the Service, who shall be the secretary to the Board of Trustees.

(3) A member appointed under subsection (2) (f)(ii) shall be the vice- chairperson of the Board of Trustees.

(4) The Chairperson and members of the Board of Trustees, other than ex- officio members, shall hold office for a term of three years and shall be eligible for appointment in accordance with subsection (2) for one further term of three years.

(5) The Cabinet Secretary shall appoint one-third of the members of the Board under subsection (2)(f) in a staggered manner so that the respective expiry dates of their terms shall fall at different times.

(6) There shall be paid to the chairperson and members such remuneration, fees or allowances for expenses as the Salaries and Remuneration Commission may determine.

[Act No. 18 of 2018, Sch.]

9. Functions and powers of the Board of Trustees

The functions of the Board of Trustees shall be to—

(a) oversee the effective implementation of the national wildlife policy;

(b) approve the strategic plans operational policies and capital and recurrent budget of the Service; and

(c) perform such other functions as may be necessary for the fulfilment of its mandate under this Act.

10. Meetings of the Board of Trustees

The provisions of the First Schedule shall have effect with respect to the procedure at the meetings of the Board of Trustees.

11. Appointment of the Director-General

(1) There shall be a Director-General of the Service appointed by the Cabinet Secretary in consultation with the Board.

(2) The Director-General shall hold office for a term of three years and shall be eligible for selection for one further term of three years.

(3) The Director-General shall be the chief executive officer of the Service and shall be responsible to the Board of Trustees for the day to day management of the affairs of the Service.

(4) A person shall qualify for appointment of the Director-General if the person—

(a) is a citizen of Kenya;

(b) satisfies the requirements of Chapter Six of the Constitution;

(c) possess a degree in natural resources management, finance, business, or strategic management from a university recognized in Kenya; and has at least fifteen years' professional experience in related field at management level.

[Act No. 18 of 2018, Sch.]

12. Officers of the Service

(1) The Board of Trustees may, on such terms and conditions as it deems fit, appoint—

(a) such uniformed and disciplined officers of the ranks specified in paragraph 1(2)(a)(i) of Part 1 of the Second Schedule;

(b) such officers of the Service as are specified in paragraph 1(2)(b) of Part 1 of the Second Schedule.

(2) Every person appointed under subparagraph (a) of subsection (1) shall take and subscribe to the oath of allegiance as set out in Part II of the Second Schedule.

(3) The provisions of Part I of the Second Schedule shall have effect with respect to the officers of the Service.

(4) The Board shall provide for a staff superannuation scheme.

(5) The Cabinet Secretary may, on the recommendation of the Board of Trustees appoint suitable persons to be honorary wardens for the purposes of assisting in the carrying out of the provisions of this Act.

(6) The Board of Trustees may appoint persons from communities living in wildlife areas to undertake wildlife protection activities for the effective carrying out of the provisions of this Act.

13. Establishment of offices

The Service may establish such offices as it may deem appropriate for the exercise and performance of its powers and functions.

Part III – FINANCIAL PROVISIONS

14. Sources of funds of the Service

The funds of the Service shall comprise of—

(a) such moneys as may be approved and allocated to the Service by the National Assembly as part of the budget process;

(b) such moneys or proceeds from investments as may vest in the Service from the performance of its duties; and

(c) any sums lent or donated to the service revenue from joint partnerships on bio-prospecting.

15. Financial year

The financial year of the Service shall be the period of twelve months ending on the thirtieth of June in each year.

16. Annual estimates

(1) At least three months before the commencement of each financial year, the Board or Trustees shall cause to be prepared estimates of revenue and expenditure of the Service for the ensuing year.

(2) The annual estimates shall make provision for the estimated expenditure of the Service for the financial year, and in particular, the estimates shall provide for—

(a) payment of salaries, allowances, pensions, gratuities and other charges in respect of the staff of the Service, regional wildlife conservation area committees and community wildlife scouts;

(b) payment of salaries, allowances, pensions, gratuities and other charges in respect of the county wildlife conservation and compensation committees, as the case may be;

(c) payment of allowances in respect of the County Wildlife Conservation and Compensation Committees;

(d) the proper maintenance of the buildings and grounds of the Service;

(e) the maintenance, repair and replacement of the equipment and other property of the Service; and

(f) the creation of such reserve funds as the Service may deem appropriate to meet the recurrent expenditure and contingent liabilities of the Service.

(3) The members of the County Wildlife Conservation and Compensation Committee shall be paid such allowances as may be approved by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

(4) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval with the concurrence of the National Treasury, and thereafter the Board shall not increase the annual estimates without the consent of the Cabinet Secretary.

17. Accounts and audit

(1) The Service shall cause to be kept all proper books and other records of accounts of the income, expenditure and assets of the Service.

(2) Within a period of three months from the end of each financial year, the Service shall submit to the Auditor-General or an auditor appointed under subsection (3), the accounts of the Service in respect of that year together with—

(a) a statement of the income and expenditure of the Service or the Wildlife Endowment Fund during the year; and

(b) a statement of the assets and liabilities of the Service or the Wildlife Endowment Fund on the last day of the year.

(3) The accounts of the Service and the Funds shall be audited in accordance with the Public Finance Management Act (Cap. 412A).

Part IV – THE WILDLIFE REGULATION MECHANISMS

18. Community Wildlife Conservation Committees

Each County shall have Wildlife Conservation Committee of—

(a) of a chairperson appointed by the Cabinet Secretary being the County Commissioner;

(b) an officer of the Service for the county who shall be the Secretary;

(c) an agricultural officer based in the respective administrative Conservation Area established by the Service;

(d) a medical officer based in the respective administrative Conservation Area established by the Service;

(e) a livestock officer based in the respective administrative Conservation Area established by the Service and nominated by the Director;

(f) four persons not being public officers knowledgeable in wildlife matters nominated by the community wildlife associations within the administrative Conservation Area established by the Service and appointed by the Cabinet Secretary.

(2) The Community Wildlife Conservation Committees may hold a maximum of four meetings every financial year.

(3) Despite subsection (2), additional meetings may be held with the prior consent of the Cabinet Secretary.

[Act No. 18 of 2018, Sch.]

19. Functions on Community Wildlife Conservation Committees

The functions of the Community Wildlife Conservation Committees shall be to—

(a) review and recommend payment of compensation on claims resulting from loss or damage caused by wildlife;

(b) develop and implement, in collaboration with the Service and Community Wildlife Associations, mechanisms for mitigation of human wildlife conflict;

(c) bring together relevant stakeholders to harness participation in conservation and management programmes of wildlife; and

(d) perform such other functions as the Service may require or delegate to it.

[Act No. 18 of 2018, Sch.]

20. Committee may invite experts

The County Wildlife Conservation and Compensation Committee may invite experts who are not members of the Committee to attend meetings of the committee and take part in its deliberations but such experts shall not have voting powers.

21. Remuneration of Committee members

A member of the County Wildlife Conservation and Compensation Committee shall be entitled to be paid such allowances as the Salaries and Remuneration Commission may determine.

22. Bio-prospecting

(1) No person may, without a permit from the Cabinet Secretary on the advice of the Service—

(a) engage in bio-prospecting involving any wildlife resources; or

(b) export from Kenya any wildlife resources for the purpose of bio- prospecting or any other kind of research.

(2) Any person desirous of undertaking bio-prospecting involving any wildlife resources may apply to the Authority for a permit in a prescribed format and on payment of prescribed fees.

(3) The Authority shall in reviewing the application ensure that any interests of the following stakeholders may have in the proposed bio-prospecting are protected—

(a) a person, including a public or private organization or institution or community, providing or giving access to the wildlife resource to which application relates;

(b) a community—

(i) whose traditional uses of the wildlife resources to which the application relates have initiated or will contribute to or form part of the proposed bio-prospecting; and

(ii) whose knowledge of or discoveries about the wildlife resource to which the application relates are to be used for the proposed bio-prospecting.

(4) The Service may, upon approval by the Cabinet Secretary, where a stakeholder has an interest as set out in subsection (3)(a) of this section, issue a permit only if—

(a) the applicant has disclosed all material information relating to the relevant bio-prospecting to the stakeholder and on the basis of that disclosure has obtained the prior consent of the stakeholders for the provision of or access to such resources;

(b) the applicant and the stakeholder have entered into—

(i) a material transfer agreement that regulates the provision of or access to such resources; and

(ii) a benefit-sharing agreement that provides for sharing by the stakeholders in any future benefits that may be derived from the relevant bio-prospecting.

(5) The Service may, upon approval by the Cabinet Secretary, where a community has an interest as set out in subsection (3)(b) of this section, issue a permit only if—

(a) the applicant has disclosed all material information relating to the relevant bio-prospecting to the community and on the basis of that disclosure has obtained the prior consent of the community to use any of the stockholder's discoveries about the indigenous wildlife resources for the proposed bio-prospecting; and

(b) the applicant and the community have entered into a benefit-sharing agreement that provides for sharing by the community in any future benefits that may be derived from the relevant bio-prospecting.

(6) The Service shall, in all bio-prospecting involving any wildlife resources, be a joint partner on behalf of the people of Kenya.

(7) The Cabinet Secretary shall, on the recommendation of the Service, require that a particular per centum of the proceeds from the bio-prospecting is contributed to the Wildlife Endowment Fund established under the provisions of this Act.

(8) The Cabinet Secretary may, on recommendation of the Service, by notice in the *Gazette*, promulgate rules, regulations and guidelines as are necessary and appropriate to carry out the purposes of this section.

(9) Any person who contravenes any provisions of this section or the rules made thereunder commits an offence.

Part V – ESTABLISHMENT OF WILDLIFE ENDOWMENT FUND

23. The Wildlife Conservation Trust Fund

(1) There is established a Wildlife Conservation Trust Fund that shall be vested in a governing body established in accordance with subsection (2)—

(2) The governing body referred to in subsection (1) shall serve as a public- private partnership and comprise—

(a) a Chairperson being appointed by the President;

(b) the Principal Secretary in the State Department for the time being responsible for matters relating to wildlife;

(c) the Principal Secretary in the State Department for the time being responsible for matters relating to finance;

(d) the Director-General of the Service who shall be the Secretary;

(e) four representatives from the private sector, who shall have technical experience in either philanthropy, law, natural resources, finance, business and investment matters, one of whom shall be a representative nominated by an umbrella wildlife conservancy body; and

(f) a representative from the office of the Attorney-General.

(3) There shall be paid into the Wildlife Conservation Trust Fund—

(a) moneys appropriated by Parliament;

(b) a proportion of such moneys as may be levied for payment of environmental services by beneficiaries in productive and service sectors, and for biodiversity offset schemes that compensate for conservation impacts as a contribution towards the Wildlife Conservation Trust Fund as the Cabinet Secretary may, upon the recommendation of the governing board, determine;

(c) moneys for payment of environmental services and biodiversity offset schemes in which entities make payments directly to the Wildlife Conservation Trust Fund;

(d) moneys from debt-for-nature transactions;

(e) income from investments made by the governing board;

(f) such grants, donations, bequests or other gifts as may be made to the Fund.

(4) The purpose shall be to provide funds in order to—

(a) develop wildlife conservation initiatives;

(b) manage and restore protected areas and conservancies;

(c) protect endangered species, habitats and ecosystems;

(d) support wildlife security operations;

(e) facilitate community based wildlife initiatives;

(f) award wildlife conservation grants based on criteria to be established by the governing board; and

(g) such other purposes as may be provided by the governing board.

(5) The Cabinet Secretary may, on recommendation of the Service, by notice in the *Gazette*, issue regulations and guidelines necessary and appropriate for the carrying out of the purposes of this section.

[Act No. 18 of 2018, Sch., Act No. 12 of 2019, Sch.]

24. The Wildlife Compensation Scheme

(1) The Government shall establish a Wildlife Compensation Scheme that shall consist of—

(a) monies specifically allocated for this purpose through the budget process;

(b) an insurance scheme to be established by the Cabinet Secretary responsible for matters relating to finance; and

(c) monies from any other source approved by the Cabinet Secretary for the time being responsible for matters relating to finance; and

(2) The Wildlife Compensation Scheme shall be used for financing compensation claims for human death or injury or crop and property damage caused by wildlife.

Compensation

25. Compensation for personal injury or death or damage to property

(1) Where any person suffers any bodily injury or is killed by any wildlife listed under the Third Schedule, the person injured, or in the case of a deceased person, the personal representative or successor or assign, may launch a claim to the County Wildlife Conservation and Compensation Committee within the jurisdiction established under this Act.

(2) The County Wildlife Conservation and Compensation Committee established under section 18 shall verify a claim made under subsection (1) and upon verification, submit the claim to the Cabinet Secretary together with its recommendations thereon.

(3) The Cabinet Secretary shall consider the recommendations made under subsection (2) and where appropriate, pay compensation to the claimant as follows—

(a) in the case of death, five million shillings;

(b) in the case of injury occasioning permanent disability, three million shillings;

(c) in the case of any other injury, a maximum of two million shillings, depending on the extent of injury.

(4) Any person who suffers loss or damage to crops, livestock or other property from wildlife specified in the Seventh Schedule hereof and subject to the rules made by the Cabinet Secretary, may submit

a claim to the County Wildlife Conservation and Compensation Committee who shall verify the claim and make recommendations as appropriate and submit it to the Service for due consideration.

(5) The County Wildlife Conservation and Compensation Committee shall review the claim and award and pay a compensation valued at the ruling market rates:

Provided that no compensation shall be paid where the owner of the livestock, crops or other property failed to take reasonable measures to protect such crops, livestock or property from damage by wildlife or his land use practices are in compatible with the ecosystem-based management plan for the area.

(6) A person who is dissatisfied with the award of compensation by either the County Wildlife Conservation and Compensation Committee or the Service may within thirty days after being notified of the decision and award, file an appeal to the National Environment Tribunal and on a second appeal to the Environment and Land Court.

(7) The Cabinet Secretary may, by notice in the *Gazette*, prescribe such regulations and guidelines as are necessary and appropriate to carry out the purposes of this section.

Part VI – CONSERVATION, PROTECTION AND MANAGEMENT

26. Environment law to apply

(1) The provisions of this Act with respect to conservation, protection and management of the environment shall be in conformity with the provisions of the Environmental Management and Co-ordination Act (Cap. 387).

