



REPUBLIC OF KENYA

THE WILDLIFE BILL, 2011

July 2011

THE WILDLIFE BILL, 2011

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THE WILDLIFE BILL, 2011

A Bill for

AN ACT of Parliament to provide for the protection, conservation, sustainable use and management of wildlife in Kenya; and for all other matters connected therewith and incidental thereto;

RECOGNIZING that wildlife is an important natural resource and national heritage, a public asset at county, national, regional, and global levels and that there is a need for an integrated ecosystem approach to conserving wildlife resources in relation to other forms of land use,

FURTHER RECOGNIZING that wildlife should be utilized in a manner that does not impinge on cultural values, compromise the quality and value of the resource, or degrade the carrying capacity of supporting ecosystems,

ACKNOWLEDGING that a coordinated and participatory approach to wildlife conservation and management is essential, and that it involves collaboration between the national and county governments, communities, landowners, private sector, and non-governmental organizations as appropriate;

FURTHER ACKNOWLEDGING the need to involve all stakeholders in the conservation and management of wildlife, as well as to derive benefits from such involvement;

AND WHEREAS it is essential to conserve in perpetuity Kenya's rich diversity of species, habitats and ecosystems for the well being of its people and the global community,

NOW THEREFORE BE IT ENACTED BY THE PARLIAMENT OF KENYA, AS FOLLOWS:

PART I: PRELIMINARY

Short title and commencement

1. This Act may be cited as the Wildlife Act, 2010 and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette appoint, but not later than 30 days from the date of Assent. Different dates may be appointed for different provisions.

Application

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

Interpretation

3. In this Act, unless the context otherwise requires –

“aircraft” means any type of aero plane, 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 trans-located 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 or plant;

“authorized officer” means a member of the Authority, 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;

“benefited environment” means that environment which has benefited through the imposition of one or more obligations on the burdened land;

“biodiversity” means the variability among living organisms from all sources including ecosystems and the ecological complexes of which they are a part. Accordingly, biodiversity encompasses three levels: ecosystem, species and genetic diversity;

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

“bio-prospecting” refers to the exploration of wildlife for commercially valuable genetic and biochemical resources;

“Board” means the Board of Directors of the Authority established under section 11;

“burdened land” means the land in the vicinity of the benefited environment;

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

“community” refers to a group of users of land and wildlife hold a set of clearly defined rights and obligations over land and wildlife;

“community wildlife association” refers to an association established pursuant to section 33 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 Cabinet Secretary

(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” refers to a wildlife conservation order issued under section 60 of this Act;

“conservation” means the protection, maintenance, rehabilitation, restoration, enhancement, management and sustainable use of wildlife;

“conservation area” refers to any area (including national parks and reserves) wholly or partially designated and approved for the conservation of wildlife;

“corridors” means areas used by wild animals when migrating from one part of the ecosystem to another periodically in search of basic requirements such as water, food, space and habitat;

“county wildlife compensation committee” refers to the committee established under clause 72;

“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;

“decentralization” means the devolution of responsibility for planning, management and control of wildlife resources from the national wildlife agency to the local delimited geographic and functional domains;

“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 pursuant to section 27 of this Act;

“directorate” means the Directorate of Conservation established under section 5;

“Director-General” means the Director-General of the Authority appointed under Section 16;

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

“domestic animal” means any dog, sheep, pig, goat, cow, cat, Guinea pig, donkey, horse, camel, European Rabbit, bull, cow, ox, ram, camel, or the young of such an animal;

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

“easement” means an easement imposed under section 60;

“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 and animals that are found in Kenya and nowhere else in the world or species that are found in only one locality in Kenya and nowhere else in the country;

“Endowment Fund” means the Kenya Wildlife Service Endowment Fund established pursuant to section 31 of this Act;

“environmental impact assessment” has the meaning assigned to it under the Environmental Management and Coordination Act No. 8 of 1999;

“environmental services” means life-supporting goods and services provided by nature;

“ex-situ conservation” means conservation outside the natural ecosystem and habitat of the biological organism;

“financial year” means the period of twelve months ending on the thirtieth June in every year;

“firearm” means a lethal barreled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any shot, bullet or other missile, and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, and includes the barrel, bolt and chamber, and any other essential component part, of the weapon;

“forest officer” has the meaning assigned to it under the Forests Act, 2005;

“forfeiture” means a forfeiture order issued by the court under section 92;

“game farming” refers 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 into wildlife conservation, recreation and trade;

“genetic resources” means genetic material of actual or potential value;

“Government trophy” means a trophy declared to be a Government trophy by section 41;

“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;

“honorary warden” refers to a honorary warden appointed by the Cabinet Secretary under section 28 of this Act;

“hunt” means and includes:

(a) to kill, injure, shoot at or to follow;

(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;

“inter-generational equity” means that the present generation should ensure that in exercising its right to beneficial use of wildlife resources, they are maintained or enhanced for the benefit of future generations;

“intra-generational equity” means that all people within the present generation have the right to benefit equitably from the exploitation of wildlife resources;

“invasive species” means a species that is not an indigenous species or an indigenous species trans-located to a place outside its natural distribution range in nature which dominates other indigenous species or takes over the habitat;

“Kenya Defence Forces” means the Kenya Defence Forces Established under Article 241(1) of the Constitution.

“land” includes land and land covered by sea or other body of water;

“land owner” means those with individual or corporate title to land, leaseholders and those with collective community customary rights;

“land use” means activities carried out on a given piece of land;

“lead agency” means any national government department or state corporation, in which any law vests functions of management or control of any element of wildlife resources;

“licence” means a licence or permit or other written authorization issued under any of the provisions of this Act;

“licencing officer”, means a person appointed by the Cabinet Secretary, by notice in the Gazette, to be a licencing officer for the purposes of this Act;

“management agreement” means any agreement between the Service and any other person, department, association, body corporate or other competent authority for the conservation and management of wildlife in accordance with the provisions of this Act;

“management plan” means a management plan prepared for the conservation and management of wildlife pursuant to section 47 of this Act;

“marine protected area” means any area of intertidal or subtidal 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".;

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

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

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

“Department” means the Cabinet Department for the time being responsible for matters relating to wildlife;

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

“multilateral environmental agreement” means international legal instruments for sustainable environmental management to which Kenya is a Party;

“national park” means an area of land declared to be a National Park by or under this Act;

“national reserve” means any area of land declared to be a National Reserve by or under this Act;

“National Security Council” means the National Security Council established under Article 240(1) of the Constitution;

“owner”, in relation to private land, includes a lessee or a mortgagee in possession, and any person authorized by an owner, lessee or mortgagee in possession to act on his behalf in his absence, and group representative incorporated under the Land (Group Representatives) Act, Cap, 287;

”ownership” on the part of the state in relation to wildlife means custodianship or stewardship on behalf of the people of Kenya;

“partnership” means an affiliation between a competent authority, stakeholders and other individuals or groups formed for the purposes of conserving and managing wildlife within a specified area;

“poaching” means illegal hunting, illegal capturing and illegal harvesting of any wild animal (but does not include the control of species widely and commonly regarded as pests or vermin);

“private land” means –

- (a) registered land held by any person under any freehold tenure,
- (b) land held by any person under leasehold tenure; and,
- (c) any other land declared private land under an Act of Parliament.

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

“wildlife protected area” means an area declared to be a wildlife protected area under this Act.

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

“recreation” means amusement, distraction, diversion, enjoyment, entertainment, exercise, fun, leisure activity, pastime, play, pleasure, refreshment, relaxation, sport.

“regional wildlife conservation area committee” refers to the committee established under section 32 of this Act;

“regional wildlife conservation area” refers to regional wildlife conservation areas designated under section 32 of this Act;

“rules” means any rules or regulations made under this Act;

“sanctuary” refers to an area of land or of land and water set aside and maintained , by government, community, individual or private entity, for the preservation and protection of one or more species of wildlife;

“Service” means the Kenya Wildlife Service established under section 23 of this Act;

“specimen” means any wild animal or plant whether alive or dead and any part or derivative thereof;

“species” means a population of individual organisms capable of mating with one another and producing fertile offspring in a natural setting and that share common and specialized characteristics from others;

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

“stakeholder” refers to an individual or group having a vested interest in the conservation issues relating to a particular area;

“sustainable use” means present use of the wildlife resources, which does not compromise the ability to use 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 of 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 animal 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 a durable portion;

“Trustees” means Board of Trustees of the Service established pursuant to section 22 of this Act;

“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 that is static or flowing, fresh, brackish, salt, including areas of marine water the depth of which at low tide does not exceed 6 meters.

