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**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2013**

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**THE WILDLIFE CONSERVATION AND  
MANAGEMENT BILL, 2013**

**A Bill for**

**AN ACT of Parliament to provide for the  
protection, conservation, sustainable use and  
management of wildlife in Kenya and for  
connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Wildlife Conservation and Management Act, 2012, and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette, appoint, and different dates may be appointed for the coming into operation of different provisions.

Short title and commencement.

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

Application.

3.(1) In this Act, unless the context otherwise requires

Interpretation.

“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;

“bio-piracy” means the expropriation of biological resources without fair compensation or sharing of benefits;

“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 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 Order” means a wildlife conservation order issued under section 59 of this Act.

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

“County Wildlife Compensation Committee” means the committee established under the provisions 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;

“dealer” means any person who, in the ordinary course of any business or trade carried on by him; whether on his own behalf or on behalf of any other person-

- (a) sells, purchases, barter or otherwise in any manner deals with any trophy; or
- (b) cuts, carves, polishes, preserves, cleans, mounts or otherwise prepares any trophy; or
- (c) transports or conveys any trophy;

“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” means the Director of the Service appointed under Section 12;

“Directorate” means the Directorate of Wildlife Conservation established under Section 5;

“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, cow, cat, guinea pig, donkey, horse, camel, European rabbit, bull, cow, ox, ram, camel, 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;

“*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 Forests Act, 2005;

“game farming” means to 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 13(5);

“hunt” means and includes-

- (a) to kill, injure, shoot at;
- (b) willfully 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;

“inter-generational” means the conscious endeavor 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;

“Kenya Defence Forces” means the Kenya Defense Forces established under Article 241(1) of the Constitution;

“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 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;

No.11A of 2011

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

No. 8 of 1999.

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

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

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

“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;

“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 under section 7 of this Act;

“specimen” means a portion of quantity of wildlife material for use in testing, examination, education, study or research;

“sport hunting” means authorized pursuit and killing of wildlife for recreation and trophy collection;

“sustainable use” means present use of the wildlife resources, which does not compromise the use of the same by future generations or degrade the carrying capacity of wildlife ecosystems and habitats;

“sustainable management” in relation to wildlife, means management of wildlife resources so as to permit only such use of it as constitutes sustainable use;

“threatened ecosystem” means an ecosystem of high biodiversity value or habitat of endangered or endemic species that is under threat of degradation;

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

“trans-frontier/trans-boundary conservation area” means the area or component of a large ecological region that straddles the boundaries of two or more countries, encompassing one or more protected areas, as well as multiple resource use areas;

“trophy” means any wild species alive or dead and any bone, claw, egg, feather, hair, hoof, skin, tooth, tusk or other durable portion whatsoever of that animal 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;

“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” includes any vertebrate or invertebrate animal or bird and the eggs and young thereof, but does not include a fish, except a fish in a protected area, a domestic animal, or domestic bird, or the eggs or young thereof, or a plant, except a plant in a protected area;

“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 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.

4. The implementation of this Act shall be guided by the following principles-

General 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. There is established a Conservation Directorate at the State Department for the time being responsible for wildlife.

Directorate of Conservation.

6. The principal functions of the Directorate shall include-

Functions of the Directorate.

- (a) exercising supervision and coordination in all matters relating to wildlife policy and legislation and to be the primary instrument of the government in respect thereto;
- (b) formulation of policy for the protection, conservation and management of wildlife;
- (c) setting national goals, objectives, priorities, targets, standards and indicators;
- (d) mainstreaming of wildlife issues into other sectoral policies, programmes and plans;
- (e) promoting cooperation among government departments, counties, private sector, non-



governmental organizations and such other organizations engaged in wildlife protection, conservation and management:

- (f) coordinating the negotiation and implementation of wildlife-related treaties, conventions or agreements, whether bilateral or multilateral;
- (g) coordinating development of the national wildlife conservation and management strategy;
- (h) monitoring the implementation of the National Wildlife Policy, the Strategy and this Act, and performing such other functions as may be assigned under this Act.

## **PART II-ESTABLISHMENT OF THE SERVICE**

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

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.

8. The functions of the Service shall be to -

Functions of the  
Service.

- (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 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, and
- (o) 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.

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

Board of  
Trustees.

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

- (a) a chairperson appointed by the President on the recommendation of the Public Service Commission;
- (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) four other persons appointed by the Cabinet Secretary as follows -
  - (i) one representative from an organisation recognized as an umbrella organization for tourism players in the private sector;
  - (ii) one representative from a national wildlife conservation non-government organization;

(iii) one representative from community managed wildlife areas;

(iv) one representative from privately managed wildlife areas;

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

(3) At their first sitting, the members of the Board of Trustees shall elect a vice-chairperson from among the members appointed under paragraph (2)(g).

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

**10.** 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 fulfillment of its mandate under this Act.

Functions and powers of the Board of Trustees.

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

Meetings of the Board of Trustees.

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

Appointment of the Director.

(2) The Director 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 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.

**13.(1)** The Board of Trustees may, on such terms and conditions as it deems fit, appoint-

Officers of the Service.

- (a) such uniformed and disciplined officers of the ranks specified in paragraph (2)(a) (i) Part 1 A of the Second Schedule;
- (b) such officers of the Service as are specified in subparagraph (2)(b) of Part 1 A of the Second Schedule; and

(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 IB 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.

- (a) have such functions as may be prescribed by rules made under this Act.

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

Establishment of offices.

### **PART III – FINANCIAL PROVISIONS**

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

Financial year.

16. (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.

Annual Estimates.

(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 and the county wildlife compensation committees, as the case may be;
- (c) the proper maintenance of the buildings and grounds of the Service;
- (d) the maintenance, repair and replacement of the equipment and other property of the Service; and
- (e) 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 annual estimates shall be approved by the Board, as the case may be, 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. (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.

Accounts and audit.

(2) Within a period of three months from the end of each financial year, the Service shall submit to the

Controller and 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 Compensation Fund during the year; and
- (b) a statement of the assets and liabilities of the Service or the Compensation Fund on the last day of the year.

No.8 of 2012.

(3) The accounts of the Service and the Funds shall be audited in accordance with the Public Financial Management Act, 2012.

#### PART IV – THE WILDLIFE REGULATORY COUNCIL

**18.** There is hereby established a Council to be known as the Wildlife Regulatory Council, which shall be a body corporate with perpetual succession and a common seal.

Wildlife  
Regulatory  
Council.

**19.(1)** The functions of the Council shall be to -

Object and  
purpose of the  
Council.