(2) The provisions of the Environmental Management and Co-ordination Act (Cap. 387), regarding reference to the Tribunal established under that Act shall apply to hearing of appeals arising from the decisions made under this Act.

27. No exemption from environment law to be granted

(1) No user rights or other licence or permit granted under this Act shall exempt a person from complying with any other written law concerning the conservation and protection of the environment.

(2) A user or other related right shall not be granted under this Act where the requirement for a strategic environmental, cultural, economic and social impact assessment licence under the Environmental Management and Co-ordination Act (Cap. 387) has not been complied with.

28. Water Act to apply

No provision of this Act and no rights or entitlements conferred and granted under this Act shall, wherever appropriate operate to exempt a person from compliance with the provisions of the Water Act (Cap. 372) concerning the right to the use of water from any water resource, reservoir or point.

29. Requirement for sustainable use

The holder of a permit or licence under this Act shall use the land in question in accordance with the requirement for sustainable use of land.

30. Prohibition

Any activity which is likely to have adverse effects on the environment, including the seepage of toxic waste into streams, rivers, lakes and wetlands is prohibited.

31. Declaration of protected areas

(1) The Cabinet Secretary, may in consultation with the competent authority, by notice in the *Gazette*—

(a) declare an area to be a national park;

(b) declare an area to be a marine protected area;

(c) declare a wetland to be a protected area under the management of the Service;

(d) publish a management plan for national parks, marine protected areas and Service-managed wetlands;

(e) publish areas zoned to have wildlife conservation and management as their land use priority:

Provided that no notice may be gazetted where—

(a) the relevant provisions of the Environmental Management and Co-ordination Act (Cap. 387) have not been complied with;

(b) no public participation has occurred;

(c) no challenge by any person is active.

(2) Notwithstanding subsection (1), a notice under subsection (1)(a), (b) and (e) shall only be declared by the Cabinet Secretary with the approval of the National Assembly.

32. Declaration of a national park

(1) The Cabinet Secretary may, upon the recommendation of the Service, after consultation with the National Land Commission, and following proper public consultation, and with the approval of the National Assembly, by notice in the *Gazette* declare—

(a) any un-alienated public land; or

(b) any land purchased or otherwise acquired by the Government, to be a national park.

(2) Notwithstanding the provisions of subsection (2), a marine protected area shall adopt a system of zoning that caters for multiple use of marine resources for any or all of the following—

(a) extraction or no extraction zones in respect of marine resources;

(b) protection of nesting, breeding and foraging areas;

(c) no take areas in respect of fisheries; and

(d) areas that may be used by local vessels for passage;

(e) any other purposes with respect to specified human activities within the zone.

(3) The Cabinet Secretary shall, on the recommendation of the Service, by notice in the *Gazette*, issue appropriate rules and regulations for the effective management of marine protected areas.

33. Conservation and management of wetlands

(1) The Cabinet Secretary shall, on recommendation of the Service, in consultation with the National Land Commission, by notice in the *Gazette*, declare a wetland that is an important habitat or ecosystem for wildlife conservation a protected wetland.

(2) As soon as practicable, after declaring it a protected wetland, the Service shall, in collaboration with the person or community who hold a legal or communal interest in the wetland and the relevant lead agencies, prepare an Integrated Wetland Management Plan for the conservation and management of the protected wetland through a public consultative process.

(3) The Cabinet Secretary shall, on recommendation of the Service after consultation with the relevant lead agencies, by notice in the *Gazette*, prescribe measures, rules, guidelines, procedures and regulations for effective conservation and management of the protected wetland.

34. Variation of boundaries or revocation of a national park or a marine protected area

A notice under this section which proposes to—

(a) vary the boundaries of a national park; or

(b) change the status from national park to wildlife conservancy or sanctuary, shall only be published by the Cabinet Secretary where a proposal is recommended by the Service after consultation with the National Land Commission in accordance with subsection (2) of this section and is subsequently approved by a resolution of Parliament:

Provided that there shall be no recommendation unless—

(a) they are satisfied that such variation of boundary or cessation of national park proposed by the notice—

(i) shall not endanger any rare, threatened or endangered species;

(ii) shall not interfere with the migration and critical habitat of the wildlife;

(iii) does not adversely affect its value in provision of environmental goods and services; and

(iv) does not prejudice biodiversity conservation, cultural site protection, or its use for educational, ecotourism, recreational, health and research purposes;

(b) the proposal has been subjected to an environmental impact assessment in accordance with the provisions of the Environmental Management and Co-ordination Act (Cap. 387); and

(c) public consultation in accordance with the Fourth Schedule has been undertaken in relation to the proposal.

35. Declaration of a national reserve

(1) The Cabinet Secretary may, upon recommendation of the relevant county government and after consultation with the National Land Commission, by notice in the *Gazette*, declare any land under the jurisdiction of a county government to be a national reserve where the land is—

(a) rich in biodiversity and wildlife resources or contains endangered and threatened species;

(b) an important catchment area critical for the sustenance of a wildlife conservation area; or

(c) an important wildlife buffer, zone, migratory route, corridor or dispersal area.

(2) The national reserve declared under subsection (1) shall be managed by the relevant county government in accordance with the provisions of this Act.

(3) Notwithstanding the provisions of subsection (2), the county government may, with approval of the Cabinet Secretary after consultation with the National Land Commission, enter into a management agreement with any management agent or the Service for the management of a national reserve which shall clearly specify among other things—

(a) the duration of the agreement;

(b) the terms and conditions under which the management agent or the Service shall manage the national reserve;

(c) management fees and charges payable to the management agent or the Service;

(d) a management plan to be followed by the management agent or the Service;

(e) the mechanism for settlement of disputes arising in respect of the agreement; and

(f) the circumstances under which the agreement may be terminated.

36. Declaration of a marine conservation area

(1) The Cabinet Secretary may, upon recommendation of the relevant county government after consultation with the relevant lead agencies, by notice in the *Gazette*, declare any marine area to be a marine conservation area where the area is—

(a) rich in biodiversity or harbours endangered and threatened marine species; or

(b) a critical habitat for a variety of marine resources.

(2) A marine conservation area established under subsection (1) shall be managed by the relevant county government under an approved management plan prepared through a consultative process with the relevant lead agencies and communities.

(3) Notwithstanding the provisions of subsection (2), a marine conservation area shall adopt a system of zoning that caters for multiple use of marine resources for any or all of the following—

(a) extraction or no extraction zones in respect of marine resources;

(b) protection of nesting, breeding and foraging areas;

(c) no take areas in respect of fisheries; and

(d) any other purposes with respect to specified human activities within the zone.

(4) The Cabinet Secretary shall, on recommendation of the relevant county government, by notice in the *Gazette*, issue appropriate rules and regulations for effective management of marine conservation areas.

37. Variation of boundaries or revocation of a national reserve

(1) A notice under this section which proposes to—

(a) vary the boundaries of a national reserve; or

(b) declare that a wildlife conservation area shall cease to be a national reserve; or

(c) change of status from national reserve, shall only be published by the Cabinet Secretary where a proposal is recommended by the relevant county government after consultation with the National Land Commission and the Service in accordance with subsection (2) of this section and is subsequently approved by resolution of Parliament.

(2) The relevant county government, the National Land Commission and the Service shall not recommend any such proposal unless—

(a) they are satisfied that such variation of boundary or cessation of national reserve proposed by the notice shall not—

(i) endanger any rare, threatened or endangered species;

(ii) interfere with the migration and critical habitat of the wildlife;

(iii) adversely affect its value in provision of environmental goods and services; and

(iv) prejudice biodiversity conservation, cultural site protection, or its use for educational, ecotourism, recreational, health and research purposes;

(b) the proposal has been subjected to an environmental impact assessment in accordance with the provisions of the Environmental Management and Co-ordination Act (Cap. 387); and

(c) public consultation in accordance with the Fourth Schedule has been undertaken in relation to the proposal.

38. Exchange of part of a national park

(1) Subject to subsection (2) of this section, the Cabinet Secretary may, on recommendation of the Service after consultation with the National Land Commission, and with the approval of the National Assembly, exchange part of a national park with private land with the consent of the owner of such land where—

(a) the exchange enhances efficient wildlife conservation and management;

(b) the exchange is equitable to conservation and the land owner, according to an independent valuation;

(c) an environmental impact assessment has been conducted in accordance with the provisions of the Environmental Management and Co-ordination Act (Cap. 387), and has shown that such exchange shall not adversely affect wildlife conservation and the environment in general; and

(d) the part of the national park to be exchanged does not contain rare, threatened or endangered species and is not a water catchment area, wetland or a source of springs.

(2) The Service, in consultation with the National Land Commission and the Cabinet Secretary, may acquire by purchase any land suitable to be declared a national park, wildlife corridor, migratory route or dispersal area under this Act.

(3) No purchase shall be transacted under this section unless prior public consultation is carried out in accordance with this section.

39. Establishment of conservancy or sanctuary

Any person or community who own land on which wildlife inhabits may individually or collectively establish a wildlife conservancy or sanctuary in accordance with the provisions of this Act.

40. Community wildlife associations and wildlife managers

(1) Communities, landowners, groups of landowners and existing representative organizations may establish a community wildlife association and register under the appropriate law or in the case of an individual owner, may be registered as a recognized wildlife manager by the County Wildlife Conservation and Compensation Committee.

(2) The object and purpose for which an association is established is to facilitate conflict resolution and cooperative management of wildlife within a specified geographic region or sub-region.

(3) The application for registration referred to in subsection (1) shall be in the prescribed form and shall contain—

(a) a list of the wildlife conservancy, sanctuary or other wildlife conservation activities in which they are involved in and in the case of an association their membership;

(b) for associations, the constitution with clear governance structures;

(c) a draft plan for the association or privately owned wildlife conservation area detailing—

(i) type of wildlife resources in their area and type of wildlife conservation initiatives being undertaken;

(ii) measures and type of wildlife conservation activities that are being proposed;

(iii) type of wildlife user rights being proposed that will enhance conservation and survival of wildlife in their area;

(iv) land use practices in the area and proposed measures to ensure land use compatibility with wildlife conservation;

(v) methods of monitoring wildlife and wildlife user activities;

(vi) community wildlife scouting scheme that will help to provide wildlife surveillance and assist in addressing problem animal control; and

(vii) any other aspect deemed necessary; and

(d) such other information as the Director-General may require.

(4) The Service shall keep an up to date record of all approved associations, wildlife managers and wildlife user activities that the associations and managers are involved in.

41. Functions of community wildlife associations and wildlife managers

An association or wildlife manager approved by the Cabinet Secretary on the recommendation of the service in consultation with the county wildlife conservation committees shall:

(a) ensure that the association membership or the wildlife manager protects, conserves and manages wildlife conservancies and sanctuaries under their jurisdictions pursuant to their respective approved management plans;

(b) assist the service in combating illegal activities, including poaching and bush meat trade;

(c) keep the regional wildlife conservation area committee informed of any development changes and occurrences within their area that may adversely affect wildlife;

(d) assist in problem animal control through community wildlife scouts drawn from among their membership or employees; and

(e) do any other act that is necessary to enhance community participation in wildlife protection, conservation and management.

42. Donations and bequests

(1) Any person who is registered as a proprietor of land in accordance with the provisions of any written law may donate or bequeath all or part of that land to the national government, county government, community, an educational institution or an association for purposes of wildlife conservation.

(2) This section does not apply to the possession of a trophy by a person who is in possession only because the person is—

(a) the liquidator or administrator of a company that is in liquidation or under administration; or

(b) the bankruptcy trustee or interim trustee of a bankrupt person's estate; or

(c) the personal representative of a deceased person's estate.

(3) The land so donated or bequeathed shall not be used for any purpose other than the establishment of a wildlife conservation area as originally desired by the previous owner.

[Act No. 19 of 2015, s. 28.]

43. Standards of management

(1) Where the County Wildlife Conservation and Compensation Committee is concerned that the management of a wildlife conservancy or sanctuary is below the standard expected from the management plan or there is a request for assistance from the registered user, the County Wildlife

Conservation and Compensation Committee shall work with the registered users with regard to discussing and monitoring the management situation and making suitable recommendations which may include—

(a) action to be undertaken by the registered user;

(b) action to be undertaken by the registered user in conjunction with the Service;

(c) action to be undertaken by the Service on behalf of the registered user;

(d) deregistration of user rights, and, where applicable de-gazettement.

(2) Where action is taken by the Service under subsection 1(b) or (c), any reasonable expenses incurred by the Service may be deducted from any profits accruing to the wildlife conservancy or sanctuary.

44. Management plans

(1) Every national park, marine protected area, wildlife conservancy and sanctuary shall be managed in accordance with a management plan that complies with the requirements prescribed by the Fifth Schedule.

(2) In preparing and adopting a management plan, the Service shall consult with the county wildlife conservation committee. In the case of protected areas, the formulation and implementation of management plans shall involve the participation of neighbouring communities.

(3) The Cabinet Secretary shall, by notice in the *Gazette*, publish the approved management plans in respect of national parks, marine protected areas, wildlife conservancies and sanctuaries.

(4) No development will be approved in the absence of management plans approved in subsection (3).

(5) The Cabinet Secretary shall, initiate public consultation for purposes formulating managing plan guidelines.

45. Consent for mining and quarrying

(1) No person shall mine or quarry in a national park without the approval and consent of the Service.

(2) The Service, shall only approve and give consent for mining or quarrying where—

(a) the area does not contain endangered or threatened species;

(b) the area is not a critical habitat and ecosystem for wildlife;

(c) the area is not an important catchment area or source of springs;

(d) an environmental impact assessment has been carried out in accordance with the provisions of the Environmental Management and Co-ordination Act (Cap. 387);

(e) approval has been obtained from the in accordance with the applicable law regulating mining;

(f) the miner has undertaken through execution of a bond the value of which will be determined by the Service, to rehabilitate the site upon completion of his operation to a level prescribed by the Service and the Mining Act (Cap. 306):

Provided that the Cabinet Secretary may, on the recommendation of the Service, and after consultation with the Cabinet Secretary responsible for mining, by notice in the *Gazette*, publish rules to regulate and govern mining operations in such protected areas;

(g) the carrying on of mining or quarrying operations shall not contravene any rules made under this Act.