“wildlife” means and includes any vertebrate and 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 a conservation area set aside by an individual landowner, 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 Authority for the purpose of managing a wildlife conservancy and/or sanctuary;

“wildlife user rights” means and includes user rights granted to stakeholders by the Cabinet Secretary, through the relevant competent authorities, for non-consumptive and/or consumptive use of wildlife resources;

PART II: OWNERSHIP AND CONTROL

Wildlife a national heritage

Ownership of Wildlife

4. (1) All wildlife found in Kenya is vested in the state on behalf of and for the benefit of the people of Kenya.
 - (2) The Cabinet Secretary shall be responsible for the protection, conservation and management of every wildlife resource in Kenya in accordance with the provisions of this Act.
 - (3) The right to the use of wildlife resources is hereby vested in the Cabinet Secretary and subject to the provisions of this Act, the Cabinet Secretary may, grant wildlife user rights to individuals, communities or bodies corporate.

PART III: POLICY DIRECTION AND STRATEGY

Directorate of Conservation

Establishment of a Directorate

5. There is hereby established a directorate to be known as the Directorate of Conservation at the Department responsible for wildlife (hereinafter referred to as the “Directorate”) headed by a Conservation Secretary.

Functions of the Directorate

6. Subject to direction of the Cabinet Secretary, the Directorate shall:
 - (a) be responsible for policy formulation and directions for purposes of this Act;
 - (b) set national targets, indicators, objectives and determine policies and

- priorities for the protection, conservation and management of wildlife resources countrywide;
- (c) ensure mainstreaming of wildlife issues into sectoral policies, programmes and plans;
- (d) promote cooperation among public departments, counties, private sector, non-governmental organizations and such other organizations engaged in wildlife protection, conservation and management;
- (e) coordinate the negotiation and implementation of wildlife-related treaties, conventions or agreement, whether bilateral or multilateral, in consultation with the Authority, the Service and other relevant lead agencies;
- (f) ensure and coordinate the development of national wildlife conservation and management strategy;
- (g) monitor the effectiveness of the implementation of the National Wildlife Policy, the Strategy and this Act by the various actors; and
- (h) perform such other functions as are assigned under this Act.

National wildlife conservation and management strategy

7.(1) Following public consultation, the Cabinet Secretary shall formulate and publish in the Gazette at least every five years, a national wildlife conservation and management strategy in accordance with which wildlife resources of Kenya shall be protected, conserved and managed.

- (2) The national wildlife conservation and management strategy shall prescribe the principles, objectives, standards, targets, indicators, procedures and institutional arrangements for the protection, management, use, development, conservation and control of wildlife resources and, in particular, for-
- (a) measures for the protection of wildlife species and their habitats and ecosystems particularly in using ecosystem-based conservation plans to achieve land use compatibility;
 - (b) norms and standards for ecosystem-based conservation plans;
 - (c) measures facilitating community-based natural resources management practices in wildlife conservation, management and enforcement;
 - (d) priority areas for wildlife conservation and projections on increasing designated wildlife conservation areas in form of national parks, national reserves, wildlife conservancies and sanctuaries;
 - (e) innovative schemes, measures and incentives to be applied in securing identified critical wildlife migratory routes, corridors and dispersal areas for sustainable wildlife conservation and management;
 - (f) clear targets indicating specific percentage of landscape or seascape to be brought under protected areas, wildlife conservancies and sanctuaries;
 - (g) national research and monitoring priorities and information systems, including:
 - (i) research priorities,
 - (ii) the collection and management of data and information

- regarding the status of wildlife resources, and
 - (iii) procedures for gathering data and the analysis and dissemination of information on wildlife resources;
 - (h) special arrangements for the protection of endangered and threatened wildlife species;
 - (i) guidelines for granting and monitoring wildlife user rights;
 - (j) innovative measures for mitigating human wildlife conflict;
 - (k) measures necessary to ensure equitable sharing of benefits;
 - (l) measures for capacity building and training for effective wildlife management;
 - (m) measures for wildlife diseases surveillance;
 - (n) adaptation and coping up measures to adverse impacts of climate change;
 - (o) reflections on regional cooperation and measures for enhancing conservation and management of shared wildlife resources; and
 - (p) any other matter that the Cabinet Secretary considers necessary for the better conservation and management of wildlife resources.
- (3) The Cabinet Secretary shall periodically review the national wildlife conservation and management strategy and may from time to time publish in the Gazette a revised strategy.
- (4) The Cabinet Secretary, the Authority, the Service, and all public bodies shall, when exercising any statutory power or performing any statutory function, take into account and give effect to the national wildlife conservation and management strategy.
- (5) The Cabinet Secretary shall lay every two years a national wildlife conservation status report specified under subsection (2) (k) of this section before the National Assembly as soon as reasonably practicable after its publication where the National Assembly is in session, or where not in session, within twenty one days of the day the National Assembly next sits after such publication.

PART IV: ADMINISTRATION

Kenya Wildlife Regulatory Authority

Establishment of the Authority

8. (1) There is hereby established an Authority to be known as the Kenya Wildlife Regulatory Authority (hereinafter referred to as “the Authority”).
- (2) The Authority shall be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of:
- (a) suing and being sued;
 - (b) taking, purchasing, charging and disposing of movable and immovable property;
 - (c) borrowing money;

- (d) entering into contracts; and
- (e) doing or performing all such other things or acts for the proper discharge of its functions under this Act, which may lawfully be performed by a body corporate.

Headquarters

9. The headquarters of the Authority shall be in Nairobi.

Object and purpose of the Authority

10. (1) The object and purpose for which the Authority is established shall be to regulate the wildlife sector in accordance with the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing, the Authority shall:
- (a) In consultation with the Service, formulate standards and prescribe measures for sustainable wildlife conservation and management countrywide;
 - (b) formulate mechanisms and prescribe measures for granting and monitoring wildlife user rights ;
 - (c) issue licences and permits for wildlife user rights with the approval of the Cabinet Secretary;
 - (d) 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;
 - (e) negotiate for financial and other incentives for the advancement of wildlife use activities of communities, landowners, private sector and non-governmental organizations;
 - (f) in consultation with the Service, establish the regional wildlife conservation areas for purposes of ensuring ecosystem approach to wildlife conservation and management;
 - (g) in consultation with the Service, ensure the preparation and implementation of ecosystem-based management plans;
 - (h) undertake every two years an assessment and audit of wildlife conservation efforts, measures and initiatives at the national level and prepare and issue a biannual national wildlife conservation status report;
 - (i) mobilize resources for wildlife conservation and management;
 - (j) perform such other functions as the Cabinet Secretary may assign the Authority or as are incidental or conducive to the exercise by the Authority of any or all of the functions provided under this Act.
- (3) The Authority shall have all the powers necessary for the performance of its functions under this Act.

Board of Directors

11. The management of the Authority shall vest in a Board of Directors which shall consist of-
- (a) a chairperson who shall be appointed by the President selection by the Public Service Commission;
 - (b) the Principal Secretary in the Department for the time being responsible for wildlife or an officer of that Department designated in writing by the Principal Secretary;
 - (c) the Principal Secretary in the Department for the time being responsible for finance or an officer of that Department designated in writing by the Principal Secretary;
 - (d) the Principal Secretary in the Department for the time being responsible for tourism or an officer of that Department designated in writing by the Principal Secretary;
 - (e) the Principal Secretary in the Department for the time being responsible for internal security or an officer of that Department designated in writing by the Principal Secretary;
 - (f) The Principals Secretary in the Department for the time being responsible for county government affairs or an officer of that Department designated in writing by the Principal Secretary;
 - (g) the Director General of the Authority who shall be the secretary;
 - (h) one representative from the tourism private sector nominated by the relevant national tourism-sector umbrella association, appointed by the Cabinet Secretary;
 - (i) three other members, not being public officers, appointed by the Cabinet Secretary, taking into account gender parity and experience and expertise in wildlife, finance and management;
 - (j) Formulate mechanisms and prescribe measures for granting and monitoring wildlife user rights;

The members under (h) to (j) shall be appointed by the Cabinet Secretary following selection by the Public Service Commission. At their first sitting, the Board shall elect a vice chairperson from among the members from (h) to (j).