- (a) identify and determine categories of user rights;
- (b) grant wildlife user rights, in accordance with Article 69 (1) of the Constitution, including rights for
  - (i) keeping wildlife as a form of land use;
  - (ii) culling;
  - (iii) cropping;
  - (iv) research; and
  - (v) tourism.
- (c) issue permits and licences
- (d) monitor the activities of licensees to enforce compliance with the licence terms and conditions in line with the law;
- (e) assess and monitor wildlife conservation activities, including activities being carried out by the Service, local authorities, communities and non-governmental

organizations, in order to ensure that sound wildlife conservation principles and practices are adhered to;

- (f) develop standards and guidelines for wildlife utilization;
- (g) formulate standards and prescribe measures for sustainable wildlife conservation and management countrywide;
- (h) formulate mechanisms and prescribe measures for granting user rights;
- (i) arbitrate and mediate in conflicts in the wildlife sector in line with established rules and regulations; including alternative dispute resolution;
- (j) collaborate with the Service and relevant lead agencies, to regulate all aspects of benefit sharing in the sector;
- (k) promote and undertake public awareness programmes intended to enhance sustainable management and conservation of wildlife; and
- (l) perform such other functions as are incidental or auxiliary and appurtenant thereto.

(3) The Council shall have all the powers necessary for the performance of its functions under this Act.

**20.** The Council shall consist of-

Members of the Council.

- (a) a chairperson duly recruited and appointed by the President in accordance with the law;
- (b) the Principal Secretary in the Department for the time being responsible for wildlife, or a representative designated in writing by the Principal Secretary;
- (c) the Principal Secretary in the National Treasury or a representative designated in writing by the Principal Secretary;
- (d) a representative of the National Land Commission;



- (e) the Chief Executive Officer of the Council, who shall be the secretary;
- (f) one representative nominated by the Kenya Private Sector Alliance and appointed by the Cabinet Secretary;

**21.** The Council shall have all the powers necessary for the performance of the functions of the Council under this Act and in particular, but without prejudice to the generality of the foregoing, the Council shall have power to-

Powers of the Council.

- (a) manage, control administer the assets of the Council in such manner and for such purposes as best promote the purposes for which the Council is established;
- (b) receive any gifts, grants, donations or endowments made to the Council or any other monies in respect of the Council and make disbursements therefrom in accordance with the provisions of this Act;
- (c) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Council;
- (d) open a banking account or banking accounts for the funds of the Council; and
- (e) invest any monies of the Council not immediately required for the purposes of this Act in such securities as the Treasury may, from time to time, approve.

**22.** The Council may appoint such officers or servants as are necessary for the proper discharge of the functions of the Council under this Act or any other written law, upon such terms and conditions of service as the Council may determine.

Staff of the Council.

**23. (1)** The funds of the Council shall consist of -

Funds of the Council.

- (a) such moneys or assets as may accrue to or vest in the

Council in the exercise of its powers or the performance of its functions under this Act;

- (b) such sums as may be payable to the Council pursuant to this Act or any other written law, or pursuant to any gift or trust;
- (c) such moneys as may be provided by Parliament for the purposes of the Council; and
- (d) all other moneys from any other source provided for or donated or lent to the Council.

(2) The financial provisions of Part III of this Act shall apply, *mutatis mutandis*, to the Council.

24. Each County shall have a County Wildlife Conservation Committee, which shall consist of –

County Wildlife Conservation Committees,

- (a) a chairman appointed by the Service through a competitive process, who shall have at least ten years' experience in wildlife conservation and management;
- (b) a representative of the county government ;
- (c) an agricultural officer based in the county;
- (d) a land use planning officer responsible for the county;
- (e) a livestock officer responsible for the county;
- (f) the officer of the Service responsible for the county, who shall be the secretary; and
- (g) four persons, not being public officers, knowledgeable in wildlife matters and nominated by the community wildlife associations within the area through an elective process.

25. The functions of the County Wildlife Conservation Committee shall be to-

Functions of County Wildlife Conservation Committees.

- (a) implement the registration and establishment of wildlife user rights as provided for under this Act;
- (b) oversee the preparation and implementation of management plans on community and private land under the provisions of this Act;
- (c) ensure that benefits derived from the use of wildlife resources are distributed in accordance with the provisions of this Act;
- (d) bring together all relevant stakeholders within the county to actively harness their participation in the planning and implementation of projects and programmes related to the protection, conservation and management of wildlife resources in the county;
- (e) review and make appropriate recommendations on ecosystem based management plans produced by the Service;
- (f) participate at the county level in land use planning initiatives and in consultation with all relevant stakeholders with particular regard to critical wildlife habitats, corridors and dispersal areas for the better management and conservation of wildlife;
- (g) monitor the implementation of management plans for any relevant national park in collaboration with the national park advisory committee.

26. The 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.

Committee may invite experts.

27. A member of the County Wildlife Conservation Committee shall be entitled to be paid such allowances as

Remuneration of Committee members.

the Salaries and Remuneration Commission may determine.

28. (1) No person may, without a permit from the Service—

Bioprospecting.

- (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.

(2) 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.
- (3) 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.
- (4) The Service shall, in all bio-prospecting involving any wildlife resources, be a joint partner on behalf of the people of Kenya.
- (5) 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 General Fund

established under the provisions of this Act.

(6) 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.

(7) Any person who contravenes any provisions of this section or the rules made there-under shall be guilty of an offence.

### **PART V—ESTABLISHMENT OF WILDLIFE ENDOWMENT FUND AND COMPENSATION SCHEME**

**29.** The Service shall establish a Wildlife Endowment Fund and which shall be vested in the Board of Trustees.

The Wildlife  
Endowment  
Scheme

(2) There shall be paid into the Endowment Fund –

(a) moneys appropriated by Parliament for purposes of the Endowment Fund;

(b) a proportion of such moneys as may be levied for payment of environmental services by beneficiaries in productive and service sectors as a contribution towards the Endowment Fund as the Cabinet Secretary may, upon the recommendation of the Service, determine;

(c) income from investments made by the Board of Trustees of the Endowment Fund; and such grants, donations, bequests or other gifts as may be made to the Endowment Fund; and

(d)

(d) Such grants, donations, bequests or other gifts as may be made to the Endowment Fund.

**30.** The Government shall establish a Wildlife Compensation Scheme that shall consist of—

The Wildlife  
Compensation  
Scheme.

- (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*

31. 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 Committee within the jurisdiction established under this Act.

Compensation for personal injury or death or damage to property.