(3) Subject to subsection (2), mining or quarrying may be carried out in a national park and reserve under the authority issued by the Service.

(4) The provisions of this section with respect to mining and quarrying shall apply *mutatis mutandis* with respect to wildlife conservancy and sanctuary.

(5) No person shall undertake oil or gas exploration and extraction without the consent of the Cabinet Secretary, and with the prior approval of the National Assembly.

46. Protection of endangered and threatened ecosystems

(1) The Cabinet Secretary may, on the advice of the Service and in consultation with the National Land Commission, by notice in the *Gazette*, publish a national list of wildlife ecosystems and habitats that are endangered and threatened and are in need of protection.

(2) A list published under subsection (1) shall describe in sufficient detail the location of each ecosystem on the list, the threats and the measures being taken to restore and maintain its ecological integrity for enhanced wildlife conservation through development and implementation of a management plan.

(3) The Cabinet Secretary shall, upon the recommendation of the Service, every five years review any national list published under subsection (1) of this section.

47. Endangered and threatened species

(1) The species of wildlife set out in the Sixth Schedule are declared to be critically endangered, vulnerable, nearly threatened and protected species.

(2) The Service shall amend the Sixth Schedule from time to time as necessary.

48. Restricted activities involving listed species

(1) A person may not carry out any activity involving a specimen of a listed species without a permit from the Service.

(2) The Cabinet Secretary may, on recommendation of the Service, by notice in the *Gazette*, prohibit the carrying out of any activity—

(a) which is of a nature that may negatively impact on the survival of a listed species; or

(b) which is specified in the notice or prohibit the carrying out of such activity without a permit issued by the Service.

49. Species recovery plans

(1) The Service may develop and implement recovery plans for the conservation and management of all the species listed under the Seventh Schedule.

(2) The Service shall, in developing the recovery plans, to the maximum extent practicable:—

(a) give priority to those rare, endangered and threatened species; and

(b) incorporate in each recovery plan—

(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

(ii) objective, measurable criteria which, when met, would result in the species being removed from the list; and

(iii) estimates of the time required and the cost to carry out those measures needed to achieve the goal of the plan.

(3) The Service may, in developing and implementing recovery plans, enlist the services of appropriate public, private or non-governmental organizations and institutions and other qualified persons.

(4) The Cabinet Secretary shall report biannually to the National Assembly through the National Wildlife Conservation Status Report on the status of efforts to develop and implement recovery plans for all nationally listed species and on the status of all species for which such plans have been developed.

(5) The Service shall implement a system, in co-operation with the county wildlife conservation committees, community wildlife associations and wildlife managers, to monitor effectively for not less than five years the status of all species which have recovered to the point at which the measures provided pursuant to this section are no longer necessary and which, in accordance with the provisions of this section, have been removed from the lists published in the Sixth Schedule.

Part VII – ESTABLISHMENT OF THE WILDLIFE RESEARCH AND TRAINING INSTITUTE

50. Establishment of the Wildlife Research and Training Institute

(1) There is established an institute to be known as the Wildlife Research and Training Institute (hereinafter referred to as "the Institute").

(2) The Institute is a body corporate with perpetual succession, and a common seal and shall in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing and disposing of movable and immovable property;

(c) borrowing money;

(d) entering into contracts; and

(e) doing or performing such other things or acts for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate.

51. Object and purpose of the Institute

The object and purposes of the Institute shall be to undertake and co-ordinate wildlife research and training in accordance with the provisions of this Act.

52. Functions of the Institute

(1) The Institute shall—

(a) collect and analyze wildlife data and information, to support planning and decision making by different stakeholders, relating to—

(i) inventory and status of wildlife resources countrywide;

(ii) trends in wildlife conservation and management approaches and practices;

(iii) processes or activities likely to impact on sustainable wildlife conservation and management; and

(iv) wildlife statistics;

(b) undertake research through remote sensing and geographic information system to enhance wildlife conservation and management;

(c) undertake wildlife disease surveillance and control;

(d) determine, in consultation with the Service and the relevant lead agencies, the carrying capacities of the various wildlife conservation areas and their conservation needs and priorities;

(e) assess information, that is the basis of ecosystem-based management plans for all wildlife conservation areas;

(f) undertake wildlife research and related emerging areas;

(g) provide training and capacity development programmes, courses in wildlife conservation and management and related disciplines and award diplomas and certificates;

(h) establish with approval of the Cabinet Secretary, such campuses or centres for training and capacity development as are necessary and in the furtherance of wildlife research and training;

(i) enter into association with other institutions of learning, within or outside Kenya, as the Institute may consider necessary or appropriate and in furtherance of wildlife research and training;

(j) give information on early warning, disaster management, impacts and mitigation and adaptive strategies to climate change in wildlife conservation areas;

(k) organize symposia, conferences, workshops and other meetings to promote the exchange of views on issues relating to wildlife research and training; and

(l) perform any other functions that are ancillary to the object and purpose for which the Institute is established.

(2) Admission to the Institute of candidates for diplomas and other awards of the Institute shall be open to all persons accepted as qualified for such admission without distinction on the basis of ethnic origin, gender or creed being imposed on any person as a condition of his or her becoming or continuing to be a student at the Institute.

53. Board of the Institute

(1) There shall be the Board of the Institute which shall consist of—

(a) a chairperson appointed by the President;

(b) the Principal Secretary of the ministry for the time being responsible for matters relating to wildlife or his or her representative;

(c) the Principal Secretary of the ministry for the time being responsible for matters relating finance or his or her representative;

(d) the Principal Secretary of the ministry for the time being responsible for matters relating to science and technology or his or her representative;

(e) the Director of the Institute, who shall be the secretary; and

(f) seven other members, not being public officers, nominated or selected through a competitive process taking into account regional balance and gender parity and appointed by the Cabinet Secretary, of whom—

(i) one shall represent the national umbrella wildlife association;

(ii) two shall represent community and privately managed wildlife areas;

(iii) two shall represent the institutions of higher learning; and

(iv) two shall be persons qualified and competent in wildlife, natural resources management, biodiversity and environmental economics or related disciplines.

(2) The members of the Board of the Institute shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(3) At their first sitting, the members of the Board of the Institute shall elect a vice chairperson from among the members appointed under subsection (1)(f).

(4) The Board of the Institute shall ensure the proper and effective performance of the functions of the Institute.

(5) The Board of the Institute may enter into partnership with another body or organization within or outside Kenya as it may consider appropriate in furtherance of the object and purpose for which the Institute was established.

(6) The members of the Board of the Institute shall be paid allowances determined by the Cabinet Secretary, in consultation with the Salaries and Remuneration Commission.

54. Tenure and vacation of office

(1) A member of the Board of the Institute, other than an *ex officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for one further term not exceeding three years.

(2) A member of the Board of the Institute appointed under section 53(1)(a) and (f) may, at any time, resign from office by giving a notice, in writing, addressed to the appointing authority.

(3) A member of the Board of the Institute, other than an *ex officio* member, who is absent from three consecutive meetings of the Board of the Institute without sufficient cause shall cease to be a member of the Board of the Institute.

(4) Where a member of the Board of the Institute is, for a sufficient cause, unable to act as a member, the Cabinet Secretary shall determine whether the inability would result in the declaration of a vacancy.

(5) Where there is a vacancy—

(a) under subsection (2) or (3) or section 56(2);

(b) as a result of declaration under subsection (4); or

(c) by reason of the death of a member, the Cabinet Secretary shall appoint another person in accordance with the provisions of section 53 to fill that vacancy.

55. Conduct of the meetings of the Board of the Institute

The conduct of the meetings of the Board of the Institute shall be in accordance with the First Schedule.

56. Disclosure of interest

(1) A member of the Board of the Institute who has an interest in a matter for consideration by the Board of the Institute shall disclose, in writing, the nature of that interest and shall not participate in any deliberations of the Board of the Institute relating that matter.

(2) A member of the Board of the Institute who fails to disclose interest in a matter in accordance with subsection (1) shall cease to be a member of the Board of the Institute.

57. Delegation of functions

Subject to this Act, the Board of the Institute may, by resolution either generally or in any particular case, delegate to a committee of the Board of the Institute or to a member, officer, employee or agent of the Institute, the exercise of any of the powers or, the performance of any of the functions or duties of the Board of the Institute under this Act.

58. Appointment of the Director and other staff

(1) The Cabinet Secretary shall, in consultation with the Board of the Institute and subject to subsection (2), appoint the Director of the Institute through a competitive process.

(2) A person shall not be qualified for the appointment as the Director under subsection (1) unless that person holds an advanced degree from a recognized university in the field of wildlife, biodiversity, natural resource management or other natural resource-related discipline and has at least ten years' experience in the relevant field at senior management level.

(3) A person appointed to be the Director of the Institute under subsection (1) shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

(4) The Director shall be the chief executive officer of the Institute.

(5) The Board of the Institute may appoint such officers and other staff of the Institute that are necessary for the proper and effective performance of the function of the Institute.

59. Research permit

(1) A person shall not undertake research on the wildlife sector unless that person has a research permit granted by the Institute to carry out the research.

(2) A person granted a research permit under subsection (1) shall be required, upon completion of the research, to deposit a copy of the research report, thesis or assessment with the Institute in a manner prescribed by the Institute.

(3) Where a person carrying out the research is from outside Kenya, that person shall be required to have a sponsoring institution from the home country and a locally recognized collaborating institution which shall guarantee that the researcher shall comply with the requirements under this Act.

(4) The Cabinet Secretary may, on his own motion or on recommendation of the Board of the Institute, prescribe regulations to carry out the purposes of this section.

60. Establishment of wildlife database

(1) The Institute shall, in collaboration with the Service and other relevant lead agencies and stakeholders, establish a comprehensive wildlife database.

(2) The database established under subsection (1) shall include relevant data produced by the Kenya National Bureau of Statistics, universities and other research institutions or as a consequence of collaborative research by the Institute with foreign institutions and researchers.

(3) The Institute shall, in consultation with the Service, the relevant lead agencies and other stakeholders, ensure that data is collected in accordance with any harmonized national standards that may be prescribed under this Act or regulations made hereunder.

(4) The Institute shall, in respect of the data and information that it holds, progressively make the data and information available and accessible, through any means, to all the stakeholders and the general public.

(5) The Cabinet Secretary may, on his or her own motion or on recommendation of the Board of the Institute, prescribe regulations to carry out the purposes of this section.

61. Director to have access to public records etc.

(1) The Director shall, on request, have access to the public records or documents of a lead agency in custody of a person or an establishment where, in his or her opinion, the information sought is for

the purposes of obtaining the required wildlife data or completion or correction of the information already obtained.

(2) A person who fails or refuses to grant the Director access to the records or documents in accordance with subsection (1) commits an offence.

62. Access to wildlife data

(1) Subject to subsection (3), a person may, upon application, access any data or information upon payment of a prescribed fee.

(2) The Institute shall avail the data or information under subsection (1) in the format requested unless —

(a) it is reasonable for it to make the information available in another format; or

(b) the information is already publicly available and easily accessible to the applicant in another format.

(3) The Institute may refuse to grant an application under subsection (1) where the data or information requested is classified and restricted.

(4) The Institute shall communicate to the applicant, in writing, the reasons for refusal within twenty-one days from the date of the making the decision.

(5) The Cabinet Secretary may, on his or her own motion or on recommendation of the Board of the Institute, prescribe regulations to effectively carry out of the provisions of this section.

63. Funds of the Institute

There shall be a general fund of the Institute which shall vest in the Board of the Institute and into which shall be paid—

(a) monies appropriated by Parliament for the purposes of the Institute;

(b) monies that may accrue to or vest in the Institute in the course of the performance of its functions;

(c) monies provided to the Institute from the Wildlife Endowment Fund;

(d) donations, gifts and grants made to the Institute; and

(e) monies from any other sources approved by the Cabinet Secretary for the time being responsible for matters relating to finance.

(2) There shall be paid out of the general fund of the Institute any expenditure incurred by the Institute in the exercise of its powers or the performance of its functions under this Act.

(3) The Institute may, subject to the approval of the Cabinet Secretary for the time being responsible for matters relating finance, invest any funds not immediately required for its purposes, as it may determine.

64. Monitoring mechanisms

(1) The Cabinet Secretary may, on his or her own motion or on recommendation of the Board of the Institute, develop monitoring mechanisms and set indicators to determine—

(a) sound management of wildlife resources in Kenya; and

(b) trends affecting Kenya's wildlife conservation and management.

(2) The Cabinet Secretary shall require any person collecting data or information that is relevant to the wildlife resources to regularly report to the Cabinet Secretary on the results of the monitoring

mechanisms against the predetermined indicators set out in the national wildlife conservation and management strategy prescribed under this Act.

(3) The Cabinet Secretary shall, at least once every five years, submit to the National Assembly a wildlife resources monitoring report showing the achievement made in the implementation of the past or subsisting national wildlife conservation and management strategy and avail the said wildlife resources monitoring report to the public.

Part VIII – CONSERVATION ORDERS, EASEMENTS AND INCENTIVES

Wildlife Conservation Orders and Easements

65. Conservation orders and easements

(1) Wildlife conservation easements may be created by voluntary private arrangement or upon appropriate application to the Environment and Land Court.

(2) A party may enter into an agreement with a land owner for a wildlife conservation easement to be created on that person's land, subject to that agreement being legally recognized.

(3) A court may grant a wildlife conservation order or easement subject to the provisions of this Act.

(4) Without prejudice to the generality of subsection (1), a wildlife conservation order or easement may be created so as to—

(a) further the principles of sustainable wildlife conservation and management;

(b) preserve flora and fauna;

(c) create or maintain migration corridors and dispersal areas for wildlife;

(d) preserve the quality and flow of water in a dam, lake, river or aquifer;

(e) preserve any outstanding geological, physiographical, ecological, archaeological, cultural or historical features;

(f) preserve scenic views, topographical features and landscapes;

(g) prevent or restrict the scope of any mining or mineral or aggregate workings that would adversely affect wildlife conservation;

(h) prevent or restrict the scope of agricultural or other land use activities that would adversely affect wildlife conservation; and

(i) prevent or restrict the scope of infrastructural activities that would adversely affect wildlife conservation.