Powers of the Board

12. The Board shall have all the powers necessary for the performance of the functions of the Authority under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to –
- (a) manage, control administer the assets of the Authority in such manner and for such purposes as best promote the purposes for which the Authority is established;
 - (b) receive any gifts, grants, donations or endowments made to the Authority or any other monies in respect of the Authority 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 Authority;

- (d) open a banking account or banking accounts for the funds of the Authority; and
- (e) invest any monies of the Authority not immediately required for the purposes of this Act in such securities as the Treasury may, from time to time, approve.

Conduct of business and affairs of the Board

13. The conduct and regulation of the business and affairs of the Board shall be as provided in the Second Schedule, but subject thereto, the Board may regulate its own procedure.

Delegation by the Board

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

Remuneration of Board members

15. The Authority shall pay to members of the Board such remuneration, fees or allowances for expenses as the Salaries and Remuneration Commission may determine.

Appointment of the Director General

16. (1) There shall be a Director General of the Authority who shall be appointed by the Cabinet Secretary following selection by the Public Service Commission. The Director General shall hold office for a term of four years and shall be eligible for selection for one further term of two years.
- (2) A person appointed under subsection (1) of this section shall hold a post graduate degree from a recognized university with at least 10 years experience in management at a senior management level.
- (3) The Director General shall be the chief executive officer of the Authority and responsible to the Board.
- (4) The Director General shall be an *ex officio* member of the Board and the Secretary but shall have no right to vote at any meeting of the Board.

Staff of the Authority

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

Funds of the Authority

18. The funds of the Authority shall consist of –

- (a) such moneys or assets as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;
- (b) such sums as may be payable to the Authority 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 Authority;
- (d) a proportion of moneys levied upon wildlife user rights as the Cabinet Secretary may determine; and
- (e) all moneys from any other source provided for or donated or lent to the Authority.

Kenya Wildlife Service

Establishment of the Service

19. (1) The Kenya Wildlife Service (hereinafter referred to as the “Service”) established under the Wildlife (Conservation and Management) Act as amended in 1989, is hereby continued as a body corporate, as a uniformed and disciplined force, with perpetual succession and a common seal and shall in its corporate name, be capable of -

- (a) suing and being sued;
- (b) acquiring, holding, charging and disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts for the proper discharge of its functions under this Act.

Headquarters

20. The headquarters of the Service shall be in Nairobi.

Functions of the Service

21. The functions of the Service shall be to -

- (a) formulate for approval of the Board of Trustees, policies and guidelines regarding the sustainable exploitation, utilization, management and conservation of wildlife resources and the equitable sharing of the accruing benefits;
- (b) conserve and manage national parks, provisional wildlife conservation areas, national reserves and sanctuaries under its jurisdiction;
- (c) collaborate with county governments, communities and landowners for purposes of effective conservation and management of wildlife conservancies and sanctuaries;

- (d) 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;
 - (e) prepare and implement integrated management plans for national parks, provisional wildlife conservation areas ,national reserves; and sanctuaries under its jurisdiction;
 - (f) assist and advice in the preparation of integrated management plans for community and private wildlife conservancies and sanctuaries;
 - (g) render advice and technical support to entities engaged in wildlife protection, conservation and management so as to enable them carry out their responsibilities satisfactorily;
 - (h) collaborate with county governments, communities and other stakeholders in implementing measures necessary for the mitigation of human wildlife conflict;
 - (i) undertake and conduct enforcement activities such as anti-poaching operations, wildlife protection, intelligence gathering and investigations for the effective carrying out of the provisions of this Act;
 - (j) provide security for wildlife and visitors in national parks, provisional wildlife conservation areas, national reserves and sanctuaries managed by the Service;
 - (k) collaborate with county governments, local communities and landowners to provide security for wildlife and communities in the respective wildlife conservancies and sanctuaries under their jurisdiction;
 - (l) promote or undertake commercial and other activities for the purpose of achieving sustainable wildlife conservation;
 - (m) 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;
 - (n) Promote and undertake, in collaboration with relevant lead agencies and stakeholders, programmes intended to enhance wildlife conservation education, training and extension services;
- (o) develop and implement wildlife disaster plans, climate change mitigation and adaptation strategy and wildlife diseases surveillance framework;
- (p) advise the National Land Commission and the Cabinet Secretary on the establishment of national parks, national reserves, conservancies and sanctuaries
- (q) mobilize resources for wildlife conservation and management; and
- (r) perform such other functions as the Cabinet Secretary or the Authority 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.
- (s) prescribe measures necessary for the mitigation of conflict between people and wildlife
- (t) advise the Cabinet Secretary on the establishment of national parks, national reserves, wildlife conservancies and sanctuaries;

- (u) set wildlife security national standards and ensure their implementation by all the relevant law enforcement agencies, the Service, county governments and community wildlife scouts;

Board of Trustees

22. (1) The Service shall be managed by a Board of Trustees (hereinafter known as the Trustees), which shall consist of:

- (a) a chairperson appointed by the President, following selection by the Public Service Commission.
- (b) the Principal Secretary in the State Department for the time being responsible for matters relating to wildlife or an officer of that Department designated in writing by the Principal Secretary;
- (c) Principal Secretary in the State Department for the time being responsible for finance or an officer of that Department designated in writing by the Principal Secretary;
- (d) Principal Secretary in the State Department responsible for county governments affairs or an officer of that Department designated in writing by the Principal Secretary;
- (e) the Chief Executive Officer of the National Land Commission;
- (f) the Inspector-General of Police;
- (g) one representative from the national tourism private sector umbrella association;
- (h) one representative from a national wildlife conservation non government organization;
- (i) one representative from community managed wildlife areas;
- (j) one representative from privately managed wildlife areas;
- (k) the Director of the Service who shall be the secretary to the Board of Trustees.

(2) The Trustees under (g) to (j) shall be appointed by the Cabinet Secretary following selection by the Public Service Commission;

(3) At their first sitting, the Trustees shall elect a vice chairperson from among the members from (g) to (j).

(4) The Chairperson and selected Trustees shall hold office for a term of three years and shall be eligible for selection in accordance with subsection (2) for one further term of three years.

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

Functions of the Board of Trustees

23. The functions of the Board of Trustees shall be to:
- (a) To oversee the effective implementation of the national wildlife policy and to ensure efficient management of the Service;
 - (b) recommend to the National Land Commission, the Authority and the Cabinet Secretary proposals for the establishment of national parks;
 - (c) in consultation with the Authority and the Cabinet Secretary, recommend to the National Land Commission proposals for the determination and alteration or rationalization of boundaries of national parks and reserves;
 - (d) approve operational policies of the Service effecting sustainable management of wildlife resources;
 - (e) approve and ensure that the Service strategic plan and performance contracts are accomplished in time;
;
 - (f) consider and approve management agreements entered into between the Service and other entities engaged in wildlife protection, conservation and management;
 - (g) approve modalities and guidelines for collaborative management of wildlife conservation areas between the Service, communities, county governments counties, other government agencies, private sector and non-governmental organizations;
 - (h) In consultation with the Authority, advice the Cabinet Secretary on all matters pertaining to wildlife conservation and management in Kenya;
and

Powers of the Board of Trustees

24. (1) The Board of Trustees shall have all the powers necessary for the performance of its functions under this Act, and, in particular but without prejudice to the generality of the foregoing, the Board shall have power to:
- (a) approve and ratify the policies of the Service;
 - (b) manage, control and administer the assets of the Service in such a manner and for such purposes as are best to promote the purposes for which the Service is established;
 - (c) receive any gifts, grants, donations or endowments made to the Service;
 - (d) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Service;
 - (e) open bank accounts for the funds of the Service;
 - (f) invest any monies of the Service not immediately required for the purposes of this Act;
 - (g) determine and issue the terms and conditions for the appointment and emoluments of personnel to the Service;
 - (h) cooperate with other organizations undertaking functions similar to

- its own, whether within Kenya or otherwise;
- (i) provide for a staff superannuation scheme for the employees of the Service; and

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

Committees of the Board of Trustees

- 25. (1) The Board of Trustees may from time to time establish committees for the better carrying out of its functions.
- (2) The Board of Trustees may co-opt into the membership of committees established under subsection (1) other persons whose knowledge and skills are deemed necessary for the functions of Board of Trustees.