(2) The County Wildlife Compensation Committee established under section 32 shall verify the claim and with their recommendations submit the same to the Service for due consideration and where appropriate, make payment, which payment shall not exceed one million shillings:

Provided that no compensation shall be payable where the injury or death occurred in the course of any conduct on the part of the person concerned which would constitute an offence under this Act.

(3) 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 Compensation Committee who shall verify the claim and make recommendations as appropriate and submit it to the Service for

due consideration.

(4) A 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.

(5) A person who is dissatisfied with the decision and award, of the Compensation Committee may within thirty days after being notified of the decision and award, file an appeal to the National Environment Tribunal, and, where circumstances so demand to Environment and Land Court.

(6) 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.

32. (1) Each County shall establish a Wildlife Compensation Committee, whose functions shall include –

County Wildlife  
Compensation  
Committee.

(a) developing and implementing, in collaboration with community wildlife associations, mechanisms for mitigation of human-wildlife conflicts;

(b) reviewing and recommending claims resulting from loss or damage caused by wildlife for payment of compensation ;

(c) undertaking education, extension services and public awareness and,

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

(2) A County Wildlife Compensation Committee shall consist of –



- (a) the county Governor or his representative;
- (b) the County Agricultural Officer;
- (c) the County Medical Officer or Health;
- (d) the County Livestock Officer or Veterinary Officer;
- (e) the Officer in charge of County Police matters;
- (f) a County Wildlife Warden from the Service who shall be the Secretary;
- (g) a County Environment Officer; and
- (h) two persons knowledgeable in wildlife matters nominated by the local wildlife community associations from whom there shall be elected a chairperson of the Committee.

## **PART VI—CONSERVATION, PROTECTION AND MANAGEMENT**

**33.**(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 Coordination Act.

Environment law to apply.

No. 8 of 1999.

(2) The provisions of the Environmental Management and Coordination Act, 1999 regarding reference to the Tribunal established under that Act shall apply to hearing of appeal arising from the decisions made under this Act.

**34.**(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.

No exemption from environment law to be granted.

(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 Coordination Act, 1999 has not been complied with.

**35.** 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, 2002 concerning the right to the use of water from any water resource, reservoir or point.

Water Act to apply

**36.** 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.

Requirement for sustainable use

**37.** 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.

Prohibition

**38.** (1) The Cabinet Secretary, may in consultation with the Competent Authority by notice in the gazette:

Declaration of protected areas

- (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
- (2) Provided no notice may be gazetted where—
- (a) the relevant provisions of the Environmental Management and Co-ordination Act, 1999 have not been complied with
  - (b) no public participation has occurred
  - (c) no challenge by any person is active.

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

Declaration of a national park.

- (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.

(4) 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.

**40.** (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.

Conservation and management of wetlands.

(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.

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

Establishment of  
conservancy or  
sanctuary

42. (1) 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;

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

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.

(2) 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 Coordination Act, 1999; and
- (c) public consultation in accordance with the Fourth Schedule has been undertaken in relation to the proposal.

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

Exchange of part  
of a national park.

No.8 of 1999

- (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 Coordination Act, 1999, 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.

44. (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.

Donations and bequests

(2) The wildlife conservation area established on the land so donated or bequeathed shall be gazetted in accordance with this Act as a national park, county park, conservancy or sanctuary.

(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.

45. (1) Where the County Wildlife Conservation 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 Committee shall work with the registered users with regard to discussing and monitoring the management situation and making suitable recommendations which may include -

Standards of management.

- (a) action to be undertaken by the registered user
- (c) 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 sub-

section 1(b) or 1(c), any reasonable expenses incurred by the Service may be deducted from any profits accruing to the Wildlife Conservancy or Sanctuary.

**46.** (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.

Management  
Plans

(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.

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

Consent for  
mining and  
quarrying.

(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 Coordination Act, 1999;

- (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 rehabiitate the site upon completion of his operation to a level prescribed by the Service;

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.

48. (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.

Protection of endangered and threatened ecosystems.

(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.

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

Endangered and threatened species.

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

Restricted activities involving listed species.

(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.

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

Species recovery plans.

(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 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 cooperation 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—CONSERVATION ORDERS, EASEMENTS AND INCENTIVES**

### *Wildlife Conservation Orders and Easements*

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

Conservation orders and easements.

(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.

(3) 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.

(4) 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.

**54.(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

Application for wildlife conservation orders and 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.

**54.(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.

Proceedings to enforce wildlife conservation orders and easements.

(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.

**55.(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

Registration of wildlife conservation orders and easements.

(2) Where an order or easement is created on any land other than land referred to in subsection (1), the County Wildlife Conservation 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.

**56.**(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).

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

Incentives and Benefit Sharing.

(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 Council.

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

Right to reasonable access.

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

59.(1) Utilisation and exploitation of wildlife resources by any party whether individual land owner or in a conservation area, and wherever else shall be practised in a manner that is sustainable.

Sustainable utilization and exploitation.

(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.

60. The Council, 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.

Council may make Regulations

61.(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.

Migration of Wildlife.

(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 Council which will consider granting approval for the same.

**62.**(1) 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:

Mutual co-existence

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.

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

Guidelines on incentives and benefit-sharing.

(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.

#### **PART VIII—HUMAN/ WILDLIFE CONFLICT**

**64.**(1) Any 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:

Problem animals.

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. 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 fort-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.

65. (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.

Unlawful wounding of animals

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

### PART IX-LICENSING AND REGULATION

66. 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.

Licensing.

67.(1) The Council may, upon successful registration of

Wildlife User Rights.



the applicant with the county wildlife conservation 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 should 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 Council may, upon successful registration of the applicant with the County Wildlife Conservation 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.

**68.(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.

Assignment of  
wildlife user  
rights.

(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.

(4) 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.

69. (1) The Council may withdraw a particular wildlife user right granted under this Act where-

Withdrawal of  
wildlife user  
rights.

- (a) the licensee is in breach of the terms and conditions thereof;
- (b) it considers such action as necessary for purposes of protecting and conserving wildlife; or
- (c) the licensee so requests.

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

(3) Where the licensee is aggrieved by the decision of the Service the licensee may, within thirty days after being notified of the decision, appeal to the National Environment Tribunal established under the Environmental Management and Coordination Act, 1999 or seek further redress in the Environment and Land Court.

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

Government  
trophies.

- (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 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.

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

Dealing in trophies.

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

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

Application and issuance of a permit.

(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.

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

(3) 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.