(5) A wildlife conservation order or easement shall be attached to the land in perpetuity or for a term of years or for an equivalent interest under customary law as agreed to by the parties to a private agreement or as determined by the court.

(6) An order or easement may exist in gross; that is to say, the validity and enforceability of the order or easement shall not be dependent on the existence on a plot of land in the vicinity of the burdened land which can be benefited or, of a person with an interest in that plot of land who can be benefited by the order or easement.

66. Application for wildlife conservation orders and easements

(1) A person or a group of persons may make an application to the court for the grant of one or more wildlife conservation orders or easements.

(2) The court may impose such conditions on the grant of a wildlife conservation order or easement as it considers to be best calculated to advance the cause of such order or easement:

Provided that in exercising the jurisdiction conferred upon it by this section, the court may require the Service or appoint any persons with special skills or knowledge on wildlife conservation orders or easements to prepare a technical report for proper determination of the matter.

67. Proceedings to enforce wildlife conservation orders and easements

(1) Proceedings to enforce an order or easement may be commenced only by the person in whose name the order or easement has been issued.

(2) Proceedings to enforce an easement may request the court to—

(a) grant a wildlife conservation order;

(b) grant any remedy available under the law relating to easements in respect of land.

(3) The court shall have discretion to adapt and adjust, so far as seems necessary to it, the law and procedures relating to the enforcement of the requirements of an order or easement.

68. Registration of wildlife conservation orders and easements

(1) Where an order or easement is created on land the title of which is registered under a particular system of land registration, the easement shall be registered in accordance with the provisions of the Act applicable to that particular system of registration.

(2) Where an order or easement is created on any land other than land referred to in subsection (1), the County Wildlife Conservation and Compensation Committee of the area in which that land is situated shall register the order or easement in a register maintained for that purpose.

(3) In addition to any matter which may be required by any law relating to the registration of orders and easements in respect of land, the registration of a wildlife conservation easement shall include the name of the applicant for the easement or beneficiary of the easement as the person in whose name the easement is registered.

69. Compensation for wildlife conservation orders and easements

(1) Parties to a voluntary easement may negotiate appropriate compensation for any loss or diminishment of value of land due to the creation of the easement.

(2) where a wildlife conservation order or easement is imposed by the court on land on which any person has, at the time of creating the order or easement, any existing right or interest in the land and that such order or easement will restrict the right or interest, there shall be paid to that person, by the applicant for the order or easement such compensation as may be determined in accordance with this section.

(3) Any person who has a legal interest in the land which is the subject of an order or easement imposed by the court, shall be entitled to compensation commensurate with the lost value of the use of the land.

(4) A person described in subsection (3) may apply to the court that granted the order or easement for compensation stating the nature of the legal interest in the burdened land and the compensation sought.

(5) The court may require the applicant for the order or easement to bear the cost of compensating the person described in subsection (3).

(6) The court may, if satisfied that the order or easement sought is of national importance, order that the Government compensates the person described in subsection (3).

70. Incentives and benefit sharing

(1) Every person has the right to practice wildlife conservation and management as a form of gainful land use.

(2) The right specified in subsection (1) shall require the party to invest resources for that practice.

(3) The party shall ensure that the wildlife is maintained in a healthy, natural, and secure state:

Provided that this practice shall be carried out where the land is suitable for such practice, subject to the terms and conditions of the licence issued by the Cabinet Secretary.

71. Right to reasonable access

(1) Every person has the right to reasonable access to wildlife resources and shall be entitled to enjoy the benefits accruing therefrom without undue hindrance.

(2) The right set out in subsection (1) shall be exercised with due regard to the rights and privileges of other stakeholders.

72. Sustainable utilization and exploitation

(1) Utilisation and exploitation of wildlife resources by any person whether individual land owner or in a conservation area, and wherever else shall be practised in a manner that is sustainable and in accordance with regulations made under this Act.

(2) The manner, form, nature and style of the practice under subsection (1) shall be in conformity with the provisions of the relevant laws, including land use management and planning.

73. Cabinet Secretary may make regulations

The Cabinet Secretary, in consultation with the land owner, the National Land Commission, the Commission on Revenue Allocation and in liaison with the Service shall, formulate regulations and guidelines on access and benefit sharing.

74. Migration of wildlife

(1) Land owners shall facilitate the ease of movement of wildlife from one area to the other considering their migratory nature that attaches to the resource.

(2) Any benefits accrued as a result of subsection (1) may be shared among relevant parties on a case by case basis, whether county, conservancy or individual land owner.

(3) The parties under subsection (2) may enter into agreements for the purpose of benefit sharing and related transactions.

(4) The agreements reached under subsection (3) shall within twenty-one days be filed and registered with the Cabinet Secretary which will consider granting approval for the same.

75. Mutual co-existence

In furtherance of the spirit mutual co-existence in the framework of human-wildlife conflict, every decision and determination on the matter of conservation and management of the wildlife resource shall not be exercised in a manner prejudicial to the rights and privileges of communities living adjacent to conservation and protected areas:

Provided that in the parties shall have due regard for the provisions of the appropriate and enabling laws, including laws on devolution and land management.

76. Guidelines on incentives and benefit-sharing

(1) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation, formulate guidelines regarding incentives and benefit sharing, and the nature and manner in which the same shall be distributed.

(2) The Cabinet Secretary shall publish in the *Gazette* within twenty-one days of the formulation rules and regulations to govern the regime on incentives and benefits.

(3) The guidelines under this section shall be subjected to public scrutiny at every stage of their formulation within the framework of the laws on devolution and land management.

(4) The guidelines on benefit sharing shall comply with the minimum conditions that a minimum of five per cent of the benefits from national parks shall be allocated to local communities neighbouring a park.

(5) Subject to Article 66 of the Constitution, private investments in conservancies shall benefit local communities and investors shall provide such benefits by applying various options including infrastructure, education and social amenities.

Part IX – HUMAN-WILDLIFE CONFLICT

77. Problem animals

(1) Any authorised officer of the Service may, with the consent of the owner or occupier in respect of private land, where it is necessary for the purpose, go onto any land to destroy any animal which has been deemed a problem animal:

Provided that where the animal is a dangerous animal which has been previously wounded or otherwise injured so as to make it a potential source of danger to human life, the officer may follow such animal with the intention of killing it on any land notwithstanding that the prior consent of the owner or occupier of the land has not been obtained and the Service shall under such circumstances provide the owner or occupier a subsequent report of what occurred.

(2) Notwithstanding anything to the contrary in this Act, the owner or occupier of land, or any agent of such owner or occupier may, subject to the provisions of this Act, destroy any animal which has been deemed a problem animal:

Provided that nothing in this section shall authorize the killing of a problem animal in a protected area, or the use of any poison, pitfall or snare for the killing of any such animal.

(3) Any person who kills an animal in the circumstances set out in subsection (1) shall, as soon as possible, and in any case not later than forty-eight hours after the event, report the circumstances of such killing and deliver the trophies of such animal, to the nearest wildlife office or police station.

78. Unlawful wounding of animals

(1) Notwithstanding anything in this Act, it shall not be unlawful for any person to kill or wound any wild animal in the defense of himself or any other person if immediately and absolutely necessary.

(2) The burden of proving that a wild animal has been killed or wounded in accordance with subsection (1) shall lie with the person who killed or wounded the wild animal.

Part X – LICENSING AND REGULATION

79. Licensing

Except as, or to such extent as may be specifically provided in this Act, no person or entity shall undertake any wildlife-use activity otherwise than under and in accordance with the terms and conditions of a licence issued or permit granted under this Act.

80. Wildlife user rights

(1) The Cabinet Secretary may, upon successful registration of the applicant with the County Wildlife Conservation and Compensation Committee grant a general permit for non consumptive wildlife user rights, including—

(a) wildlife-based tourism;

(b) commercial photography and filming;

(c) educational purposes;

(d) research purposes;

(e) cultural purposes; and

(f) religious purposes.

(2) The permit shall be in a prescribed manner and may set conditions in regard to duration, infrastructure development and any other aspects as may be appropriate.

(3) The Cabinet Secretary may, upon successful registration of the applicant with the County Wildlife Conservation and Compensation Committee grant a licence in accordance with the provisions set out in the Eighth Schedule with regard to consumptive wildlife use activities, including—

(a) game farming;

(b) game ranching;

(c) live capture;

(d) research involving off-take;

(e) cropping; and

(f) culling.

(4) Subject to subsection (1), the wild species in which game ranching may be allowed shall be as set out in the Tenth Schedule.

81. Assignment of wildlife user rights

(1) The holder of a licence issued under section 68 may, with the approval of the Service and on payment of the prescribed fee, assign any or all the wildlife user rights granted under the licence to an agent that the applicant has determined to be suitably qualified.

(2) The Service shall decline any application for assignment of a licence if, in the opinion of the Service, such assignment would derogate from the main objectives and purposes set out in the instrument granting the wildlife user rights.

(3) The instrument granting the wildlife user rights shall be deemed to provide that any person shall be liable for all the activities, acts and omissions of the assignee or assignees of its rights under the licence.

82. Withdrawal of wildlife user rights

(1) The Cabinet Secretary may withdraw a particular wildlife user right granted under this Act where—

(a) the licensee is in breach of the terms and conditions thereof;

(b) he or she considers such action as necessary for purposes of protecting and conserving wildlife; or

(c) the licencee so requests.

(2) Where the Cabinet Secretary intends to withdraw a particular user right on either of the grounds stipulated in subsection (1) (a) or (b) of this section, he or she shall give the affected person thirty days' notice to show cause why the wildlife user right should not be so withdrawn.

(3) Where the licencee is aggrieved by the decision of the Cabinet Secretary, the licencee may, within thirty days after being notified of the decision, appeal to the National Environment Tribunal established under the Environmental Management and Co-ordination Act (Cap. 387) or seek further redress in the Environment and Land Court.

83. Government trophies

(1) Except as otherwise provided for in the Eighth Schedule, the following shall be Government trophies and the property of the Government—

(a) any trophy found without an owner;

(b) any animal found dead or killed by accident or mistake;

(c) any animal killed in defense of life, or in other circumstances authorized by or under this Act;

(d) any animal or trophy in respect of which a breach of any of the provisions of this Act or regulations or the rules has been committed;

(e) any animal killed by a member of the Service in the course of duty.

(2) The provisions of subsection (1) of this section shall not apply where such trophy is kept for cultural purposes.

(3) The Service shall, in every year, audit the number of trophies in possession of the Government and publish the results of the audit in the *Gazette*.

(4) The Cabinet Secretary may, on the recommendation of the Service, by notice in the *Gazette*, prescribe appropriate measures, rules, regulations and guidelines including those required for the disposal of Government trophies.

84. Dealing in trophies

(1) No person shall operate as a trophy dealer without a license issued by the Service.

(2) The Cabinet Secretary may grant a trophy dealers' license in accordance with the provisions set out in the Eighth Schedule.

85. Application and issuance of a permit

(1) No person shall import, export, re-export, or otherwise trade in any wildlife species without a permit issued by the Service.

(2) Every application for a permit shall specify—

(a) the full names and address of the applicant;

(b) the type of trade to which the application relates;

(c) the species and number of specimens of the species to be traded:

Provided that a permit shall only be issued in cases where—

(i) the purpose for which the application is made is not detrimental to the survival of the species;

(ii) compensation has been paid where appropriate, to the concerned communities; and

(iii) permission to export or re-export the subject specimen has been granted by the relevant authority of the country of export or re-exports.

(3) The Service may, issue a permit on such terms and conditions as may be appropriate and necessary to enhance conservation and management of listed species.

(4) The Cabinet Secretary may, on the recommendation of the Service, by notice in the *Gazette*, formulate rules, regulations and guidelines as are necessary and appropriate to carry out the purposes of this section.

86. Revocation of a permit

The Service may revoke a permit issued under section 80 where it finds that the permit holder is not complying with the terms and conditions of the permit.

87. Records and registration of permits and licenses

(1) The Service shall maintain registers of—

(a) all licences and permits issued under this Act;

(b) national parks, national reserves, wildlife conservancies and sanctuaries established under this Act and the management thereof;

(c) all community wildlife scouts involved in conservation and management of wildlife;

(d) all management plans developed pursuant to the provisions of this Act.

(2) All registers maintained under this section shall be open for inspection at the Service's premises, or such designated office, by members of the public during official working hours.

Part XI – OFFENCES AND PENALTIES

88. Offences relating to management plans

(1) Any person who—

(a) willfully and without reasonable cause contravenes an approved management plan; or

(b) fraudulently alters the approved management plan under this Act, commits an offence.

(2) Any person who commits an offence with respect to this section shall be liable upon conviction to—

(a) a fine of not less than five hundred thousand shillings or imprisonment for a term of not less than two years or both such fine and imprisonment, where the offence is committed with respect to a national park, national reserve or national sanctuary;

(b) a fine of not less than one hundred thousand shillings in any other case.

89. Offences relating to pollution

(1) Any person who—

(a) discharges any hazardous substances or waste or oil into a designated wildlife area contrary to the provisions of this Act and any other written law;

(b) pollutes wildlife habitats and ecosystems;

(c) discharges any pollutant detrimental to wildlife into a designated wildlife conservation area contrary to the provisions of this Act or any other written law, commits an offence and shall be liable upon conviction to a fine of not less than two million shillings or to imprisonment of not less than five years or to both such fine and imprisonment.

(2) In addition to any sentence that the court may impose upon a polluter under subsection (1) of this section, the court may direct that person to—

(a) pay the full cost of cleaning up the polluted wildlife habitat and ecosystem and of removing the pollution; and

(b) clean up the polluted habitats and ecosystems and remove the effects of pollution to the satisfaction of the Service.

(3) Without prejudice to the provisions of subsections (1) and (2) of this section, the court may direct the polluter to contribute to a wildlife conservation activity as compensation, restoration and restitution.

90. Offences relating to conservation orders and easements

Any person who—

(a) fails, neglects or refuses to comply with a wildlife conservation order made under this Act;

(b) fails, neglects or refuses to comply with an easement issued under this Act, commits an offence and shall be liable upon conviction to a fine of not less than five hundred thousand shillings or to imprisonment of not less than three years or to both such fine and imprisonment.