Meetings of the Board of Trustees

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

Appointment of the Director

- 27. (1) There shall be a Director of the Service who shall be appointed by the Cabinet Secretary following selection by the Public Service Commission. The Director shall hold office for a term of four years and shall be eligible for selection for one further term of two years.
- (2) The Director shall be the chief executive officer of the Service and shall be responsible to the Board of Trustees.

Officers of the Service

- 28. (1) The Board of Trustees may, on such terms and conditions as it deems fit, appoint:-
 - (a) such uniformed and disciplined officers as are specified in paragraph (2)(a) of paragraph 1 of the Second Schedule;
 - (b) such officers of the Service as are specified in subparagraph (2)(b) of paragraph 1 of the Second Schedule; and
 - (c) such other employees, agents or servants of the Service,as may be necessary for the performance of the functions of the Service.
- (2) Every person appointed under subparagraph (a) of subsection (1) shall take and subscribe to the oath of allegiance set out in Part II of the Second

Schedule.

- (2) The provisions of the Second Schedule shall have effect with respect to the officers of the Service.
- (3) The Board shall provide for a staff superannuation scheme to determine service for the employees of the Service.
- (4) The Cabinet Secretary may, with the recommendation of the Board of Trustees appoint suitable persons to be honorary wardens for the purposes of assisting the carrying out the provisions of this Act.
- (5) A honorary warden shall:-
 - (a) be appointed by notice published in the Gazette;
 - (b) hold office, subject to such conditions as the Trustees may prescribe, for a period of three years and shall be eligible for reappointment for one further term of three years; and
 - (c) have such functions as may be prescribed by rules made under this Act.

Establishment of offices

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

Funds for the Service

30. (1) There shall be a general fund of the Service which shall vest in the Board of Trustees.
 - (2) There shall be paid into the general fund:-
 - (a) such moneys or assets as may accrue to or vest in the Service in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;
 - (b) such moneys as may be appropriated by Parliament; and all moneys from any other source provided for or donated to the Service.
 - (3) There shall be paid out of the funds of the Service all sums required to defray the expenditure incurred by the Service in the exercise of its powers and the performance of its functions under this Act.

Kenya Wildlife Service Endowment Fund

Establishment of Endowment Fund

- 31 (1) There is established a fund to be known as the Kenya Wildlife Service Endowment Fund (hereinafter to be known as “the Endowment Fund”) which shall be vested in, and be operated and managed by the

Board of Trustees. The object of the Endowment Fund is to provide consistent and predictable funding to the Service, as by design, only the interest generated by this fund will be available to the Service.

- (2) There shall be paid in 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 Authority, determine;
 - (c) income from Endowment Fund investments made by the Board of Trustees; and
 - (d) such grants, donations, bequests or other gifts as may be made to the Endowment Fund.

Wildlife Conservation Areas and Committees

Establishment of wildlife conservation areas and committees

32. (1) The Authority shall establish wildlife conservation areas for the proper and efficient ecosystem management and may divide such wildlife conservation areas into manageable divisions.
- (2) There shall be established a county wildlife conservation committee in respect of each county wildlife conservation area established under subsection (1) whose secretariat shall be the Service regional office.
- (3) The functions of the regional wildlife conservation area committee shall be to –
- (b) facilitate the development and implementation of ecosystem-based management plans within the region of which they are appointed;
 - (c) inform the Service of the projects, programmes, plans, ideas and opinions of the people in the regional wildlife conservation area in all matters relating to the protection, conservation and management of wildlife within such area;
 - (d) provide a platform for collaboration between the Service, communities, county governments, landowners and other stakeholders within the region of which they are appointed;
 - (e) facilitate communities and landowners to benefit from revenues and other rights derived from use of wildlife resources within the region of which they are appointed;
 - (f) identify land to be set aside for the creation of wildlife conservation area within the region of which they are appointed;
 - (g) assist counties, communities and land owners to set aside critical wildlife habitats, corridors and dispersal areas for the conservation and management of wildlife within the region of which they are appointed;

- (h) recommend different forms of wildlife user rights to be licenced within the region in respect of which they are appointed and monitor compliance; and
 - (i) perform such other functions as the Service may require or delegate to it.
- (4) A regional wildlife conservation area committee shall consist of –
- (a) a chairman appointed by the Director-General , 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 area, who shall be nominated by the Department responsible for agriculture;
 - (d) a physical planning officer based in the area who shall be nominated by the National Land Commission;
 - (e) a livestock officer based in the area who shall be nominated by the Department responsible for livestock;
 - (f) the Service regional officer responsible for the region, who shall be the secretary; and
 - (g) four persons, not being public officers, knowledgeable in wildlife matters nominated by the community wildlife associations within the area through an elective process.
- (5) Persons who are not members of the committee may be invited to attend meetings of the committee and take part in its deliberations but shall not have voting powers.
- (6) A member of the regional wildlife conservation area committee shall be entitled to be paid such allowances as the Salaries and Remuneration Commission may determine.
- (7) The Cabinet Secretary may, on the recommendation of the Authority, after consultation with the Service, make rules and regulations governing the procedures and functions of the regional wildlife conservation area committees.

Community Wildlife Associations and Wildlife Managers

Registration of community wildlife associations and wildlife managers

33. (1) Communities, landowners, groups of landowners and existing representative organizations may establish a community wildlife association and register it under the Societies Act or in the case of an individual landowner, he may be registered as a recognized wildlife manager by the Authority.
- (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 approval referred to in subsection (1) shall be in the

prescribed form and shall contain:

- (a) a list of the wildlife conservancy, sanctuary or other wildlife conservation activities in which they are involved in and in the case of an association their membership;
- (b) for associations, the constitution with clear governance structures;
- (c) a draft plan for the association or privately owned wildlife conservation area detailing -
 - (i) type of wildlife resources in their area and type of wildlife conservation initiatives being undertaken;
 - (i) measures and type of wildlife conservation activities that are being proposed;
 - (ii) type of wildlife user rights being proposed that will enhance conservation and survival of wildlife in their area;
 - (iii) land use practices in the area and proposed measures to ensure land use compatibility with wildlife conservation;
 - (iv) methods of monitoring wildlife and wildlife user activities;
 - (v) community wildlife scouting scheme that will help to provide wildlife surveillance and assist in addressing problem animal control; and
 - (vi) any other aspect deemed necessary.
 - (f) such other information as the Director-General may require.
- (4) The Authority 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.
- (5) The Cabinet Secretary may, on recommendation of the Authority by notice in Gazette, prescribe measures and guidelines to govern the establishment and activities of community wildlife associations and wildlife managers.

Functions of community wildlife associations and wildlife managers

34. (1) An association or wildlife manager approved by the Authority under section 20 shall:

- (a) ensure that the association membership or manager protect, conserve and manage wildlife conservancies and sanctuaries under their jurisdiction pursuant to their respective approved management plan(s);
- (b) assist the Service in combating illegal activities including poaching and bushmeat 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) help on 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 V: LICENCING

Licencing

Requirement of licence

35. Except as, or to such extent as may be specifically provided in this Act, no person or association 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.

Wildlife User Rights

Granting of wildlife user rights

36. (1) The Authority may, upon successful registration of the applicant with the Wildlife Conservation Area Committee grant a general permit for non consumptive wildlife user rights, such as:
- a. Wildlife-based tourism;
 - b. Commercial photography and filming;
 - c. Educational purposes;
 - d. Research purposes;
 - e. Cultural purposes; and
 - f. Religious purposes

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.

- (2) The Authority may, upon successful registration of the applicant with the Wildlife Conservation Area Committee grant a licence in accordance with the provisions set out in the Tenth Schedule in regard to consumptive wildlife use activities, such as

- (a) Game farming
- (b) Game ranching
- (c) Live capture
- (d) Research involving off-take
- (e) Cultural activities involving hunting
- (f) Cropping
- (g) Culling

Prohibition of sport hunting

- 37.(1) Sport hunting is prohibited.

(2) 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 or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Prohibition of subsistence hunting

38. (1) Subsistence Hunting is prohibited
- (2) Hunting for the purposes of subsistence or facilitating the trade in wildlife products, particularly the bush-meat 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 or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Assignment of wildlife user rights

39. (1) Any person, with the approval of the Authority, may assign any or all the wildlife user rights granted under section 40 to a suitably qualified agent on mutually agreed terms.
- (2) The Authority shall not approve any assignment which would derogate from the main objectives and purposes set out in the instrument granting the wildlife user rights.
- (3) The instrument granting the wildlife user rights shall be deemed to provide that any person shall be liable for all the activities, acts and omissions of the assignees of its rights under the licence.