73. The Council may revoke a permit issued under section 82 where it finds that the permit holder is not complying with the terms and conditions of the permit.

Revocation of a permit.

74.(1) The Council shall maintain registers of -

Records and registration of permits and licenses.

- (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 X—OFFENCES AND PENALTIES**

75. Any person who-

Offences relating to management plans.

- (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 and is liable upon conviction to a fine of not less than five hundred thousand shillings or to imprisonment of not less than two years or to both such fine and imprisonment.

**76. (1) Any person who-**

Offences relating to pollution.

- (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.

**77. Any person who-**

Offences relating to conservation orders and easements.

- (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.

Offences relating to licenses and permits.

**78.** 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 license 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.

**79.** Any person who commits an offence in respect of an endangered or threatened species or in respect of any trophy of that endangered or threatened species shall be liable upon conviction to a fine of not less than ten million shillings or to imprisonment of not less than fifteen years or to both such fine and imprisonment.

Offences relating to endangered and threatened species.

**80.** 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.

Offences relating to invasive species.

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.

**81.(1)** 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 -

Offences relating to flying aircraft in wildlife conservation areas.

- (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.

**82.** Any person who keeps or is found in possession of a wildlife trophy or deals in a wildlife trophy, or manufactures any item from a trophy without a permit issued under this Act or exempted in accordance with any other provision of this Act, commits an offence and shall be liable upon conviction to a fine of not less than one million shillings or imprisonment for a term of not less than five years or to both such imprisonment and fine.

Offences relating to trophies and trophy dealing.

**83.** A person who engages in sport hunting or any other recreational hunting commits an offence and shall be liable on conviction -

Offences relating to sport hunting.

- (a) to a fine of not less than three million shillings or imprisonment for a term not less than five years or

to both such fine and imprisonment for category (A) wildlife;

(c) to a fine of not less than five million shillings or to imprisonment for a term of not less than five years or to both such fine imprisonment for category (B) wildlife;

(d) to a fine of not less than two hundred thousand shillings or to imprisonment for a term not less than one year or to or to both such fine and imprisonment for category (C) wildlife;

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

**84.** A person who engages in hunting 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.

Offences relating to subsistence hunting.

**85.** A person who engages in hunting for bush-meat trade, commits an offence and shall be liable on conviction to a fine of not less than two hundred thousand shillings or to imprisonment for a term not less than one year or to both such fine and imprisonment.

Offences relating to hunting for bush-meat trade.

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

Import and export.

(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 sea;



- (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) and (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) Any person who contravenes any provisions of this section commits an offence and shall be liable upon conviction for category (A) wildlife to a fine of not less than ten million shillings or to imprisonment for not less than five years and for other wildlife categories to a fine of not less than one million shillings or to imprisonment of not less than two years or to both such imprisonment and fine.

87. Any person who makes a false claim or makes a false statement to the County Wildlife Compensation Committee or the Service in respect of a wildlife damage claim shall be committing an offence 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.

Offences relating  
to compensation

88. 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.

Offences relating  
to failure comply  
with a lawful  
order.

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.

89. Any person who-

Breach of protected area regulations.

- (a) enters or resides in a national park or reserve otherwise than under licence, permit or in the course of his duty as authorized officer or a person lawfully employed in the park or reserve, 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;
- (e) willfully 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 thereof in the course of his duty thereof from wildlife protected areas;
- (f) grazes in the national park without authority;
- (g) Undertakes any extractive activity in marine protected areas; or,
- (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.

90. (1) When an offence against this Act, is committed by a body corporate, the body corporate and every director

Offences by bodies corporate.

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.

**91.** 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.

General provisions.

**92.** (1) The Court before which a person is charged for an offence under this Act or any regulations made there-under may, in addition to any other order -

Forfeiture.

- (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.

**93.** 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:

Commission of offense in the course of duty

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.

**94.** An authorized officer may apply for leave from the Director of Public Prosecutions under the provisions of an appropriate law, including the Criminal Procedure Code, to conduct a prosecution for any offence committed under this Act.

Prosecutorial powers.

**95.(1)** 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 2011, for appropriate redress.

Restraint of breaches of the Act.

## **PART XI-INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS**

**96.(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.

International Instruments Conventions and agreements ratified by Kenya.

(2) 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.

(3) 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.

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

**97.** (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 Committee.

Community  
Wildlife  
Associations and  
Wildlife  
Managers.

(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 sub-section (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 –

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

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

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

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

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

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

(g) any other aspect deemed necessary; and

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

(4) The Council in consultation with the Service shall cause to be kept an up to date record of all approved associations, wildlife managers and wildlife user activities that they are involved in.

98. (1) An association or wildlife manager approved by the Council on the recommendation of the Service in consultation with the county wildlife conservation committees shall:

Functions of community wildlife associations and wildlife managers.

- (a) ensure that the association membership or the wildlife manager protects, conserves and manages wildlife conservancies and sanctuaries under their jurisdiction 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 conservation;
- (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.

## **PART XII—ENFORCEMENT AND COMPLIANCE**

99. An authorized officer may-

Powers of authorized officers.

- (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 sub-section (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 be 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.

**100.** (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.

Erection of a temporary barrier.

(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,

shall be guilty of an offence and liable 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.

101. (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 coordinate 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, 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.
  - (v) In self defense or in defense of another officer or other person
- (b) for the protection of people and property against any animal causing destruction to human life or crops or livestock or property;
- (c) for the protection and safety of visitors against banditry or animals;
- (d) in the course of problem animal control; and
- (e) 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 24 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 48 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, shall be guilty of 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 XIII—MISCELLANEOUS**

**102.** 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.

The Common seal.

**103.** 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.

Protection from personal liability

**104.** The provisions of section 103 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.

Liability for damages.

**105.** 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.

Regulations.

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

Content of Rules and Regulations.

- (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 or 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 shall not apply to rules made under this section.

**106.** (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.

Disputes.

(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 2011.

**107.** (1) The Service shall form part of the auxiliary reserve of the Kenya Defence Forces.

Application of the Service in Defense of the Republic.

(2) The National Security Council may employ the Service in the Defence of the Republic of Kenya in case of war or other emergency.

(3) The National Security Council may in consultation with the Board direct that the uniformed and disciplined officers of the Service undergo such training for such period of time as it may deem necessary with the Kenya Defence Forces.

**108.** The Wildlife (Conservation and Management) Act is repealed.

Repeal of Cap  
376.

**109.** Notwithstanding section 108 -

Transitional  
Provisions.