91. Offences relating to licenses and permits

Any person who, for the purpose of obtaining, whether for himself or another, the issue of a license or permit—

(a) knowingly or recklessly makes a statement or representation which is false in a material particular; or

(b) knowingly or recklessly furnishes a document or information which is false in a material particular; or

(c) for any purpose in connection with this Act, knowingly or recklessly uses or furnishes a false, falsified or invalid license or permit or one is altered without authorization; or

(d) knowingly contravenes any condition or requirement of a licence or permit, commits an offence and shall be liable upon conviction, to a fine of not less than two hundred thousand shillings or to imprisonment of not less than one year or to both such fine and imprisonment.

92. Offences relating to endangered and threatened species

(1) A person who kills or injures, tortures or molests, or attempts to kill or injure, a critically endangered, or endangered species as specified in the Sixth Schedule or listed under CITES

Appendix I commits an offence and shall be liable upon conviction to a term of imprisonment of not less than five years.

(2) A person who, without permit or exemption issued under this Act, deals in a wildlife trophy, of any critically endangered or endangered species as specified in the Sixth Schedule or listed under CITES Appendix I, commits an offence and shall be liable upon conviction to a term of imprisonment of not less than seven years.

(3) Any person who, without permit or exemption issued under this Act, deals in a live wildlife species of any of critically endangered or endangered species as specified sin the Sixth Schedule or listed in the Sixth Schedule or listed under CITES Appendix I, commits an offence and shall be liable upon conviction to a term of imprisonment of not less than three years.

(4) Any person without permit or exemption issued under this Act is in possession of any live wildlife species or trophy of any critically endangered or endangered species as specified in the Sixth Schedule or listed under CITES Appendix I, commits an offence and shall be liable upon conviction to a fine of not less than three million shillings or a term of imprisonment of not less than five years or both such fine and imprisonment.

(5) Any person who without permit or exemption issued under this Act, manufactures an item from a trophy of a critically endangered or endangered species specified under the Sixth Schedule or listed under CITES Appendix I without a permit or exemption issued under this Act, commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings or up to life imprisonment or both such fine and imprisonment.

[Act No. 18 of 2018, Sch.]

93. Offenses relating to invasive species

Any person who—

(a) knowingly introduces an invasive species into a wildlife conservation area an invasive species; or

(b) fails to comply with the measures prescribed by the Cabinet Secretary set out under this Act, commits an offence and shall be liable upon conviction to a fine of not less than three hundred thousand shillings or to imprisonment of not less than one year or to both such fine and imprisonment.

94. Offences relating to flying aircraft in wildlife conservation areas

Except as may be necessitated by sudden emergency endangering the safety of any aircraft or persons carrying out an evacuation, the proof of which shall lay on the pilot thereof, no aircraft—

(a) shall land in a wildlife protected area other than at a designated landing area and in accordance with the Park rules;

(b) shall, except for the purpose of landing at or taking off from a designated landing site, be flown at a height over a wildlife protected area set by the Service in consultation with the Kenya Civil Aviation Authority:

Provided that nothing in this section shall apply to the operation of any aircraft which is, at the time of the contravention, being used for any purpose of the Service or any other operations authorized by the Service.

95. Offences relating to trophies and trophy dealing

Any person who, without a permit or exemption granted under this Act in relation to a species not specified under section 92—

(a) kills or injures, tortures or molests, or attempts to kill or injure, any wildlife species;

(b) deals in a wildlife trophy;

(c) deals in a live wildlife species;

(d) is in possession of a wildlife trophy or live wildlife species; or

(e) manufactures an item from a wildlife trophy, commits an offence and shall be liable on conviction to a fine of not less than one million shillings or a term of imprisonment of not less than twelve months or to both such fine and imprisonment.

[Act No. 18 of 2018, Sch.]

95A. Poisoning of wildlife

Any person who knowingly or recklessly uses any substance whose effect is to poison any wildlife species commits an offence and shall be liable to a fine of not less than five million shillings or a term of imprisonment of not less than five years or both.

[Act No. 18 of 2018, Sch.]

96. Offences relating to sport hunting

(1) A person who engages in sport hunting or any other recreational hunting commits an offence and shall be liable, on conviction, to—

(a) a fine of not less than twenty million shillings or imprisonment for life;

(b) a fine of five million shillings or imprisonment of five years or to both such fine and imprisonment;

(c) a fine of one million shillings or imprisonment of two years or to both such fine and imprisonment.

(2) The categories of wildlife referred to in subsection (1) shall be those set out in the Ninth Schedule.

97. Offenses relating to subsistence hunting

A person who engages in hunting of a species other than a critically endangered or endangered species listed under Schedule 6 or CITES Appendix I for the purposes of subsistence commits an offence and shall be liable on conviction to a fine of not less than thirty thousand or imprisonment for a term of not less than six months or to both such fine and imprisonment.

[Act No. 18 of 2018, Sch.]

98. Offences relating to hunting for bush-meat trade

(1) Any person who, without permit or exemption issued under this Act, deals in the carcass or meat of any wildlife species commits an offence and shall be liable on conviction, to imprisonment for a term of not less than three years.

(2) No person shall purchase from another person any meat or eggs of any wildlife species.

(3) Any person who contravenes the subsection (2) commits an offence and is liable on conviction to a fine of up to one million shillings or a term of imprisonment of twelve months or to both such fine and imprisonment.

[Act No. 18 of 2018, Sch.]

99. Import and export of wildlife species

(1) No person shall trade in, import, export, re-export or introduce any specimen or product of a wildlife species into or from Kenya without a permit issued by the Service under this Act.

(2) Without prejudice to the generality of the foregoing, no person shall—

(a) import any such species into, or export any such species from Kenya;

(b) take any such species within Kenya or Kenya's territorial waters;

(c) take any such species upon the high seas;

(d) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of paragraphs (b) an(c);

(e) deliver, receive, carry, transport, or ship in county commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(f) sell or offer for sale in commercial transaction within or outside Kenya any such species;

(g) products of listed species; or

(h) violate any rules and regulations pertaining to such listed species.

(3) A person who contravenes the provisions of this section commits an offence and shall be liable, upon conviction,—

(a) in relation to a critically endangered or endangered species, as specified in the Sixth Schedule or listed under CITES Appendix I, to a fine of not less than one hundred million shillings or to imprisonment of not less than twenty years or both such fine and imprisonment; or

(b) in relation to any other wildlife species or wildlife trophy, to a fine not less than twenty million shillings or a term of imprisonment not less than ten years, or to both such fine and imprisonment.

(4) A person, agent or corporate entity that, knowingly or recklessly, aids or abets, in the commission of an offence under this section shall be liable to the penalties specified in subsection (3).

[Act No. 18 of 2018, Sch.]

100. Offences relating to compensation

Any person who makes a false claim or makes a false statement to the County Wildlife Conservation and Compensation Committee or the Service in respect of a wildlife damage claim shall be committing an offense and is liable upon conviction to a fine of not less than one hundred thousand shillings or to imprisonment for not less than six months or both such fine and imprisonment.

101. Offenses relating to failure comply with a lawful order

Any person who—

(a) fails to comply with a lawful requirement or demand made or given by an authorized officer;

(b) obstructs a person in the execution of his powers or duties under this Act, commits an offence and is liable on conviction to a fine of not less than one hundred thousand shillings or to imprisonment of not less than six months or to both such fine and imprisonment.

102. Breach of protected area regulations

(1) Any person who without a licence or permit of the Service in respect of any national park, national reserve, wildlife sanctuary or marine reserve, or, without authorization from the authority responsible for any other protected area as the case may be—

(a) enters or resides in a protected area otherwise than in the course of his duty as an authorized officer or a person lawfully employed in the protected area, as the case may be.

(b) sets fire to any vegetation in any wildlife protected area or allows any fire lighted by himself or his servants to enter a wildlife protected area;

(c) carries out logging in a national park or reserve;

(d) clears and cultivates any land in the national park or reserve;

(da) burns charcoal in any protected area;

(e) wilfully damages any object of geological, prehistoric, archaeological, historic, marine or other scientific interest within a wildlife protected area, or knowingly removes or attempts to remove any such object or any portion than in the course of his duty thereof from wildlife protected areas;

(f) conveys into a protected area or is found within a protected area in possession of any firearm, ammunition, arrow, spear, snare, trap or similar device without authorization;

(g) undertakes any extractive activity in a protected area.

(h) undertakes any related activity in wildlife protected areas contrary to the provisions of this Act: commits an offence and is liable on conviction to a fine of not less than two hundred thousand shillings or to imprisonment of not less than two years or to both such fine and imprisonment.

(2) *Deleted by Act No. 18 of 2018, Sch.*

(2A) A person shall not enter any protected area with livestock without a permit or written permission from the authority responsible as the case may be.

(3) Any person who contravenes subsection (2) commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months.

(4) The Cabinet Secretary shall make guidelines in consultation with the Service with respect to accessing national parks for purposes of grazing and watering of livestock in times of drought and other natural disasters.

[Act No. 18 of 2018, Sch.]

103. Offences by bodies corporate

(1) When an offence against this Act, is committed by a body corporate, the body corporate and every director or officer of the body corporate who had knowledge or ought to have known of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, commits an offence.

(2) Where an offence against this Act is committed under this Act by a partnership, every partner or officer of the partnership who had knowledge or ought to have known of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, commits an offence.

(3) A person shall be personally liable for an offence against this Act, whether committed by him on his own account or as an agent or servant of another person.

(4) An employer or principal shall be liable for an offence committed by an employee or agent against this Act, unless the employer or principal proves that the offence was committed against his express or standing directions.

(5) A person convicted of an offence under this section shall, in the absence of any penalty prescribed under any other provision of this Act, be liable on conviction, to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both.

[Act No. 18 of 2018, Sch.]

104. General provisions

Without prejudice to the generality of the forgoing, nothing in this Act shall stop the arrest, prosecution and conviction of an offender under the provisions of any other written law.

105. Forfeiture

(1) The court before which a person is charged for an offence under this Act or any regulations made thereunder may, in addition to any other order—

(a) upon the conviction of the accused; or

(b) if it is satisfied that an offence was committed notwithstanding that no person has been convicted of an offence, order that the wildlife trophy, motor vehicle, equipment and appliance, livestock or other thing by means whereof the offence concerned was committed or which was used in the commission of the offence be forfeited to the Service and be disposed of as the court may direct.

(2) In making the order of forfeiture under subsection (1) the court may also order that the cost of disposing of the substance, motor vehicle, equipment, appliance, livestock or any other thing provided for in that subsection be borne by the person convicted there-under.

(3) The court may further order that any licence, permit or any authorization given under this Act, and to which the offence relates, be cancelled.

106. Commission of offence in the course of duty

(1) An officer shall be personally liable for an offense committed by that officer against the provisions of this Act whether committed by that officer on their own account or as agent or employee:

Provided that no offense will have been committed where such person was acting in a lawful manner was discharging their functions in the course of duty.

(2) Any person who has reason to believe that the provisions of this Act have been, are being, or are about to be violated, may petition the High Court for—

(a) a declaration that the provisions of this Act are being, have been, or are about to be contravened;

(b) an injunction restraining any specified person from carrying out the contravention;

(c) the writ of *mandamus* against an officer or a person who has failed to perform a duty imposed by or under this Act; or any remedy at law or equity for preventing or enforcing the provisions of this Act.

107. Prosecutorial powers

(1) The Director of Public Prosecutions may, in accordance with the Office of the Director of Public Prosecutions Act (Cap. 6B) and this section, designate special prosecutors to prosecute wildlife offences under this Part.

(2) Notwithstanding the provisions of subsection (1), the Director of Public Prosecutions may, either on his or her own or on application of an authorised officer, delegate his or her prosecutorial powers to such authorised officer to prosecute offences under this Act.

108. Restraint of breaches of the Act

Any person who has reason to believe that the provisions of this Act have been, are being, or are about to be violated, may petition the Environment and Land Court as established under the Environment and Land Court Act (Cap. 8D), for appropriate redress.

Part XII – INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

109. International instruments, conventions and agreements ratified by Kenya

(1) In order to facilitate compliance with any international treaty, convention or agreement, whether bilateral or multilateral, for which the Cabinet Secretary has been given implementing authority, the Cabinet Secretary may make regulations and give directions to ensure compliance with the obligations thereunder.

(2) The treaties, conventions and agreements as specified under subsection (1) shall be ratified pursuant to the provisions of the Treaty Making and Ratification Act (Cap. 4D) before implementation by the Cabinet Secretary.

(3) The Service shall keep a register of all international treaties, agreements or conventions relating to the conservation and management of wildlife to which Kenya is a party.

(4) The Cabinet Secretary may, on recommendation of the Service—

(a) negotiate and establish trans-boundary or trans-frontier wildlife conservation areas for the better management of shared wildlife resources; and

(b) promulgate rules and regulations for effective management of trans- boundary or trans-frontier wildlife conservation areas established under this section.

(5) The Cabinet Secretary shall publish regularly through the biannual wildlife conservation status report under section 50(4) insert on the progress of Kenya's implementation of wildlife related bilateral or multilateral environmental agreements to which Kenya is a party.

Part XIII – ENFORCEMENT AND COMPLIANCE

110. Powers of authorized officers

(1) An authorized officer may—

(a) demand from any person the production of an authority, license or permit for any act done or committed by that person in relation to wildlife resources for which an authority, permit or license is required under this Act or under any rules made thereunder;

(b) require any person found within or outside wildlife conservation areas who has in his possession any wildlife specimen, to produce authority, permit or licence authorizing him to possess such wildlife specimens, where no such proof is produced, arrest and take such person before a magistrate;

(c) search any person suspected of having committed an offence under this Act or of being in possession of any wildlife specimen in respect of which an offence has been committed, arrest and detain the person, seize and detain any baggage, parcel or house being used to carry or hide such wildlife specimen by the person or his agent; or

(d) search any vehicle or vessel and seize and detain any wildlife specimens in respect of which there is reason to believe that an offence has been committed, together with any tools, equipment, vessels or vehicles used in the commission of the offence:

Provided that the authorized officer detaining the person and seizing such property shall forthwith take the person and the seizure to the magistrate having jurisdiction over the area where the offence takes place within twenty-four hours;

(e) confiscate any equipment or receptacle placed for purposes of capturing, harming or killing wildlife animals; and

(f) conduct investigation and undertake intelligence gathering as appropriate on any land, premises, vessels and vehicles to apprehend suspected offenders of this Act.