Withdrawal of wildlife user rights

40. (1) The Authority may withdraw a particular wildlife user right granted to any person where-
- (a) the person breaches the terms and conditions thereof;
 - (b) it considers such action as necessary for purposes of protecting and conserving wildlife; or
 - (c) the person or association concerned so requests.
- (2) Where the Authority 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 person is aggrieved by the decision of the Authority may within thirty days after being notified of the decision appeal to the National Environment Tribunal established under the Environmental Management and Coordination Act No. 8 of 1999 or any other court dealing with natural resource management matters
- (4) Nothing in this section shall be construed to limit the grounds on which in accordance with the terms under which any wildlife user right may be withdrawn.

Government trophies

41. (1) Except as otherwise provided for in Schedule 10, the following shall be

Government trophies and the property of the Government-

- (a) any trophy found without an owner;
 - (b) any animal found dead or killed by accident or mistake;
 - (c) any animal killed in defence 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 his duties.
- (2) The provisions of subsection (1) of this section shall not apply where such trophy is kept for cultural purposes.
- (3) Any person who keeps or is found in possession of a wildlife trophy, without a permit issued under this Act or exempted as set out in subsection (2), commits an offence and shall be liable upon conviction to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.
- (4) The Cabinet Secretary may, on the recommendation of the Authority upon consultation with the Service, by notice in the Gazette, prescribe measures, rules, regulations and guidelines as are necessary and appropriate to carry out the purposes of this section.

Dealing in trophies

42. (1) No person shall sell or otherwise deal in, or manufacture any article from any trophy that has not been obtained from an animal lawfully killed or captured in Kenya or that has not been lawfully imported into Kenya and any person who contravenes this section shall be guilty of an offence.
- (2) No person shall carry on the business of a trophy dealer except under the authority of and in accordance with a trophy dealers licence, and no person other than the holder of a trophy dealer's license shall employ or engage any other person to manufacture any article from any trophy.
- (3) The Authority may grant a trophy dealers license in accordance with the provisions set out in the Tenth Schedule.

PART VI: CONSERVATION AND MANAGEMENT OF WILDLIFE

Wildlife Conservation Areas

Declaration of national parks

43. The Cabinet Secretary may, upon recommendation of the Authority and the Service, after consultation with the National Land Commission and after a public consultation process, by notice in the Gazette declare:-
- (a) any un alienated Government land;

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

Establishment of wildlife conservancies and sanctuaries

- 44. (1) Any person or community who own land on which wildlife inhabits, may individually or collectively apply to the Authority for approval to establish a wildlife conservancy or sanctuary in accordance with the provisions of this Act.
- (2) The Authority shall review the application and after consultation with the Service and the relevant county government , approve the establishment of the wildlife conservancy or sanctuary.
- (3) Subject to subsection (2), the Cabinet Secretary shall, on the recommendation of the Authority , by notice in the Gazette, declare such land a wildlife conservancy or sanctuary, as may be the case, to be managed in accordance with the provisions of this Act.
- (4) An approval and gazettelement under subsection (2) and (3) of this section, shall entitle the wildlife conservancy or sanctuary to receive –
 - (a) technical advice regarding sustainable wildlife conservation practices and approaches from the Service; and
 - (b) subject to availability of funds, support from the Service for the development of the wildlife conservancy or sanctuary, provided that the funds are obtained and utilized in accordance with the procedures set out by the Authority .

Provisional wildlife conservation area

Declaration of provisional wildlife conservation area

- 45. (1) The National Land Commission may, on the recommendation of the Cabinet Secretary, by order published in the Gazette, declare any national reserve, wildlife conservancy or sanctuary, which in the opinion of the Service is mismanaged or neglected, to be a provisional wildlife conservation area.
- (2) A declaration under subsection (1) of this section shall only be made where-
 - (a) the regional wildlife conservation area committee can demonstrate that the situation has been monitored and discussed with the owners of the area;
 - (b) the regional wildlife conservation area committee has made recommendation to the effect that that is the best option available; or
 - (c) the county or the owners of the wildlife conservancy or sanctuary have made a request for the national reserve or the wildlife conservancy or sanctuary to be put under provisional wildlife conservation area status; and
 - (d) the Service has issued a notice requiring the county or individual owner or group of owners of the wildlife conservancy or sanctuary, as the case may

be, to undertake measures to improve the integrity of the national reserve, wildlife conservancy or sanctuary, and such notice has not been complied with, or they are unable to undertake the specified corrective measures.

- (3) A provisional wildlife conservation area shall be managed by the Service, in collaboration with the owner thereof, for a period of five years, which period shall be subject to review and any profits accruing there from shall be paid to such owner less the expenses incurred by the Service in managing the national reserve, wildlife conservancy or sanctuary, as may be the case..

Reversion of provisional wildlife conservation area

46. (1) A provisional wildlife conservation area shall revert to the owner where the Service is satisfied that it has been adequately rehabilitated and the owner has given an undertaking to efficiently manage it.
- (2) The Cabinet Secretary may, on the recommendation of the Service upon reversion of a provisional wildlife conservation area, prescribe for observance by the owner such conditions as may be necessary to ensure compliance with the provisions of this Act.

Management Plans

47. (1) Every national park, national reserve, provisional wildlife conservation area, wildlife conservancy and sanctuary shall be managed in accordance with a management plan that complies with the requirements prescribed by the Eleventh Schedule.
- (2) The Service shall ensure that county wildlife conservancies and sanctuaries develop and implement a management plan prepared in accordance with frameworks set out in the Eleventh Schedule.
- (3) In preparing and adopting a management plan, the county, wildlife conservancy or sanctuary, as the case may be, shall consult with the local regional wildlife conservation area committee. In the case of protected areas, the formulation and implementation of management plans shall involve the participation of neighbouring communities.
- (4) The Cabinet Secretary shall, on recommendation of the Authority, by notice in the gazette, publish the approved management plans in respect of national parks, national reserves, wildlife conservancies and sanctuaries and
- (5) The Cabinet Secretary may, after consultation with the Authority, amend the Eleventh schedule so as to make rules and guidelines for development and to give effect to the provisions of such management plans.

Consent for mining

Consent for mining and quarrying

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

(2) The Authority, 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 No. 8 of 1999;
- (e) approval has been obtained from the Commissioner of Mines in accordance with the applicable law regulating mining;
- (f) the miner has undertaken through execution of a bond the value of which will be determined by the Service, to rehabilitate the site upon completion of his operation to a level prescribed by the Service::

Provided that the Cabinet Secretary may, on the recommendation of the Authority, 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;

(e) 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 Authority.

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

Conservation of Marine ecosystem

Conservation and management of marine ecosystem

49.(1) The Cabinet Secretary shall, on recommendation of the Authority establish marine protected and community marine conservation areas.

1. The marine protected or community marine conservation area established under subsection (1) of this section shall be managed under an approved management plan prepared through a consultative process with the communities concerned and relevant lead agencies.
2. A system of marine zones may be identified in a marine protected or a community marine conservation area for any or all of the following:
 - (a) extraction or no extraction zones in respect of marine resources;
 - (b) protection of nesting, breeding and foraging areas;
 - (c) no take areas in respect of fisheries; and
 - (d) any other purposes with respect to specified human activities within the zone.

3. The Cabinet Secretary shall, on recommendation of the Authority, by notice in the Gazette, issue appropriate rules and regulations for effective management of marine protected and community marine conservation areas.

Conservation of Wetlands

Conservation and management of wetlands

50. (1) The Cabinet Secretary shall, on recommendation of the Authority, 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.
 1. 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.
 2. The Cabinet Secretary shall, on recommendation of the Authority 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.