- (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 Tenth 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; and

- (c) the rules and regulations falling within the ambit of the Wildlife (Conservation and Management) Act, 1976 shall remain in force until replaced under rules and regulations made under this Act.

**FIRST SCHEDULE**

(s.11)

**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.

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

1. (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 chairman an *ex-officio* member may
  - (b) at any time resign from office by notice in writing to the Cabinet Secretary;
  - (c) 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 chairman; or
    - (a) is adjudged bankrupt or enters in to a composition scheme or arrangement with his creditors; or
    - (iii) is convicted of an offence involving fraud or dishonesty; or

- (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; or
- (v) is incapacitated by prolonged physical or mental illness; or
- (vi) is found to have acted in a manner prejudicial to the aims and objectives of this Act; or
- (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.

### ***Meetings of the Board***

2. (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.

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 chairman or the person presiding shall have a casting vote.

The chairperson shall preside over all meetings of the Board in which he is present, but in his absence the vice-chairman 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.



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

***Disclosure and conflict of interest***

3. (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.

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**SECOND SCHEDULE**

(s.13)

**PART 1: PROVISIONS RELATING TO THE OFFICERS OF THE SERVICE**

**4. Officers of the Service**

1. (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
      - Senior Deputy Director (Operations)
      - Senior Deputy Director (Regulations)
      - 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

- B. 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.
- (2) 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.

### **Disciplinary Code and Regulations**

2. (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;  
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.

### ***Insubordinate behavior***

3. (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.

### ***Desertion and Absenteeism***

4. (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 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.

### ***Prohibition from joining trade unions***

5. (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 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 be paid such pension, gratuity, provident fund or any other scheme operated by the Service, less liabilities due to the Service.
2. 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.

**Definition**

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

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**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.31)****WILDLIFE SPECIES IN RESPECT OF WHICH COMPENSATION  
MAY BE PAID****A. Death and Injury**

Elephant  
Lion  
Leopard  
Rhino  
Hyena  
Crocodile  
Cheetah  
Buffalo  
Snakes  
Hippo  
Shark  
Stone Fish  
Whale  
Sting ray  
Wild dog

**B. Crop, livestock and property damage**

Elephant  
Lion  
Leopard  
Rhino  
Hyena  
Crocodile  
Cheetah  
Buffalo  
Hippo  
Zebra  
Eland  
Wildebees  
SnakeWild dog

**FOURTH SCHEDULE**

**(s.42(2)(c))**

**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 –
  - (b) any written comments or objections received on or before the date specified under paragraph 1(2) (e); and
  - (c) 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.46)

### 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.
- (4) It must also be recognized that excessive non-consumptive use can be detrimental to wildlife conservation and management

#### 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 neighboring 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;

proof of compliance with the ninth Schedule 10 and any other legal requirement set out in this Act;

## SIXTH SCHEDULE

(s.49)

### NATIONALLY LISTED CRITICALLY ENDANGERED, VULNERABLE, NEARLY THREATENED AND PROTECTED SPECIES

#### (A) MAMMALS .

Category and species name	Common name
<b>Critically Endangered</b>	
<i>Cephalophus adersi</i>	Aders' duiker
<i>Diceros bicornis</i>	Black rhinoceros
<i>Beatragus hunter</i>	Hirola
<i>Procolobus rufomitratu</i>	Eastern red colobus
<i>Cercocebus galeritus</i>	Tana crested mangabey
<i>Hippotragus equines</i>	Roan antelope
<i>Hippotragus niger</i>	Sable antelope
<b>Endangered</b>	
<i>Ceratotherium simum simum</i>	White rhino
<i>Balaenoptera borealis</i>	Coalfish whale
<i>Balaenoptera musculus</i>	Blue whale
<i>Equus grevyi</i>	Grevy's zebra
<i>Lycaon pictus</i>	African wild dog
<i>Grammomys gigas</i>	Giant thicket rat
<i>Otomys barbouri</i>	Barbour's vlei rat
<i>Otomys jacksoni</i>	Mount elgon vlei rat
<i>Rhynchocyon chrysopygus</i>	Golden-rumped elephant shrew
<i>Tragelaphus eurycerus isaaci</i>	Eastern bongo
<i>Loxodonta Africana</i>	African elephant
<i>Panthera leo</i>	African lion
<i>Acinonyx jubatus</i>	Cheetah
<i>Hyaena Hyaena</i>	Striped hyaena

Category and species name	Common name
<i>Tragelaphus speki</i>	Sitatunga
<i>Panthera pardus</i>	Leopard
<i>Alcelaphus buselaphus</i>	Lelwel hartebeest
<i>Giraffa camelopardalis rothschildi</i>	Rothschild's giraffe
	Giant forest hog
<b>Vulnerable</b>	
<i>Cloeotis percivali</i>	Percival's trident bat
<i>Hippopotamus amphibious</i>	Common hippopotamus
<i>Myonycteris relicta</i>	East african little collared fruit bat
<i>Megaptera novaeangliae</i>	Hump whale
<i>Dugong dugong</i>	Dugong
<i>Physeter macrocephalus</i>	Sperm whale
<i>Bdeogale jacksoni</i>	Jackson's mongoose
<i>Rhynchocyton petersi</i>	Black and rufous elephant shrew
<i>Pelomys hopkinsi</i>	Hopkins's groove-toothed swamp rat
<i>Taphozous hildegardeae</i>	Hildegard's tomb bat
<i>Gazella soemmerringii</i>	Soemmerring's gazelle
<i>Profelis aurata</i>	African golden cat
<i>Rhinopoma macinnesi</i>	Macinnes's mouse-tailed bat
<i>Surdisorex norae</i>	Aberdare shrew
<i>Surdisorex polulus</i>	Mt. Kenya shrew
<i>Tachyoryctes audax</i>	Audacious mole rat
<i>Mastomys pernanus</i>	Dwarf multimammate mouse
<i>Myonycteris relicta</i>	East african little collared fruit bat
<i>Dendrohyrax validus</i>	Eastern tree hyrax
<i>Crocidura elgonius</i>	Elgon shrew
<i>Crocidura fischeri</i>	Fischer's shrew
<i>Taphozous hamiltoni</i>	Hamilton's tomb bat
<i>Crocidura allex</i>	Highland shrew
<i>Taphozous hildegardeae</i>	Hildegard's tomb bat
<i>Tadarida lobata</i>	Kenyan big-eared free-tailed bat
<i>Otomops martiensseni</i>	Large-eared free-tailed bat
<i>Otomops martiensseni</i>	Large-eared free-tailed bat