(2) Notwithstanding the provisions of subsection (1) of this section—

(a) where anything seized and detained under this section is subject to speedy and natural decay, and it is not reasonably practicable to take effective steps to preserve the same, the officer by whom the same is seized or an officer to whose orders he is subject may, without obtaining any order from a court, destroy or otherwise dispose of that thing if he considers it desirable so to do; or

(b) where any apparently unlawful means of hunting cannot practicably be removed from its location it may forthwith be rendered inoperative.

(3) Any authorized officer may—

(a) enter any land, premises, vessel, vehicle, aircraft or trailer in order to assess the condition of wildlife thereof or to perform any such other act which he considers necessary in the circumstances;

(b) require the production of, inspect, examine and copy licences, permits, registers, records, management plan and other documents relating to this Act; and

(c) take all reasonable steps to prevent the commission of an offence under this Act.

111. Erection of a temporary barrier

(1) Any authorized officer of or above the rank of assistant warden may erect a temporary barrier across any road or place and any person approaching the barrier shall, on being required by the officer so to do, stop and allow the officer to carry out search of his own person and of any vehicle as may appear to the officer to be necessary or expedient.

(2) Any person who—

(a) fails to stop or allow a search when so required under sub-section (1) of this section; or

(b) assaults, resists or willfully obstructs any officer in the exercise of the powers conferred upon such officer by this section, commits an offence and shall be liable, on conviction, to a fine of not less fifty thousand shillings or to imprisonment for a period of not less than six months or to both such fine and imprisonment.

112. Use of firearms

(1) The President may, through the Inspector-General of the National Police Service, make available to the uniformed and disciplined officers of the Service such firearms as may be necessary for the Service to carry out its functions under this Act.

(2) The Service shall co-ordinate and control all wildlife security issues in all the national parks, national reserves, wildlife conservancies and sanctuaries in collaboration with other law enforcement agencies, counties and community wildlife scouts.

(3) A member of the uniformed and disciplined cadre, after acquiring the requisite training, and when authorized by the Director-General, may use firearms for the following purposes, in the course of and for his lawful duty—

(a) in the course of law enforcement against—

(i) any person charged with an offence punishable under this Act, when that person is escaping or attempting to escape lawful custody;

(ii) any person who, by force, removes or attempts to remove any other person from lawful custody;

(iii) any person who, by force, attempts to prevent the lawful arrest of himself or any other person; or

(iv) any person unlawfully hunting any wildlife using a firearm;

(b) in self-defense or in defense of another officer or other person;

(c) for the protection of people and property against any animal causing destruction to human life or crops or livestock or property;

(d) for the protection and safety of visitors against banditry or animals;

(e) in the course of problem animal control; and

(f) wildlife veterinary activities.

(4) Notwithstanding the foregoing, a uniformed and disciplined officer of the Service shall not resort to the use of firearms—

(a) under paragraph (a)(i) of subsection (3), unless the officer concerned has reasonable grounds to believe that he cannot otherwise prevent the escape, and unless he has given ample warning to such person that he is about to use a firearm against him, and the warning is unheeded; or

(b) under paragraph (a)(ii), (a)(iii) or (a)(v) of subsection (3), unless the officer concerned believes on reasonable grounds that he or any other person is in danger of grievous bodily harm, or that he cannot otherwise prevent the removal, effect the arrest or, as the case may be, defend himself or the other officer or person.

(5) When a person has been taken into custody for any offence under this Act, the authorized officer shall, if it does not appear practicable to bring that person to the nearest police station or competent court within twenty-four hours after he has been so taken into custody, detain the person in appropriate premises at the nearest Service station.

(6) A person arrested and detained in accordance with subsection (5) of this section shall be brought before a competent court or the nearest police station within forty-eight hours.

(7) Any person who, without authorization conveys into a wildlife conservation area, or being within the area thereof, is in possession of, any weapon, ammunition, explosive, trap or poison, commits an offence.

(8) The Cabinet Secretary may, on recommendation of the Service make rules and regulations in respect of wildlife security operations in national parks, marine protected areas, wildlife conservancies and sanctuaries.

Part XIV – MISCELLANEOUS

113. The common seal

The common seal of and the Service shall be kept in such custody as the Board or Trustees, as the case may be, may direct and shall not be used except on the order of the Board or Trustees.

114. Protection from personal liability

No matter or thing done by a member of the Service or any officer, employee or agent of the Service shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Service, render the member, officer, employee or agent or any person acting on his directions personally liable to any action, claim or demand whatsoever.

115. Liability for damage

The provisions of section 114 shall not relieve the Service of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of the powers conferred upon the Service by this Act or by any other written law or by the failure, whether wholly or partially, or any works.

116. Regulations

(1) The Cabinet Secretary may, on recommendation of the Service, make regulations for or with respect to any matter which is necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the foregoing, rules and regulations may be made under this section for—

(a) granting of wildlife user rights;

(b) prescribing the amount of user fees payable under this Act generally or in particular cases;

(c) specifying the conditions subject to which any licence, permit or authorization may be granted or issued under this Act;

(d) regulating activities in the national parks, national reserves, provisional wildlife conservation areas, wildlife conservancies and sanctuaries and the visitor indemnity;

(e) prescribing measures that enhance community participation in the conservation and management of wildlife;

(f) providing for the protection of endangered and threatened ecosystems, habitats and species;

(g) prescribing measures and mechanisms for joint management of protected water towers with other lead agencies; and

(h) prescribing the manner of nomination of representatives of communities and other stakeholders to the Board, Trustees and the regional wildlife conservation area committees.

(3) Rules made under this section may require acts or things to be performed or done to the satisfaction of the Service and may empower the Service to issue orders imposing conditions and dates upon, within or before which such acts or things shall be performed or done.

(4) The provisions of section 27 of the Interpretation and General Provisions Act (Cap. 2D) shall not apply to rules made under this section.

117. Disputes

(1) Any dispute that may arise in respect of wildlife management, protection or conservation shall in the first instance be referred to the lowest possible structure under the devolved system of government as set out in the Devolution of Government Act including traditional resolution mechanisms.

(2) Any matter that may remain un-resolved in the manner prescribed above, shall in all appropriate cases be referred to the National Environment Tribunal for determination, pursuant to which an appeal subsequent thereto shall, where applicable, lie to the Environment and Land Court as established under the Environment and Land Court Act (Cap. 8D).

118. Repeal of Cap. 376

The Wildlife (Conservation and Management) Act (Cap. 376) is repealed.

119. Transitional provisions

Notwithstanding section 118—

(a) any land which, immediately before the commencement of this Act, was a national park, national reserve, marine reserves or sanctuary as set out in the Eleventh Schedule, shall be deemed to be a national park, marine protected area or sanctuary, under this Act;

(b) any licenses or permits granted under that Act and in force immediately before the commencement of this Act shall, with the approval of the Service and upon recommendation of the Service, be deemed to have been granted under the provisions of this Act, and shall remain in force until revoked in accordance with any terms in that regard set out in the licence or permit, as the case may be, or renewed as a licence or permit under this Act:

Provided that where the licence or permit in force immediately before the commencement of this Act relates to activity now outlawed under this Act shall cease upon the commencement of this Act;

(c) the rules and regulations falling within the ambit of the Wildlife (Conservation and Management) Act (Cap. 376) shall remain in force until replaced under rules and regulations made under this Act; and

(d) a person who immediately before the commencement of this Act was an employee of the Service under the repealed Act shall continue to hold or act in that office as if appointed to that position under this Act, and all benefits accruing to employees under the repealed Act shall continue accruing to them under this Act.

FIRST SCHEDULE [s. 10]

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF TRUSTEES

This Schedule shall apply in accordance with the statutory obligations of the State Corporations Act (Cap. 446).

1. **Tenure of office and conduct of business of the Board**.

(1) The chairperson of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(2) Other than *ex officio* members, a member of the Board shall, subject to the provisions of this section, hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term of three years.

(3) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

(4) A member other than the chairperson an *ex officio* member may—

(a) at any time resign from office by notice in writing to the Cabinet Secretary;

(b) be removed from office by the Cabinet Secretary if the member—

(i) has been absent from three consecutive meetings of the Board without the permission of the chairperson; or

(ii) is adjudged bankrupt or enters in to a composition scheme or arrangement with his creditors;

(iii) is convicted of an offence involving fraud or dishonesty;

(iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

(v) is incapacitated by prolonged physical or mental illness;

(vi) is found to have acted in a manner prejudicial to the aims and objectives of this Act;

(vii) fails to comply with the provisions of this Act relating to disclosure; or

(viii) is otherwise unable or unfit to discharge the functions as a member of the Board.

2. **Meetings of the Board**.

(1) The Board shall meet not less than four times in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting:

Provided that the chairperson may call a special meeting of the Board at any time where he deems it expedient for the transaction of the business of the Board.

(2) Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board by the secretary.

(3) The quorum for the conduct of business of the Board shall be half of the members' and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(4) The chairperson shall preside over all meetings of the Board in which he is present, but in his absence the vice-chairperson shall preside, and in his absence the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(5) At the first meeting of the Board, the members shall elect a vice-chairperson, not being a public servant, from among its members.

3. **Disclosure and conflict of interest**.

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at the meeting of the Board at which the contract, proposed contract or matter is the subject of consideration, the person shall, at the meeting and as soon as practicable after the commencement thereof, disclose that fact and shall be excluded at the meeting at which the contract, proposed contract or matter is being considered.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

4. **The Board may regulate its own procedure**.

SECOND SCHEDULE [s. 12]

Part 1: PROVISIONS RELATING TO THE OFFICERS OF THE SERVICE

1. Officers of the Service

(1) The officers of the Service shall hold the ranks specified in subparagraph (2).

(2) The ranks of the officers of the Service referred to in subparagraph (1) in order of seniority shall be as follows—

(a) Uniformed and Disciplined Officers Cadre—

(i) Gazetted Officers

Director-General

Director

Deputy Director

Senior Assistant Director

Assistant Director Senior Warden

(ii) Senior Officers

Warden I

Warden II

(iii) Junior Officers

Assistant Warden I

Assistant Warden II

Assistant Warden III

Cadet

(iv) Rangers

Sergeant Major

Senior Sergeant

Sergeant Corporal Ranger

(v) Trainees

Management Trainee

Ranger Recruit

(b) Scientific Cadre

Chief Scientist

Senior Principal Scientist

Principal Scientist

Senior Scientist

Scientist I

Scientist II

Scientist III

Research Assistant I

Research Assistant II

Research Assistant III

(c) Other officers appointed by the Trustees on specified schemes.

(3) The officers of the Service shall, in the performance of the duties conferred upon them under this Act and any other written law, conform to any lawful instructions, directions or orders which may be given by the Director

(4) The Director may, with the consent of the Trustees, from time to time make and issue administrative orders to be called Service Standing Orders for the general control, direction and information of the officers of the Service.

2. Disciplinary Code and Regulations

(1) The Director shall, with the approval of the Trustees, issue a Disciplinary Code for Officers of the Service, which shall apply to the uniformed and disciplined officers of the Service and which may provide for the following matters—

(a) the investigation of disciplinary offences and the hearing and determination of disciplinary proceedings;

(b) disciplinary penalties and awards; and

(c) any other related matters as pertains to the Act.

(2) The following disciplinary penalties, or any combination thereof, may be included in the Disciplinary Code for infringement of the Code issued under subparagraph (1):—

(a) dismissal from the Service;

(b) reduction in rank;

(c) confinement for not more than fourteen days in a guard room or restriction to the confines of any camp or other area where a part of the Service is stationed;

(d) fines or surcharge;

(e) where the offence has occasioned any expense, loss or damage, stoppages of pay or allowances;

(f) extra drills, parades or fatigues;

(g) severe reprimand;

(h) reprimand; and

(i) admonition.

(3) A Disciplinary Code issued under this paragraph may provide that a disciplined officer of the Service committing a disciplinary offence may be arrested without a warrant by or on the order of an officer senior to him or placed in command over him, who may, if circumstances so warrant, confine that officer or cause that officer to be confined in a building suitable for the purpose, pending the determination of disciplinary proceedings:

Provided that no person shall be confined for more than five days without a warrant being issued for his arrest.

3. Insubordinate behavior

(1) A uniformed and disciplined officer of the Service who—

(a) strikes, or otherwise uses violence on, or threatens violence to or incites any other person to use violence on, an officer senior to or placed in command over him or that other person; or

(b) uses threatening or insubordinate language to an officer to or placed in command over him, shall be guilty of an offence and liable to imprisonment for a term not exceeding one year.

(2) The Director or an officer of or above the rank of Assistant Director, to whom power so to do has been delegated by the Director may direct that an offence committed under this paragraph be dealt with under the Code.

4. Desertion and Absenteeism

(1) A uniformed and disciplined officer of the Service who absents himself from duty without leave or just cause for a period of or exceeding twenty-one days shall, unless he proves the contrary, be deemed to have deserted from the Service.

(2) A uniformed and disciplined officer who deserts the Service shall forfeit any pay or allowance due to him, and subject to the provisions of the Retirement Benefits Act (Cap. 197) be paid such pension, provident fund or any other scheme operated by the Service, less liabilities due to the Service and in addition, such member shall be liable to disciplinary action.

(3) No pay or allowance shall be paid to a uniformed and disciplined officer in respect of any day during which he is absent from duty without leave, unless the Director otherwise directs.

(4) Any uniformed and disciplined officer who deserts from the Service for a cumulative and successive period of or exceeding twenty-one days shall be guilty of an offence and liable to disciplinary action.

(5) Any uniformed and disciplined officer who, upon being dismissed from the Service, or who deserts from the Service for a period of twenty-one days and does not surrender the property of the Service or the Government within a period of or not exceeding seven days from the date of dismissal or desertion, shall be guilty of an offence and liable to imprisonment for one year or a fine not exceeding fifty thousand shillings or both such fine and imprisonment.

5. Prohibition from joining trade unions

(1) No officer of the Service shall be or become a member of—

(a) a trade union or any body or associate affiliated to a trade union;

(b) a body or association the objects or one of the objects of which is to control or influence conditions of employment in a trade or profession; or

(c) a body or association the objects, or one of the objects of which, is to control or influence pay, pension or conditions the Service other than a staff association established and regulated by rules or regulations made under this Act.