PART VII: INCENTIVES

Fiscal and other incentives

- 51 (1) In recognizing wildlife conservation and management as a legitimate form of land use, but recognizing that such use incurs costs, which if not addressed can lead to declines in the management and value of wildlife, the Service will ensure that some of the benefits that can be derived, do flow to those responsible for undertaking this form of land use, in accordance with the provisions set out in the twelfth schedule.
- (2) The benefits that can be realized in a number of direct and indirect ways are as follows:
 - a. Improving income and therefore improving livelihoods through
 - i. fees and rents
 - ii. Undertaking partnership arrangements with proper equity in profit distribution
 - iii. Leasing concessions
 - iv. Tender processes
 - b. Benefitting from permit and licence fees
 - c. Reduction in conflict and reduction in damage, leading to a reduction in costs
 - d. Compensation
 - e. Providing payment for assisting national objectives, e.g. the provision of corridors
 - f. Providing payments for environmental services

- g. Providing capacity building for improving decision making and benefit flows
- (3) Notwithstanding the provisions of any relevant revenue Act, the Cabinet Secretary responsible for finance may, on the recommendation of the Cabinet Secretary responsible for wildlife, propose fiscal incentives to induce or promote wildlife conservation and management.

PART VIII: PROTECTION OF ENDANGERED AND THREATENED ECOSYSTEMS AND SPECIES

Endangered and threatened ecosystems

Protection of endangered and threatened ecosystems

52. (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 as per the Fourth Schedule under this Act.
3. 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.
4. The Cabinet Secretary shall, upon the recommendation of the Service, every five years review any national list published under subsection (1) of this section.

Endangered and threatened species

Listing of endangered and threatened species

53. (1) The Cabinet Secretary may, on the advice of the Service, by notice in the Gazette, publish a national list as the Fifth Schedule under this Act, of endangered and threatened species.
- (2) The Cabinet Secretary shall regularly review the list published under subsection (1) of this section.

Restricted activities involving listed species

54. (1) A person may not carry out any activity involving a specimen of a listed species without a permit from the Service.
- (2) The Cabinet Secretary may, on recommendation of the Service, by notice in the

Gazette, prohibit the carrying out of any activity:-

- a. which is of a nature that may negatively impact on the survival of a listed species; or
- b. which is specified in the notice or prohibit the carrying out of such activity without a permit issued by the Service.

Recovery plans

55. (1) The Service shall develop and implement recovery plans for the conservation and management of all the listed species.

(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) in corporate in each recovery plan-
 - (j) 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 a determination, in accordance with the provisions of this section, that the species be removed from the list; and
 - (iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

(2) 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:

(3) The Cabinet Secretary shall report to the National Assembly through the National Wildlife Conservation Status Report under section 10(2) 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.

(4) The Service shall implement a system, in cooperation with the regional wildlife conservation area 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 Fifth Schedule.

Control of invasive species

Control of invasive species

56.(1) The Cabinet Secretary may, on the advice of the Service, by notice in the Gazette, publish a national list of invasive species as Sixth Schedule under this Act and

the measures being taken to control and manage the spread of the invasive species in prescribed areas.

(2) Any person who –

- (a) knowingly introduces into a wildlife conservation area an invasive species; or
- (b) fails to comply with the measures prescribed by the Cabinet Secretary set out in subsection (1)

commits an offence and shall be liable upon conviction to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

PART IX: REGULATION OF TRADE IN ENDANGERED SPECIES

Trade in endangered species

General prohibition

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

(2) Without prejudice to the generality of the foregoing, it is unlawful for any person to:

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

Any person who contravenes any provisions of this section commits an offence and shall be liable upon conviction to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Issuance of Permit

Application for a permit

58 (1) Any person who intends to import, export, re-export, introduce from the sea or otherwise trade in any endangered or threatened species shall apply to the Authority for a permit in a prescribed manner and on payment of a prescribed

fee.

- (3) 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,
 - (d) the source of the species with a recommendation from the regional wildlife conservation area committee from which the species is to be gotten or introduced,
 - (e) the country to or from which specimens are to be conveyed, and
 - (f) the customs port of entry through which the specimen is to be conveyed.

Provided that:-

- (i) the purpose for which the application is made is not detrimental to the survival of the species,
 - (ii) the proposed recipient of that specimen is suitably equipped to conserve the species,
 - (iii) that specimen is not to be used primarily for commercial purposes,
 - (iv) evidence of consent from the Service and the regional wildlife conservation area committee from which or which is likely to receive the species,
 - (v) where appropriate, compensation has been paid to the concerned communities, and
 - (vi) permission to export or re-export that specimen has been granted by the relevant authority of the country of export or re-exports.
- (2) The Authority 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 recommendation of the Authority, by notice in the Gazette, promulgate rules, regulations and guidelines as are necessary and appropriate to carry out the purposes of this section.

Any person who contravenes any provisions of this section or the rules made under it commits an offence and shall be liable upon conviction to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Revocation of a permit

59. The Authority may revoke a permit issued under section 67 where it finds that the permit holder is not complying with the terms and conditions of the permit.

PART X: WILDLIFE CONSERVATION ORDERS AND EASEMENTS

Wildlife conservation orders and easements

Wildlife conservation orders and easements

60.(1) Any person may enter into negotiations with a land owner for an easement to be imposed on his land to further the principles of sustainable wildlife conservation and management:

Provided that an easement agreed upon through a private agreement shall be registered in accordance with the provisions of the Act applicable to that particular system of registration for easements or where an easement is agreed upon on any communally held land, the regional wildlife conservation area committee of the area in which that land is situated shall register the easement on a register maintained for that purpose in accordance with the provisions of this Act.

- (2) A court may, on an application made under this section, grant a wildlife conservation order or an easement subject to the provisions of this Act.
- (3) The object of a wildlife conservation order or an easement is to further the principles of sustainable wildlife conservation and management as embodied in this Act by facilitating the enhancement of a wildlife conservation area.
- (4) An easement may be imposed on and shall thereafter attach to the burdened land in perpetuity or for a term of years or for an equivalent interest under customary law as the court may determine.
- (4) Without prejudice to the general effect of subsection (3), a wildlife conservation order or an easement may be imposed on burdened land so as to:
 - (a) preserving flora and fauna;
 - (b) creating or maintaining migration corridors and dispersal areas for wildlife;
 - (c) preserving the quality and flow of water in a dam, lake, river or aquifer;
 - (d) preserving any outstanding geological, physiographical, ecological, archaeological, cultural or historical features of the burdened land that are of importance to wildlife conservation;
 - (e) preserving scenic view, natural contours and features of the burdened land;
 - (f) preventing or restricting the scope of any activity on the burdened land which has as its object the mining and working of minerals or aggregates that may adversely affect wildlife conservation;
 - (g) preventing or restricting the scope of any agricultural or other activity on the burdened land; or
 - (h) creating and maintaining works on burdened land so as to limit or prevent harm to the environment.
- (5) Where an easement is imposed on burdened land on which any person has at the time of the imposition of the easement, any existing right or interest to the land and that easement will restrict that right or interest, there shall be paid to that person, by the applicant for the easement such compensation as may be determined in accordance with section 73.
- (6) An easement may exist in gross; that is to say, the validity and enforceability of the easement shall not be dependent on the existence of 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 easement.

Application for conservation orders and easements

61. (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 and easements.

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

Provided that in exercising the jurisdiction conferred upon it under this section, the court may require the Service or appoint any persons with special skills or knowledge on wildlife conservation issues which are a subject matter of the wildlife conservation order or easement before the court to prepare a technical report as may be required for proper determination of the matter.

Proceedings to enforce easements

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

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

(a) grant a wildlife conservation order; or
(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 easement.

Registration of easements

63. (1) Where an easement is imposed 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 for easements.

(2) Where an easement is imposed on any land other than land referred to in subsection (1), the regional wildlife conservation committee of the area in which that land is situated shall register the easement on a register maintained for that purpose in accordance with the provisions of this Act.

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

Compensation for easements

64. (1) Any person who has a legal interest in the land which is the subject of an

easement, shall, in accordance with the provisions of this Act, be entitled to compensation commensurate with the lost value of the use of the land.

- (2) A person described in subsection (1) may apply to the court that granted the easement for compensation stating the nature of his legal interest in the burdened land and the compensation sought.
- (3) The court may require the applicant for the easement to bear the cost of compensating the person described in subsection (1).
1. The court may, if satisfied that the easement sought is of national importance, order that the Government compensates the person described in subsection (1) of this section.
- (5) Subject to the relevant provisions of the Constitution and any other laws relating to compulsory acquisition of land, the court may determine and award the compensation due under this section.