Category and species name	Common name
<i>Beamys hindei</i>	Lesser hamster-rat
<i>Paraxerus palliatus</i>	Red bush squirrel
<i>Crocidura monax</i>	Rombo shrew
<i>Crocidura fumosa</i>	Smoky white-toothed shrew
<i>Physeter catodon</i>	Sperm whale
<i>Lutra maculicollis</i>	Spotted-necked otter
<i>Pedetes capensis</i>	Springhare
<i>Crocidura xantippe</i>	Vermiculate shrew
<i>Crocuta crocuta</i>	Spotted hyaena
<i>Tragelaphus imberbis</i>	Lesser kudu
<i>Tragelaphus strepsiceros</i>	Greater kudu

**(B) BIRDS**

Category and Species Name	Common Name
<b>Critically Endangered</b>	
<i>Apalis fuscigularis</i>	Taita Apalis
<i>Turdus helleri</i>	Taita Thrush
<b>Endangered</b>	
<i>Ardeola idea</i>	Madagascar Pond-heron
<i>Falco cherrug</i>	Saker Falcon
<i>Neophron percnopterus</i>	Egyptian Vulture
<i>Otus ireneae</i>	Sokoke Scops-owl
<i>Cisticola aberdare</i>	Aberdare Cisticola
<i>Acrocephalus griseldis</i>	Basra Reed-warbler
<i>Eremomela turneri</i>	Turner's Eremomela
<i>Zoothera guttata</i>	Spotted Ground-thrush
<i>Anthreptes pallidigaster</i>	Amani Sunbird
<i>Ploceus golandi</i>	Clarke's Weaver
<i>Macronyx sharpie</i>	Sharpe's Longclaw
<i>Anthus sokokensis</i>	Sokoke Pipit
<b>Vulnerable</b>	
<i>Falco naumanni</i>	Lesser Kestrel
<i>Trigonoceps occipitalis</i>	White-headed Vulture
<i>Torgos tracheliotos</i>	Lappet-faced Vulture

Category and Species Name	Common Name
<i>Aquila clanga</i>	Greater Spotted Eagle
<i>Aquila heliaca</i>	Eastern Imperial Eagle
<i>Glareola ocularis</i>	Madagascar Pratincole
<i>Hirundo atrocaerulea</i>	Blue Swallow
<i>Apalis chariessa</i>	White-winged Apalis
<i>Apalis karamojae</i>	Karamoja Apalis
<i>Chloropeta gracilirostris</i>	Papyrus Yellow Warbler
<i>Turdoides hindei</i>	Hinde's Pied-babbler
<i>Cinnyricinclus femoralis</i>	Abbott's Starling
<i>Muscicapa lendu</i>	Chapin's Flycatcher
<b>Near Threatened</b>	
<i>Fringilla monticola</i>	Ring-necked Francolin
<i>Oxyura maccoa</i>	Maccoa Duck
<i>Phoeniconaias minor</i>	Lesser Flamingo
<i>Falco vespertinus</i>	Red-footed Falcon
<i>Falco concolor</i>	Sooty Falcon
<i>Falco fasciinucha</i>	Taita Falcon
<i>Gyps africanus</i>	White-backed Vulture
<i>Gyps rueppellii</i>	Rueppell's Vulture
<i>Circaetus fasciolatus</i>	Southern Banded Snake-eagle
<i>Circus macrourus</i>	Pallid Harrier
<i>Neotis denhami</i>	Denham's Bustard
<i>Crex crex</i>	Corncrake
<i>Balearica pavonina</i>	Black Crowned-crane
<i>Charadrius pallidus</i>	Chestnut-banded Plover
<i>Gallinago media</i>	Great Snipe
<i>Limosa limosa</i>	Black-tailed Godwit
<i>Numenius arquata</i>	Eurasian Curlew
<i>Larus leucophthalmus</i>	White-eyed Gull
<i>Rynchops flavirostris</i>	African Skimmer
<i>Streptopelia reichenowi</i>	White-winged Collared-dove
<i>Psittacus erithacus</i>	Grey Parrot
<i>Tauraco fischeri</i>	Fischer's Turaco
<i>Coracias garrulous</i>	European Roller

Category and Species Name	Common Name
<i>Prionops poliophus</i>	Grey-crested Helmet-shrike
<i>Laniarius mufumbiri</i>	Papyrus Gonolek
<i>Sheppardia gunning</i>	East Coast Akalat
<i>Ficedula semitorquata</i>	Semi-collared Flycatcher
<i>Anthreptes reichenowi</i>	Plain-backed Sunbird
<i>Euplectes jacksoni</i>	Jackson's Widowbird
<i>Anthus melindae</i>	Malindi Pipit
<b>Protected species</b>	
<i>Struthio camelus</i>	Ostrich
<i>Sagittarius serpentarius</i>	Secretary Bird
<i>Francolinus streptophorus</i>	Ring-necked Francolin
<i>Podiceps cristatus</i>	Great Crested Grebe
<i>Ephippiorhynchus senegalensis</i>	Saddle-billed Stork
<i>Bostrychia olivacea</i>	Olive Ibis
<i>Ardea alba</i>	Great White Egret
<i>Anhinga rufa</i>	African Darter
<i>Haliaeetus vocifer</i>	African Fish Eagle
<i>Trigonoceps occipitalis</i>	White-headed Vulture
<i>Aquila ayresii</i>	Ayres's Hawk-Eagle
<i>Polemaetus bellicosus</i>	Martial Eagle
<i>Stephanoaetus coronatus</i>	Crowned Eagle
<i>Neotis denhami</i>	Denham's Bustard
<i>Sarothrura affinis</i>	Striped Flufftail
<i>Porzana pusilla</i>	Baillon's Crake
<i>Podica senegalensis</i>	African Finfoot
<i>Balearica regulorum</i>	Grey Crowned Crane
<i>Turnix hottentotus</i>	Black-rumped Buttonquail
<i>Bubo capensis</i>	Cape Eagle-Owl
<i>Glaucidium tephronotum</i>	Red-chested Owlet
<i>Apus niansae</i>	Nyanza Swift
<i>Alcedo quadibrachys</i>	Shining-blue Kingfisher
<i>Phoeniculus castaneiceps</i>	Forest Wood-hoopoe
<i>Phoeniculus damarensis</i>	Violet Wood-hoopoe
<i>Lanius dorsalis</i>	Taita Fiscal