(2) An officer of the Service who contravenes sub-paragraph (1) shall be liable to be dismissed from the Service and subject to the provisions of the Retirement Benefits Act (Cap. 197) be paid such pension, gratuity, provident fund or any other scheme operated by the Service, less liabilities due to the Service.

(3) If a question arises as to whether a body is a trade union or an association to which this paragraph applies, such question shall be referred to the Cabinet Secretary whose decision thereon shall be final.

(4) Definition

In this Part, "uniformed and disciplined officer" means an officer specified in subparagraph (2)(b) of paragraph 1.

Part II - OATH OF ALLEGIANCE

"I, ... do hereby Swear by Almighty God (or do hereby solemnly and sincerely affirm) that I will give faithful and loyal service during my service in Kenya Wildlife Service and that I will bear

true allegiance to the President and the Republic of Kenya: that I will subject myself to all Acts, Orders and Regulations now or in the future in force relating to my service in Kenya Wildlife Service; that I will obey all lawful orders of the officers placed over me; and that I will discharge all the duties of a Kenya Wildlife Service officer according to law, without fear, favour, affection or ill-will (so help me God").

.....

Signature of Declarant Personal Number .....

Sworn/affirmed before me .....

On the .....

THIRD SCHEDULE [s. 25]

WILDLIFE SPECIES IN RESPECT OF WHICH COMPENSATION MAY BE PAID

[Act No. 18 of 2018, Sch.]

A. Death and Injury

Elephant

Lion

Leopard

Rhino

Hyena

Crocodile

Cheetah

Buffalo

Hippo

Wild dog

B. Crop, livestock and property damage

Elephant

Lion

Leopard

Rhino

Hyena

Crocodile

Cheetah

Buffalo

Hippo

Zebra

Eland

Wildebeest

Snake

Wild dog

FOURTH SCHEDULE [s. 34]

PROVISIONS AS TO PUBLIC CONSULTATION

Requirement for public consultation

1. (1) Where this Act imposes a requirement for public consultation, the responsible authority shall publish a notice in relation to the proposal—

(a) in the *Gazette*;

(b) in at least three national newspapers;

(c) in at least one newspaper circulating in the locality to which the proposal relates; and

(d) in at least one Kenyan radio station broadcasting in the locality.

(2) The notice shall in each case—

(a) set out a summary of the proposal;

(b) state the premises at which the details of the proposal may be inspected;

(c) invite written and or oral presentations and comments on the proposal;

(d) specify the person or body to which any such presentations and comments are to be submitted; and

(e) specify a date and place by which any such comments are required to be received, not being a date earlier than sixty days after publication of the notice.

2. The responsible authority shall make arrangements for the public to obtain copies, at reasonable cost, of documents relating to the proposal which are in the possession of the responsible authority.

3. The responsible authority shall consider—

(a) any written comments or objections received on or before the date specified under paragraph 1(2)(e); and

(b) any comments whether in writing or not, received at any public meeting held in relation to the proposal at which the responsible authority was represented, or pursuant to any other invitation, to comment.

4. The responsible authority shall publish, through the same media as were employed pursuant to paragraph 1, notice of the fact a copy of the decision in writing of the responsible authority in relation to the proposal, and of the reasons thereof, is available for public inspection at the same premises as were notified under paragraph 1(2)(b).

5. Where rules made under this Act so require, the responsible authority shall cause a public meeting to be held in relation to a proposal before the responsible authority makes its decision on the proposal.

FIFTH SCHEDULE [s. 44]

MANAGEMENT PLANS

Part I - GENERAL

(1) A management plan is the instrument in which all the ingredients for active management are described, in particular which organizations will undertake what responsibilities and what actions are intended to achieve what ends. However, despite being a primary tool, management plans often go unused because of a failure to see management plans as a dynamic working document requiring annual updates and because of a tendency to be over elaborate.

(2) The level of planning should be tailored to the capacities of the agencies and communities involved. Management planning should be a practical tool - one that can be created in simple form and built upon over time, using progress reports.

(3) A management plan process includes the production of an annual compliance report and a 5 year third-party management report.

Part 2 - PLANNING FRAMEWORK

(1) The following are information that should be included as a minimum—

• a legal description of the area covered (whether national, provincial, local or some other designation). A legal description may include or officially recognize customary land boundaries and/or natural boundaries (e.g. rivers, river basins, mountain ranges, etc.);

• a brief statement of the wildlife management goals and objectives;

• the time period for which the plan is valid;

• the species covered by the plan;

• a description of habitat types, amounts, and plant composition (where possible);

• A description of the activities being undertaken;

• A report detailing the participation of neighbouring communities in the preparation of the plan;

• A description of the anticipated benefits and beneficiaries.

(2) As the complexity of the protected area increases in terms of size, habitats, species, proposed activities, then the following incremental information should be included for non-consumptive utilization—

• the provision of zones and the management objectives for each zone;

• the identification of tourist carrying capacities;

• the quality targets to be met in terms of price and volume;

• the provision of tourist management regulations;

• the provisions for the management of habitats and species (particularly important in ‘closed’ ecosystems;

• the management of migratory species;

• the identification of key breeding areas;

• the management of potential conflict with neighbouring communities;

• the scale and location of any infrastructural development;

• the monitoring to be undertaken and its frequency;

• any relevant historical information.

(3) And for consumptive utilization, the following information should be additionally included:

• data on historical wildlife culling, cropping, hunting, where such information is available;

• an approved method for determining sustainable off take levels; and

• proof of compliance with the Eleventh Schedule and any other legal requirement set out in this Act.

SIXTH SCHEDULE [s. 47.]

NATIONALLY LISTED CRITICALLY ENDANGERED, VULNERABLE, NEARLY THREATENED AND PROTECTED SPECIES

(A) MAMMALS

Category and species name	**Common name**
Critically Endangered	
Cephalophus adersi	*Aders' duiker*
Diceros bicornis	Black rhinoceros
Beatragus hunter	Hirola
Procolobus rufomitratus	Eastern red colobus
Cercocebus galeritus	Tana crested mangabey
Hippotragus equines	Roan antelope
Hippotragus niger	Sable antelope
Endangered	
Ceratotherium simunz simum	White rhino
Balaenoptera borealis	Coalfish whale
Balaenoptera musculus	Blue whale
Equus grevyi	Grevy's zebra
Lycaon pictus	African wild dog
Grammomys gigas	Giant thicket rat

Otomys barbouri	Barbour's vlei rat
Otomys jacksoni	Mount elgon vlei rat
Rhynchocyon chrysopygus	Golden-rumped elephant shrew
Tragelaphus eurycerus isaaci	Eastern bongo
Loxodonta Africana	African elephant
Panthera leo	African lion
Acinonyx jubatus	Cheetah
Hyaena Hyaena	Striped hyaena
Tragelaphus spekii	Sitatunga
Panthera pardus	Leopard
Alcelaphus buselaphus	Lelwel hartebeest
Giraffa camelopardalis rothschildi	Rothschild's giraffe
	Giant forest hog

Category and species name	**Common name**
Vulnerable	
Cloeotis percivali	Percival's trident bat
Hippopotamus amphibious	Common hippopotamus
Myonycteris relicta	East african little collared fruit bat
Megaptera novaeangliae	Hump whale
Dugong dugong	Dugong

Physeter macrocephalus	Sperm whale
Bdeogale jacksoni	Jackson's mongoose
Rhynehocyon petersi	Black and rufous elephant shrew
Pelomys hopkinsi	Hopkins's groove-toothed swamp rat
Taphozous hildegardeae	Hildegarde's tomb bat
Gazella soemmerringii	Soemmerring's gazelle
Profelis aurata	African golden cat
Rhinopoma macinnesi	Macinnes's mouse-tailed bat
Surdisorex norae	Aberdare shrew
Surdisorex polulus	Mt. Kenya shrew
Tachyoryctes audax	Audacious mole rat
Mastomys pernanus	Dwarf multimammate mouse
Myonycteris relicta	East african little collared fruit bat
Dendrohyrax validus	Eastern tree hyrax
Crocidura elgonius	Elgon shrew
Crocidura fischeri	Fischer's shrew
Taphozous hamiltoni.	Hamilton's tomb bat
Crocidura allex	Highland shrew
Taphozous hildegardeae	Hildegarde's tomb bat
Tadarida lobata	Kenyan big-eared free-tailed bat
Otomops martiensseni	Large-eared free-tailed bat

Beamys hindei	Lesser hamster-rat
Paraxerus palliates	Red bush squirrel
Crocidura monax	Rombo shrew
Crocidura fumosa	Smoky white-toothed shrew
Physeter catodon	Sperm whale
Lutra maculicollis	Spotted-necked otter
Pedetes capensis	Springhare
Crocidura xantippe	Vermiculate shrew
Crocuta crocuta	Spotted hyaena
Tragelaphus imberbis	Lesser kudu
Tragelaphus strepsiceros	Greater kudu

(B) BIRDS

Category and species name	**Common name**
Critically Endangered	
Apalis fuscigularis	Taita Apalis
Turdus helleri	Taita Thrush
Endangered	
Ardeola idea	Madagascar Pond-heron
Falco cherrug	Saker Falcon
Neophron percnopterus	Egyptian Vulture

Otus ireneae	Sokoke Scops-owl
Cisticola aberdaro	Aberdare Cisticola
Acrocephalus griseldis	Basra Reed-warbler
Eremomela turneri	Turner's Eremomela
Zoothera guttata	Spotted Ground-thrush
Anthreptes pallidigaster	Amani Sunbird
Ploceus golandi	Clarke's Weaver
Macronyx sharpie	Sharpe's Longclaw
Anthus sokokensis	Sokoke Pipit
Vulnerable	
Falco naumanni	Lesser Kestrel
Trigonoceps occipitalis	White-headed Vulture
Torgos tracheliotos	Lappet-faced Vulture
Aquila clanga	Greater Spotted Eagle
Aquila heliacal	Eastern Imperial Eagle
Glareola ocularis	Madagascar Pratincole
Hirundo atrocaerulea	Blue Swallow
Apalis chariessa	White-winged Apalis
Apalis karamojae	Karamoja Apalis
Chloropeta gracilirostris	Papyrus Yellow Warbler

Category and species name	**Common name**
Turdoides hindei	Hinde's Pied-babbler
Cinnyricinclus femoralis	Abbott's Starling
Muscicapa lendu	Chapin's Flycatcher
Near Threatened	
Francolinus streptophorus	Ring-necked Francolin
Oxyura maccoa	Maccoa Duck
Phoeniconaias minor	Lesser Flamingo
Falco vespertinus	Red-footed Falcon
Falco concolor	Sooty Falcon
Falco fasciinucha	Taita Falcon
Gyps africanus	White-backed Vulture
Gyps rueppellii	Rueppell's Vulture
Circaetus fasciolatus	Southern Banded Snake-eagle
Circus macrourus	Pallid Harrier
Neotis denhami	Denham's Bustard
Crex crex	Corncrake
Balearica pavonina	Black Crowned-crane
Charadrius pallidus	Chestnut-banded Plover
Gallinago media	Great Snipe

Limosa limosa	Black-tailed Godwit
Numenius arquata	Eurasian Curlew
Larus leucophthalmus	White-eyed Gull
Rynchops flavirostris	African Skimmer
Streptopelia reichenowi	White-winged Collared-dove
Psittacus erithacus	Grey Parrot
Tauraco fischeri	Fischer's Turaco
Coracias garrulous	European Roller
Prionops poliolophus	Grey-crested Helmet-shrike
Laniarius mufumbiri	Papyrus Gonolek
Sheppardia gunning	East Coast Akalat
Ficedula semitorquata	Semi-collared Flycatcher
Anthreptes reichenowi	Plain-backed Sunbird
Euplectes jacksoni	Jackson's Widowbird
Anthus melindae	Malindi Pipit
Protected species	

Category and species name	**Common name**
Struthio camelus	Ostrich
Sagittarius serpentarius	Secretary Bird
Francolinus streptophorus	Ring-necked Francolin

Podiceps cristatus	Great Crested Grebe
Ephippiorhynchus senegalensis	Saddle-billed Stork
Bostrychia olivacea	Olive Ibis
Ardea alba	Great White Egret
Anhinga rufa	African Darter
Haliaaetus vocifer	African Fish Eagle
Trigonoceps occipitalis	White-headed Vulture
Aquila ayresii	Ayres's Hawk-Eagle
Polemaetus bellicosus	Martial Eagle
Stephanoaetus coronatus	Crowned Eagle
Neotis denhami	Denham's Bustard
Sarothrura affinis	Striped Flufftail
Porzana pusilla	Baillon's Crake
Podica senegalensis	African Finfoot
Balearica regulorum	Grey Crowned Crane
Turnix hottentotus	Black-rumped Buttonquail
Bubo capensis	Cape Eagle-Owl
Glaucidium tephronotum	Red-chested Owlet
Apus niansae	Nyanza Swift
Alcedo quadribrachys	Shining-blue Kingfisher
Phoeniculus castaneiceps	Forest Wood-hoopoe

Phoeniculus damarensis	Violet Wood-hoopoe
Lanius dorsalis	Taita Fiscal
Ptilostomus afer	Piapiac
Galerida theklae	Thekla Lark
Hyliota australis	Southern Hyliota
Illadopsis rufipennis	Pale-breasted Illadopsis
Buphagus erythrorhynchus	Red-billed Oxpecker
Buphagus africanus	Yellow-billed Oxpecker
Cinnyris tsavoensis	Tsavo Sunbird
Passer rufocinctus	Kenya Rufous Sparrow
Ploceus castaneiceps	Taveta Golden Weaver
Crithagra koliensis	Papyrus Canary
Eiythrocercus holochlorus	Yellow flycatcher

(C) Reptiles

Category and species name	**Common name**
Critically Endangered	
Eretmochelys imbricate	Hawksbill turtle
Petropedetes dutoiti	Du Toit's Torrent Frog
Endangered	
Chelonia mydas	Green turtle