PART XI: WILDLIFE RESEARCH AND MONITORING

Monitoring of wildlife resources

Monitoring

- 65.(1) The Cabinet Secretary may, in consultation with the Service, designate monitoring mechanisms and set indicators to determine:-
- (a) the conservation status of wildlife resources; and
 - (b) any negative and positive trends affecting the conservation status of wildlife resources.
- (2) The Cabinet Secretary shall require any person, public or private organization or non-governmental organization with expertise in wildlife conservation and management to regularly report to him on the results of such monitoring measured against the predetermined indicators.
- (3) The Cabinet Secretary shall:-
- (a) at least every two years submit to the National Assembly a monitoring report undertaken under this section which shall form a part of the National Wildlife Conservation Status Report prepared under section 10(2) of this Act; and
 - (b) make such information publicly available.

Bioprospecting in wildlife resources

Bioprospecting

66.(1) No person may, without a permit from the Service:-

- (a) engage in bioprospecting involving any wildlife resources; or
 - (b) export from Kenya any wildlife resources for the purpose of bioprospecting or any other kind of research.
- (2) Any person desirous of undertaking bioprospecting involving any wildlife resources may apply to the Authority for a permit in a prescribed format and on payment of prescribed fees.
- (3) The Service shall in reviewing the application ensure that any interests of the following stakeholders may have in the proposed bioprospecting 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 tradition uses of the wildlife resources to which the application relates have initiated or will contribute to or form part of the proposed bioprospecting; and
 - (ii) whose knowledge of or discoveries about the wildlife resource to which the application relates are to be used for the proposed bioprospecting.
- (4) The Service may, upon approval by the Cabinet Secretary, where a stakeholder has an interest as set out in subsection (3)(a) of this section, issue a permit only if-
- (a) the applicant has disclosed all material information relating to the relevant bioprospecting 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 bioprospecting.
- (5) The Service may, upon approval by the Cabinet Secretary, where a community has an interest as set out in subsection (3)(b) of this section, issue a permit only if-
- (a) the applicant has disclosed all material information relating to the relevant bioprospecting to the community and on the basis of that disclosure has obtained the prior consent of the community to use any of the stakeholder's of or discoveries about the indigenous wildlife resources for the proposed bioprospecting; 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 bioprospecting.
- (6) The Service shall, in all bioprospecting involving any wildlife resources, be a joint partner on behalf of the people of Kenya.
- (7) The Cabinet Secretary shall, on the recommendation of the Service, require that a particular per centum of the proceeds from the bioprospecting is contributed to the Endowment Fund of the Service
- (8) The Cabinet Secretary may, on recommendation of the Service, by notice in the Gazette, promulgate rules, regulations and guidelines as are necessary and appropriate to carry out the purposes of this section.
- (9) Any person who contravenes any provisions of this section or the rules made under it commits an offence and shall be liable upon conviction to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

PART XII: PROBLEM ANIMAL CONTROL

Problem Animals

Control of problem animals

67. (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. 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. Under these circumstances, a subsequent report should be provided to the owner or occupier on 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 has killed an animal in terms of subsection (1) shall, as soon as possible, and in any case not later than 7 days after the event, report the circumstances of such killing and deliver the trophies of such animal, to the nearest wildlife office or police station.

Self-defense

68. (1) notwithstanding anything in this Act, it shall not be unlawful for any person to kill or wound any animal in the defense of himself or any other person if immediately and absolutely necessary.
- (2) The burden of proving that an animal has been killed or wounded in accordance with the (1) above, shall lie with the person who did the killing or wounding.

Ownership of killed problem animal

69. Any animal killed as a problem animal shall be a Government owned trophy.

PART XIII: WILDLIFE COMPENSATION

70.(1) The Department responsible for wildlife shall make appropriate budgetary arrangements for funds to compensate for damage occasioned by wildlife.

- (2) Compensation shall be for injury to person or death, livestock, crops and property damage occasioned by wildlife listed under the Eighth Schedule.

Compensation for wildlife damage

Compensation for personal injury or death or damage to property

71. (1) Where any person suffers any bodily injury or is killed by any wildlife listed under the Eighth Schedule, the person injured or in the case of a deceased person, his personal representative or successor or assign, may make an application to a county wildlife conservation committee in his jurisdiction established by section 82 for verification.

- (2) The county wildlife compensation committee shall verify the claim and with their recommendations submit it to the Cabinet Secretary for award and payment, which compensation shall not exceed one million shillings:

Provided that no compensation will 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 Eighth Schedule hereof and subject to the rules made by the Cabinet Secretary, may submit a claim to the county wildlife conservation committee who shall verify the claim and make recommendations as appropriate and submit it to the managing trustees of the Compensation Fund for award and payment.

- (4) The Cabinet Secretary shall review the claim and award and pay a

compensation valued at the local market rates:

Provided that no compensation will be paid where the owner of the livestock, crops or property failed to take reasonable measures to protect the 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) Where the person is dissatisfied with the decision and award made by the Compensation Fund, may within thirty days after being notified of the decision and award appeal to the court established under Article 162 (2) (b) of the Constitution.
- (6) Any person who makes a false claim or makes a false statement to the county wildlife compensation committee or Cabinet Secretary in respect of a wildlife damage claim shall be guilty of an offence under the applicable laws dealing with corruption and economic crimes.
- (7) The Cabinet Secretary may -
 - (a) on recommendation of the Service:
 - (i) by notice in the Gazette, revise the Eighth Schedule for which compensation is payable; and
 - (ii) review the limits on the compensation payable for injury or death, loss of livestock, crop or property; and
 - (b) by notice in the Gazette, prescribe measures, rules, regulations and guidelines as are necessary and appropriate to carry out the purposes of this section including the time period of payment of awards.

County Wildlife Compensation Committee

Establishment of county wildlife compensation committee

72. There shall be established a county wildlife compensation committee whose function shall be to –

- (a) develop and implement, in collaboration with community wildlife associations, mechanisms for mitigation of human-wildlife conflicts;
 - (a) review and recommend claims for payment of compensation resulting from wildlife damage;
 - (b) undertake wildlife education, extension service and public awareness; and
 - (c) perform such other functions as the Managing Trustees or regional 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) a representative from the community wildlife associations operating in the county;
 - (c) the County Agricultural Officer;

- (d) the County Medical Officer of Health;
- (e) the County Livestock Officer/Veterinary Officer;
- (f) the Officer in charge of County Police matters
- (g) a County Wildlife Warden from the Service who shall be the Secretary;
- (h) a County Environment Officer; and
- (i) 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 XIV: INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

International treaties

International treaties, conventions and agreements

73. (1) In order to facilitate compliance with any international treaty, convention or agreement, whether bilateral or multilateral, and for which any of the above the Cabinet Secretary has been given implementing authority, the Cabinet Secretary may make rules and regulations and give directions to ensure such obligations are complied with.
- (4) The Department 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.
 - (5) The Cabinet Secretary may, on recommendation of the Service after consultation with 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.
 - (6) The Cabinet Secretary shall publish regularly through the biennial wildlife conservation status report under section 10(2) on the progress of Kenya's implementation of wildlife related bilateral or multilateral environmental agreements to which Kenya is a Party.

PART XV: GENERAL PROVISIONS

The Common seal

74. 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.

Protection from personal liability

75. 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

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.

Liability for damages

76. The provisions of section 86 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 on the Service by this Act or by any other written law or by the failure, whether wholly or partially, or any works.

Financial year

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

Annual estimates

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

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

- (a) payment of salaries, allowances, pensions, gratuities and other charges in respect of the staff of the Service, regional wildlife conservation area committees and community wildlife scouts;
- (b) payment of salaries, allowances, pensions, gratuities and other charges in respect of the and the county wildlife compensation committees, as the case may be;
- (c) the proper maintenance of the buildings and grounds of the 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 Authority and 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 Treasury, and thereafter the Board, shall not increase the annual estimates without the consent of the Cabinet Secretary.

Accounts and audit

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

(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 Authority and the Service in respect of that year together with –

- (a) a statement of the income and expenditure of the Authority, the Service or the Compensation Fund during the year; and
 - (b) a statement of the assets and liabilities of the Authority, the Service or the Compensation Fund on the last day of the year.
- (3) The accounts of the Authority, the Service and the Compensation Fund shall be audited and reported upon in accordance with the provisions of the Public Audit Act No. 13/2003.

PART XVI: LAW ENFORCEMENT

Authorized officers

Powers of authorized officers

80. (1) An authorized officer may-
- (a) demand from any person the production of an authority, licence or permit for any act done or committed by that person in relation to wildlife resources for which an authority, permit or licence 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 detain any wildlife specimens in respect of which there is reason to believe that an offence has been committed, together with any tools, equipments, 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 24 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.