Category and Species Name	Common Name
<i>Ptilostomus afer</i>	Piapiac
<i>Galerida theklae</i>	Thekla Lark
<i>Hyltiota australis</i>	Southern Hyltiota
<i>Illadopsis rufipennis</i>	Pale-breasted Illadopsis
<i>Buphagus erythrorhynchus</i>	Red-billed Oxpecker
<i>Buphagus africanus</i>	Yellow-billed Oxpecker
<i>Cinnyris tsavoensis</i>	Tsavo Sunbird
<i>Passer rufocinctus</i>	Kenya Rufous Sparrow
<i>Ploceus casianeiceps</i>	Taveta Golden Weaver
<i>Crithagra koliensis</i>	Papyrus Canary
<i>Erythrocerus holochlorus</i>	Yellow flycatcher

## (C) Reptiles

Category and Species Name	Common Name
<b>Critically Endangered</b>	
<i>Eretmochelys imbricate</i>	Hawksbill turtle
<i>Petropedetes dutoiti</i>	Du Toit's Torrent Frog
<b>Endangered</b>	
<i>Chelonia mydas</i>	Green turtle
<i>Lepidochelys olivacea</i>	Olive ridley
<i>Python sebae</i>	Rock python
<i>Afrixalus sylvaticus</i>	Shimba Hills banana frog
<i>Hyperolius rubrovermiculatus</i>	Shimba Hills reed frog
<i>Afrixalus sylvaticus</i>	Forest frog
<i>Hyperolius rubrovermiculatus</i>	Treefrog
<i>Phrynobatrachus irangi</i>	Mount Kenya Frog
<b>Threatened</b>	
<i>Malacochersus tornieri</i>	Crevice tortoise
<i>Pelusios broadleyi</i>	Turkana mud turtle
<i>Bufo kerinyagae</i>	Montane toad
<b>Vulnerable</b>	
<i>Hyperolius cystocandicans</i>	Montane Tree Frog
<i>Atheris desaixi</i>	Mt. Kenya bush viper



Category and Species Name	Common Name
<b>Protected species</b>	
<i>Lepidochelys kempii</i>	Kemp's ridley
<i>Chelonia agassizi</i>	Black turtle
<i>Caretta caretta</i>	Loggerhead
<i>Dermochelys coriacea</i>	Leatherback
<i>Pelusios castanoides</i>	Yellow-bellied hinged terrapin
<i>Hemidactylus modestus</i>	tropical geckos
<i>Hemidactylus platycephalus</i>	Baobab gecko
<i>Lygosoma tanae</i>	Writhing skink
<i>Gastropholis prasina</i>	Keel-bellied lizard
<i>Cordylus tropidosternum</i>	Girdled-lizard
<i>Leptotyphlops boulengeri</i>	Worm snakes
<i>Aparallactus turneri</i>	Günther's centipede-eater
<i>Dasypeltis medici</i>	East African egg eating snakes
<i>Naja ashei</i>	Large brown spitting cobra
<i>Naja nigricollis</i>	Black necked spotters
<i>Varanus albigularis</i>	Savannah monitor lizard
<i>Philothamnus punctatus</i>	Speckled bush snake
<i>Bitis arietans</i>	Puff adder
<i>Dendroaspis angusticeps</i>	Green mamba
<i>Bufo nairobiensis</i>	Nairobi toad
<i>Leptopelis argenteus</i>	Silvery tree frog
<i>Bufo taitanus</i>	Taita toad
<i>Leptopelis flavomaculatus</i>	Yellow-spotted tree frog
<i>Bufo turkanae</i>	Turkana Toad
<i>Afrivalus delicatus</i>	Delicate Spiny Reed Frog
<i>Hyperolius marmoratus</i>	Painted Reed Frog
<i>Hyperolius nasutus</i>	Long Reed Frog
<i>Hyperolius puncticulatus</i>	Spotted Reed Frog
<i>Hyperolius pusillus</i>	Water Lily Reed Frog
<i>Eryx colubrinus</i>	Kenya sand boar
<i>Chamaeleo bitaeniatus</i>	Side-striped chameleon
<i>Chamaeleo dilepis</i>	Flap-neck Chameleon

Category and Species Name	Common Name
<i>Chamaeleo ellioti</i>	Elliot's Chameleon
<i>Chamaeleo Hohnelii</i>	High Casqued Chameleon
<i>Chamaeleo jacksoni</i>	Jackson's Chameleon (Three-horned Chameleon)
<i>Chamaeleo schubotzi</i>	Mount Kenya Chameleon
<i>Bitis gabonica gabonica</i>	Gaboon Viper
	Black and Red Skink

**(D) Fish**

Category and species name	Common name
<b>Critically Endangered</b>	
<i>Oreochromis esculentus</i>	Singidia tilapia
<i>Oreochromis hunter</i>	Lake chala tilapia
<i>Oreochromis jipe</i>	Jipe tilapia
<i>Oreochromis variabilis</i>	Victoria tilapia
<i>Ptyochromis sp. nov.</i>	Rainbow sheller
<i>Xenoclaris eupogon</i>	Lake victoria deepwater catfish
<i>Platycephalus amboniensis</i>	Montane dancing-jewel
<b>Endangered</b>	
<i>Alcolapia alcalicus</i>	Magadi tilapia
<i>Cheilinus undulates</i>	Giant wrasse
<i>Marcusenius victoriae</i>	Victoria stonebasher
<i>Xystichromis nuchisquamulatus</i>	Kyoga flameback
<b>Vulnerable</b>	
<i>Carcharias Taurus</i>	Grey nurse shark
<i>Thunnus obesus</i>	Bigeye tuna
<i>Rhincodon typus</i>	Whale shark
<i>Urogymnus asperrimus</i>	Porcupine ray
<i>Carcharhinus longimanus</i>	Oceanic whitetip shark
<i>Carcharodon carcharias</i>	Great white shark
<i>Rhina ancylostoma</i>	Bowmouth guitarfish
<i>Taeniura meyeni</i>	Black-blotched stingray
<i>Rhynchobatus djiddensis</i>	Giant guitarfish
<i>Pseudoginglymostoma</i>	Shorttail nurse shark

<i>brevicaudatum</i>	
<i>Epiplatys lanceolatus</i>	Brindle bass
<i>Nothobranchius patrizii</i>	Blue notho
<i>Nothobranchius bojiensis</i>	Boji plains nothobranch
<i>Nothobranchius elongates</i>	Elongate nothobranch
<i>Labeo percivali</i>	Ewaso nyiro labeo