Lepidochelys olivacea	Olive ridley
Python sebae	Rock python
Afrixalus sylvaticus	Shimba Hills banana frog
Hyperolius rubrovermiculatus	Shimba Hills reed frog
Afrixalus sylvaticus	Forest frog
Hyperolius rubrovermiculatus	Treefrog
Phrynobatrachus irangi	Mount Kenya Frog
Threatened	
Malacochersus tornieri	Crevice tortoise
Pelusios broadleyi	Turkana mud turtle
Bufo kerinyagae	Montane toad
Vulnerable	
Hyperolius cystocandicans	Montane Tree Frog
Atherts desaixi	Mt. Kenya bush viper
Protected species	
Lepidochelys kempii	Kemp's ridley
Chelonia agassiz	Black turtle
Caretta caretta	Loggerhead
Dermochelys coriacea	Leatherback
Pelusios castanoides	Yellow-bellied hinged terrapin

Category and species name	**Common name**
Hemidactylus modestus	tropical geckos
Hemidactylus platycephalus	Baobab gecko
Lygosoma tanae	Writhing skink
Gastropholis prasina	Keel-bellied lizard
Cordylus tropidosternum	Girdled-lizard
Leptotyphlops boulengeri	Worm snakes
Aparallactus turneri	Gunther's centipede-eater
Dasypeltis medici	East African egg eating snakes
Naja ashei	Large brown spitting cobra
Naja nigricollis	Black necked spotters
Varanus albigularis	Savannah monitor lizard
Philothamnus punctatus	Speckled bush snake
Bitis arietans	Puff adder
Dendroaspis angusticeps	Green mamba
Bufo nairobiensis	Nairobi toad
Leptopelis argenteus	Silvery tree frog
Bufo taitanus	Taita toad
Leptopelis flavomaculatus	Yellow-spotted tree frog
Bufo turkanae	Turkana Toad

Afrixalus delicatus	Delicate Spiny Reed Frog
Hyperolius marmoratus	Painted Reed Frog
Hyperolius nasutus	Long Reed Frog
Hyperolius puncticulatus	Spotted Reed Frog
Hyperolius pusillus	Water Lily Reed Frog
Eryx colubrinus	Kenya sand boar
Chamaeleo bitaeniatus	Side-striped chameleon
Chamaeleo dilepis	Flap-neck Chameleon
Chamaeleo ellioti	Elliot's Chameleon
Chamaeleo Hohnelii	High Casqued. Chameleon
Chamaeleo jacksoni	Jackson's Chameleon (Three-horned Chameleon)
Chamaeleo schubotzi	Mount Kenya Chameleon
Bitis gabonica gabonica	Gaboon Viper
	Black and Red Skink

(D) Fish

Category and species name	**Common name**
Critically Endangered	
Oreochromis esculentus	Singidia tilapia
Oreochromis hunter	Lake chala tilapia
Oreochromis jipe	Jipe tilapia

Oreochromis variabilis	Victoria tilapia
Ptyochromis sp. nov.	Rainbow sheller
Xenoclarias eupogon	Lake victoria deepwater catfish
Platycypha amboniensis	Montane dancing-jewel
Endangered	
Alcolapia alcalicus	Magadi tilapia
Cheilinus undulates	Giant wrasse
Marcusenius victoriae	Victoria stonebasher
Xystichromis nuchisquamulatus	Kyoga flameback
Vulnerable	
Carcharias Taurus	Grey nurse shark
Thunnus obesus	Bigeye tuna
Rhincodon typus	Whale shark
Urogymnus asperrimus	Porcupine ray
Carcharhinus longimanus	Oceanic whitetip shark
Carcharodon carcharias	Great white shark
Rhina ancylostoma	Bowmouth guitarfish
Taeniura meyeni	Black-blotched stingray
Rhynchobatus djiddensis	Giant guitarfish
Pseudoginglymostoma brevicaudatum	Shorttail nurse shark
Epitephelus lanceolatus	Brindle bass

Nothobranchius patrizii	Blue notho
Nothobranchius bojiensis	Boji plains nothobranch
Nothobranchius elongates	Elongate nothobranch
Labeo percivali	Ewaso nyiro labeo

(E) TREES

Category and species name	**Common name**
Endangered	
Encephalartos kisambo	Voi cycad
Osyris lanceolata	East african sandalwood
Vulnerable	
Prunus Africana	Red stinkwood
Vitex keniensis	Meru oak
Ocotea kenyensis	Camphor
Polyscias kikuyuensis	Parasol tree
Aloe ballyi	Rat aloe
Populus ilicifolia	Tana river poplar

SEVENTH SCHEDULE [s. 49(1)]

NATIONAL LIST OF INVASIVE SPECIES

A. Mammals

Species name	Common name
Myocastor coypus	Coypu rat

B. Birds

Species name	Common name
Colius striatus	Speckled Mousebird
Phasianus colchicus	Ring-necked pheasant
Cygnus olor	Mute Swan
Fringilla coelebs	Chaffinch
Carpodacus mexicanus	House Finch
Acridotheres tristis	Common Indian Myna
Psittacula krameri	Rose-ringed (Ring-necked) Parakeet
Sturnus vulgaris	Common (European) Starling
Columba livia	Rock Dove (Feral pigeon)
Ptilinopus pulchellus	Beautiful fruit dove
Ptilinopus leclancheri	Black-chinned fruit dove
Ptilinopus coronulatus	Coroneted fruit dove
Ptilinopus roseicapilla	Mariana fruit dove
Ptilinopus perlatus	Pink-spotted fruit dove
Ptilinopus magnificus	Wompoo fruit dove

Colius striatus	Speckled Mousebird
Corvus splendens	House Crow
Quelea quelea	Red-billed Quelea

C. Reptiles and Amphibians

Species name	**Common name**
Agama agama	Red-headed agama lizard
Sphenodon guntheri	Brother's Island tuatara lizard
Aspidoscelis hyperythra beldingi	Orange-throated whiptail lizard
Lampropholis delicata,	Rainbow kopje skink
Boiga irregularis	Brown tree snake
Crotalus exsul	Red diamond rattlesnake
Geochelone platynota	Burmese star tortoise

D. Plants

Species name	**Common name**
Prosopis juliflora	Mathenge (Velvet mesquite)
Lantana camara	Tickberry
Pistia stratiotes	Nile Cabbage
Thevetia peruviana	Yellow oleander
Caesalpinia decapelata	Mauritius thorn

Datura stramoniun	Jimsonweed
Tecoma stans	Yellow bells
Argemone mexicana	Mexican poppy
Opuntia exaltata	Long spine cactus
Opuntia ficus- indica	Sweet prickly pear
Opuntia vulgaris	Drooping prickly pear
Eichhornia crassipes	Water hyacinth

E Invertebrates

Acanthaster planci — Crown of thorns starfish

EIGHTH SCHEDULE [s. 80(3)]

LICENSING

PART I - CONSUMPTIVE WILDLIFE UTILIZATION

(1) In considering the license application for consumptive wildlife utilization, the Service shall have regard to the material considerations which include:

(a) an integrated land use plan of the area;

(b) the need to protect fragile environmental resources, ecosystems and habitats;

(c) an environmental impact assessment licence issued under the Environmental Management and Co-ordination Act (Cap. 387); and

(d) a recommendation from the Service and the county wildlife conservation area committee whose area of jurisdiction falls wholly or partially within the region.

(2) After considering an application made under this section and all matters appearing relevant thereto, the Service may grant to the applicant the licence or variation applied for or may refuse such grant, and may attach to any licence so granted such conditions as the Service may deem expedient.

(3) Every licence shall expire on the 31st December of the year in respect of which it is issued or on the date specified in the licence.

Live Sale

(4) The Cabinet Secretary may, on recommendation of the Service after consultation with the Service, grant sale of live animals in game farming operations:

Provided that such sale of live animals shall be done under the supervision of the Service and in consultation with the respective county wildlife conservation area committee.

Cropping

(5) Subject to the rules and regulations made under this section, the Cabinet Secretary may, on recommendation of the Service after consultation with the Service, grant cropping to be undertaken in game farming and ranching operations where applicable: Provided that cropping shall not be done in contravention of the provisions of this Act or be in conflict with the long term goal of wildlife conservation and management.

Culling

(6) The Cabinet Secretary may, on recommendation of the Service, authorize culling of wildlife in a wildlife conservation area as a management tool: Provided that such culling shall be done by or under the supervision of the Service as a last resort after such other management tools such as translocation has been explored.

Maintaining records

(7) The Service shall keep record of wildlife trophies from the cropping and culling operations to mitigate against poaching and illegal trade in wildlife trophies.

Processing trophies

(8) The Service may, on recommendation of the Service, authorize local processing and sale of wildlife trophies from the cropping activities under the supervision of the Service.

Donating wildlife

(9) The Cabinet Secretary may, on recommendation of the Service and approval by resolution of the National Assembly, donate wildlife as a gift to another state for non-commercial purposes.

Sport Hunting

(10) Sport hunting is prohibited and any person engaging in sport hunting or any other recreational hunting will be committing an offence and shall be liable on conviction to a fine or to imprisonment or to both such fine and imprisonment.

Subsistence Hunting

(11) Hunting for the purposes of subsistence or facilitating the trade in wildlife products, particularly the bushmeat trade, is prohibited and any person engaging in such activity will be committing an offence and is liable on conviction to a fine or to imprisonment for a term or to both such fine and imprisonment.

PART 2 – DEALING IN TROPHIES

(1) A trophy dealer's license may be issued in respect of certain classes of trophy only, as may be endorsed on the license, and the holder thereof shall not deal in trophies other than those so endorsed.

(2) A trophy dealer's licence shall not be transferable, and no person other than the person to whom it is issued shall make use of such licence.

(3) A trophy dealer's license shall be valid for one year from the date at which it is issued, provided that the Service may forthwith cancel the license of any trophy dealer convicted of an offence under this Act.

PART 3 – PRESCRIPTION

(1) The Cabinet Secretary may, on recommendation of the Service after consultation with the Service, by notice in the *Gazette*, prescribe standards, guidelines and rules as are necessary and appropriate to carry out the purposes of this schedule.

NINTH SCHEDULE [s. 96(2)]

WILDLIFE CATEGORIES IN RELATION TO OFFENCES AND PENALTIES IN SPORT AND RECREATIONAL HUNTING

Category A

Critically endangered mammals as set out in the Sixth Schedule

Black Rhinoceros

White Rhinoceros

African Elephant

Category B

All other endangered and vulnerable mammals as set out in the Sixth Schedule

All birds listed in fifth schedule

All reptiles listed in fifth schedule

Category C

All other mammals

All other birds

Sea Shells

TENTH SCHEDULE [s. 80(4)]

WILDLIFE SPECIES FOR WHICH GAME FARMING MAY BE ALLOWED

Animals

Crocodile

Tortoise

Chameleon

Reptiles (other than snakes)

Snails

Frog

Lizards

Butterfly

Snake (for display and venom extraction, export of live for breeding)

Plants

Aloe

Prunus Africana

Osyris lanceolata - East African Sandalwood

Mondia whytei - White's Ginger (Mkombera)

Ocimum kilimanscharicum - Camphor Basil

Birds

Ostrich

Pigeon (except those listed in the Fifth Schedule)

Doves (except those listed in the Fifth Schedule)

Ducks

Helmeted Guinea fowl

Vulturine Guinea fowl

Quelea

ELEVENTH SCHEDULE [s. 119(a)]

NATIONAL PARKS, MARINE PROTECTED AREAS AND SANCTUARIES

National Parks (N.P)

Park Name	Area in Sq. Km		Park Name	Area in Sq. Km
1. Tsavo East N. P.	11,747	16	Mt. Elgon N. P	169
2. Tsavo West N. P.	9,065	17	Saiwa Swamp N. P.	2
3. Aberdares N. P.	765.7	18	Ndere Island N.P.	42
4. Mt. Kenya N. P.	715	19	Malka Mari N. P.	876
5 Lake Nakuru N. P.	**181**	20	Chyulu Hills N. P.	736
6. Amboseli N. P.	392	21	Central Island N. P.	5
7. Nairobi N. P .	117	22	Ruma N. P.	120
8. Meru N. P.	870	23	Arabuko N. P.	6
9. Kora N. P.	1,787			

Park Name	Area in Sq. Km		Park Name	Area in Sq. Km
10. South Island N.P.	39		**Marine Parks**	
11. Mt. Longonot N. P.	52	24	Mombasa Marine N. P.	26.093
12. Hell's Gate N. P	68	25	Watamu Marine N. P	10
13. Oldonyo Sabuk N. P.	18	26	Mpunguti N. P.	28
14. Marsabit N. P	68	27	Malindi Marine N.P.	6
15. Sibiloi N. P.	1,570			

National Reserves (NR)

Reserve Name	Area in Sq. Km	Reserve Name	Area in Sq. Km
1. Marsabit N. R.	1,564	19. Boni N. R.	1,339
2. South Turkana N. R.	1,019	20. Dodori N. R.	877
3. Nasalot N. R.	194	21. Tana River Primate N. R	169
4. Losai N. R.	1,806	22. Shimba Hills N. R.	192
5. Shaba N. R.	239	23. Chepkitalel N. R.	178.2
6. Samburu N. R.	165	24. Nyambene N. R.	640.6
7. Buffalo Springs N. R.	131	25.Mt. Kenya N. R.	2,124
8. Bisinadi N. R.	606	26. Tsavo Road & Railways N. R.	212
9. Rahole N. R.	1,270	27. Nga Ndethia N. R.	212

Reserve Name	Area in Sq. Km	Reserve Name	Area in Sq. Km
10. North Kitui N. R	745	28. Laikipia N. R.	165
11. Lake Bogoria N. R.	107		
12. Kamnarok N. R.	87.7	**Marine Reserves**	
13. Kerio Valley N. R.	66		
14. Kakamega N. R.	44.7	29. Malindi Marine N. R.	213
15. Masai Mara N. R.	1,510	30. Watamu Marine N. R	32
16. South Kitui N. R.	1,133	31. Mombasa Marine N. R	200
17. Mwea N. R.	68	32. Mpunguti Marine N. R.	11
18. Arawale N. R.	533	33. Kiunga Marine N. R.	250
		34. Diani-Chale Marine N. R.	165

National Sanctuary (NS)			
1. Maralal N.S. (Km2)	5	3. Ondago Swamp (ha)	24.8
2. Lake Simbi (Ha)	41.7	4. Kisumu Impala N. S.	0.34