**(E) TREES**

Category and species name	Common name
<b>Endangered</b>	
<i>Encephalartos kisambo</i>	Voi cycad
<i>Osyris lanceolata</i>	East african sandalwood
<b>Vulnerable</b>	
<i>Prunus Africana</i>	Red stinkwood
<i>Vitex keniensis</i>	Meru oak
<i>Ocotea kenyensis</i>	Camphor
<i>Polyscias kikuyuensis</i>	Parasol tree
<i>Aloe ballyi</i>	Rat aloe
<i>Populus ilicifolia</i>	Tana river poplar

**SEVENTH SCHEDULE****(s.51(1))****NATIONAL LIST OF INVASIVE SPECIES****A. Mammals**

Species name	Common name
<i>Myocastor coypus</i>	Coypu rat

**B. Birds**

Species name	Common name
<i>Colius striatus</i>	Speckled Mousebird
<i>Phasianus colchicus</i>	Ring-necked pheasant
<i>Cygnus olor</i>	Mute Swan
<i>Fringilla coelebs</i>	Chaffinch
<i>Carpodacus mexicanus</i>	House Finch

Species name	Common name
<i>Acridotheres tristis</i>	Common Indian Myna
<i>Psittacula krameri</i>	Rose-ringed (Ring-necked) Parakeet
<i>Sturnus vulgaris</i>	Common (European) Starling
<i>Columba livia</i>	Rock Dove (Feral pigeon)
<i>Ptilinopus pulchellus</i>	Beautiful fruit dove
<i>Ptilinopus leclancheri</i>	Black-chinned fruit dove
<i>Ptilinopus coronulatus</i>	Coroneted fruit dove
<i>Ptilinopus roseicapilla</i>	Mariana fruit dove
<i>Ptilinopus perlatus</i>	Pink-spotted fruit dove
<i>Ptilinopus magnificus</i>	Wompoo fruit dove
<i>Colius striatus</i>	Speckled Mousebird
<i>Corvus splendens</i>	House Crow
<i>Quelea quelea</i>	Red-billed Quelea

### C. Reptiles and Amphibians

Species name	Common name
<i>Agama agama</i>	Red-headed agama lizard
<i>Sphenodon guntheri</i>	Brother's Island tuatara lizard
<i>Aspidooscelis hyperythra beldingi</i>	Orange-throated whiptail lizard
<i>Lampropholis delicata</i>	Rainbow kopje skink
<i>Boiga irregularis</i>	Brown tree snake
<i>Crotalus exsul</i>	Red diamond rattlesnake
<i>Geochelone platynota</i>	Burmese star tortoise

### D. Plants

Species name	Common name
<i>Prosopis juliflora</i>	Mathenge (Velvet mesquite)
<i>Lantana camara</i>	Tickberry
<i>Pistia stratiotes</i>	Nile Cabbage
<i>Thevetia peruviana</i>	Yellow oleander
<i>Caesalpinia decapeltata</i>	Mauritius thorn
<i>Datura stramonium</i>	Jimsonweed

Species name	Common name
<i>Tecoma stans</i>	Yellow bells
<i>Argemone mexicana</i>	Mexican poppy
<i>Opuntia exaltata</i>	Long spine cactus
<i>Opuntia ficus- indica</i>	Sweet prickly pear
<i>Opuntia vulgaris</i>	Drooping prickly pear
<i>Eichhornia crassipes</i>	Water hyacinth

E Invertebrates

*Acanthaster planci* – Crown of thorns starfish

## EIGHTH SCHEDULE

(s.67(3))

### LICENCING

#### PART I—CONSUMPTIVE WILDLIFE UTILISATION

##### General

(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 Coordination Act, No. 8 of 1999; 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.

#### **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 is liable on conviction to a fine or to imprisonment for a term 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.83(2))

### **WILDLIFE CATEGORIES IN RELATION TO OFFENCES AND PENALTIES IN SPORT AND RECREATIONAL HUNTING**

#### **Category A**

*Critically endangered mammals as set out in the fifth schedule*

Black Rhinoceros

White Rhinoceros

African Elephant

#### **Category B**

*All other endangered and vulnerable mammals as set out in the fifth 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.109(a))****NATIONAL PARKS, MARINE PROTECTED AREAS AND SANCTUARIES****National Parks (N.P)**

<b>Park Name</b>	<b>Area in Sq. Km</b>		<b>Park Name</b>	<b>Area in Sq. Km</b>
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.	52	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			
10. South Island N.P.	39		<b>Marine Parks</b>	
			Mombasa Marine N. P.	
11. Mt. Longonot N. P.	52	24		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)**

<b>Reserve Name</b>	<b>Area in Sq. Km</b>	<b>Reserve Name</b>	<b>Area in Sq. Km</b>
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
10. North Kitui N. R.	745	28. Laikipia N. R.	165
11. Lake Bogoria N. R.	107		
12. Kamnarok N. R.	87.7	<b>Marine Reserves</b>	
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

<b>National Sanctuary (NS)</b>			
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

## MEMORANDUM OF OBJECTS AND REASONS

The legislative proposal giving rise to this Bill has been submitted by the Cabinet Secretary for Environment, Water and Natural Resources. The principal purpose of this Bill is to provide a legislative framework for the protection, conservation and management of wildlife within, around and throughout the Republic of Kenya.

**Part I** of the Bill provides for preliminary matters, and also sets out the guiding principles for the implementation of the provisions of the Bill. This part provides for the establishment of the Directorate of Conservation within the responsible Ministry.

**Part II** provides for the Bill provides for the establishment and functions of the Kenya Wildlife Service.

**Part III** contains the financial provisions with respect to the service.

**Part IV** provides for the establishment of the Wildlife Regulatory Council and assign its functions and powers. It also provides for the establishment of County Committees for the purpose wildlife conservation.

**Part V** provides for the establishment of the Wildlife Endowment Fund and the Wildlife Compensation Fund. The latter shall be used to compensate persons who suffer loss or damage occasioned by Wildlife.

**Part VI** provides for the enforcement of and compliance with the provisions of the Act.

**Part VII** provides for the conservation protection and management of wildlife.

**Part VIII** provides for the conservation order, easements and incentives for wildlife conservation.

**Part IX** provides for the licensing and regulatory procedures.

**PART X** prescribes offences and penalties.

**PART XI** makes provisions for the observance of conventions and agreements related to wildlife.

**PART XII** provides for the powers of authorized officers in the implementation of the provisions of the Act.

**PART XIII** has miscellaneous provisions, which include the repeal of Cap.376 and transitional provisions.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided for through the estimates.

Dated the 22nd July, 2013.

**ADEN DUALLE,**  
*Leader of the Majority Party.*