(4) In exercising his powers under this Act, the authorized officer shall suitably identify himself.

Erection of a temporary barrier

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

(2) Any person who -

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

(b) assaults, resists or willfully obstructs any officer in the exercise of the powers conferred upon such officer by this section,

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.

Use of firearms

82.(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, national reserves, wildlife conservancies and sanctuaries.

Offences

Offences relating to management plans

83. Any person who-

- (a) willfully and without reasonable cause contravenes an approved management plan required to be developed under this Act; or
- (b) fraudulently alters the approved management plan under this Act,

commits an offence and is liable upon conviction to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Offences relating to pollution

84. (1) Any person who-

- (a) discharges any dangerous materials, substances, 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 or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

(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.

Offences relating to conservation orders and easements

85. Any person who-

- (a) fails, neglects or refuses to comply with a wildlife conservation order made under this Act;
- (b) fails, neglects or refuses to comply with an easement issued under this Act,

commits an offence and shall be liable upon conviction to a fine or to imprisonment or to both such fine and imprisonment

as specified in the Thirteenth Schedule.

Offences relating to licences and permits

86. Any person who, for the purpose of obtaining, whether for himself or another, the issue of a licence 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 licence or permit or one is altered without authorization; or
- (d) knowingly contravenes any condition or requirement of a licence or permit,

commits an offence and shall be liable upon conviction, to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Offences relating to endangered and threatened species

87. 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 or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Offences relating to flying aircrafts in wildlife conservation areas

88.(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:-

- (a) shall be landed in a wildlife conservation area otherwise than at a recognized airfield and in accordance with the Park rules;
- (b) except for the purpose of landing at or taking off from a recognized airfield, shall be flown at a height of less than one-thousand-five-hundred feet over a wildlife conservation area.

(2) The pilot of an aircraft who contravenes the provisions of this section, or fails to comply with any rules made thereunder shall be guilty of an offence and upon conviction to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

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 and lead agencies.

General offences

89.(1) 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;

- (c) 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;
- (d) sets fire to any vegetation in any wildlife conservation area or allows any fire lighted by himself or his servants to enter a wildlife conservation area;
- (e) carries out logging in a national park or reserve;
- (f) clears and cultivates any land in the national park or reserve;
- (g) willfully damages any object of geological, prehistoric, archaeological, historic, marine or other scientific interest within a wildlife conservation area, or knowingly removes or attempts to remove any such object or any portion thereof from wildlife conservation areas;
- (h) knowingly introduces any alien species into any wildlife conservation area;
- (i) undertakes poaching;
- (j) grazes in the national park and national reserve without authority; or
- (k) undertakes any activity in wildlife conservation area contrary to the provisions of this Act:

commits an offence and is liable on conviction to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Offences relating to bodies corporate

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

General penalty

91. Any person found guilty of an offence against the provisions of this Act for which no specific penalty is provided shall upon conviction be liable to a fine or to imprisonment or to both such fine and imprisonment as specified in the Thirteenth Schedule.

Forfeiture

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

- (a) upon the conviction of the accused; or
- (b) if it is satisfied that an offence was committed notwithstanding that no person has been convicted of an offence,

order that the wildlife trophy, motor vehicle, equipment and appliance, livestock or other thing by means whereof the offence concerned was committed or which was used in the commission of the offence be forfeited to the Service and be disposed of as the court may direct.

- (2) In making the order to forfeit 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 thereunder.
- (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.

Exemptions of the officers of the Authority and Service

93. Nothing in this Act shall be construed as rendering an officer of the Authority and the Service guilty of an offence under this Act or the rules in respect of anything done by him in the course of duty as such officer, but where the officer is charged with such an offence the onus of proving that anything done by him was done in the course of his duty shall lie upon him.

Prosecutorial powers

94. An authorized officer may with the leave of the Attorney General given under the Criminal Procedure Code, conduct any prosecution for any offence committed under this Act.

Restraint of breaches of the Act

95.(1) Every citizen of Kenya, and any person who is ordinarily resident in Kenya, who has reason to believe that the provisions of this Act have been, are being, or are about to be violated, may petition the High Court for-

- (a) a declaration that the provisions of this Act are being, have been, are about to be contravened;
- (b) an injunction restraining any specified person from carrying out such a contravention;
- (c) the writ of mandamus against any officer or person who has failed to perform a duty imposed by or under this Act; and
- (d) any remedy at law or equity for preventing or enforcing the provisions of this Act.

(2) The petition submitted under subsection (1) shall state-

- (a) the particulars of the petitioner;
- (b) the nature of the violation or likely violation;
- (c) the provision(s) of this Act which is or are being violated; and
- (d) the person, agency or body violating or about to violate the said provisions.

PART XVII: MISCELLANEOUS PROVISIONS

Rules

- 96.(1) The Cabinet Secretary may, on recommendation of the Service, introduce or amend any schedule and make rules and regulations for or with respect to any matter which is necessary or expedient to be prescribed for carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of the foregoing, rules and regulations may be made under this section for-
- (a) granting of wildlife user rights;
 - (b) prescribing the amount of user fees payable under this Act generally or in particular cases;
 - (c) specifying the conditions subject to which any licence, permit or authorization may be granted or issued under this Act;
 - (d) regulating activities in the national parks, national reserves, provisional wildlife conservation areas, wildlife conservancies and sanctuaries and the visitor indemnity;
 - (e) prescribing measures that enhance community participation in the conservation and management of wildlife;
 - (f) providing for the protection of endangered and threatened ecosystems, habitats and species;
 - (g) prescribing measures and mechanisms for joint management of protected water towers with other lead agencies; and
 - (h) prescribing the manner of nomination of representatives of communities and other stakeholders to the Board, Trustees and the regional wildlife conservation area committees.
- (3) Rules made under this section may require acts or things to be performed or done to the satisfaction of the Authority and may empower the Authority 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.

Service to maintain registers

- 97.(1) The Service shall maintain registers of:
- (a) all licences and permits issued under this Act;
 - (b) national parks, national reserves, provisional wildlife conservation areas, 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

Authority's premises, or such designated office, by members of the public during official working hours.

Application of Environmental Impact Assessment and Tribunal

98.(1) The provisions of Part VI and Part XII of the Environmental Management and Coordination Act No. 8 of 1999 shall apply, *mutatis mutandis*, to and in respect of a licence under this Act and any environmental impact assessment as well as reference to the National Environment Tribunal required under this Act.

(2) The provisions of the Environmental Management and Coordination Act No. 8 of 1999 regarding reference to the Tribunal established under that Act shall apply to hearing of appeals arising from the decisions made under this Act.

Application of the Service in Defence of the Republic

99. (1) The Service shall form part of the auxillary reserve of the Kenya Defence Forces.

(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.

PART XVIII: TRANSITIONAL PROVISIONS

Repeal of Cap 376

100. The Wildlife (Conservation and Management) Act Cap 376 as amended in 1989 is repealed.

Savings

101. Notwithstanding the repeal of the Wildlife Act-

- (a) any land which, immediately before the commencement of this Act, was a national park, national reserve or sanctuary as set out in the Ninth Schedule, shall be deemed to be a national park, national reserve or sanctuary, under this Act;
- (b) any area which, immediately before the commencement of this Act, was a wildlife conservation area, wildlife conservancy or sanctuary shall be deemed to be a wildlife conservancy and sanctuary under this Act and shall, within one year of such commencement apply to the Authority for approval under this Act;
- (c) any licences or permits granted under that Act and in force immediately before the commencement of this Act shall, with the approval of the Authority 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

- (d) any rules and regulations promulgated under that Act and in force immediately before the commencement of this Act, with the approval of the Cabinet Secretary and upon recommendation of the Service, be deemed to have been promulgated under the provisions of this Act, and shall remain in force until revoked in accordance with any rules and regulations made under this Act.

FIRST SCHEDULE

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

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 –
 - (a) at any time resign from office by notice in writing to the Cabinet Secretary;
 - (b) be removed from office by the Cabinet Secretary if the member –
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairman; or
 - (ii) 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 his 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 of Interests

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, he 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.

Board may regulate procedure

4. Save as provided in this Schedule, the Board may regulate its own procedure.

SECOND SCHEDULE

PART 1

PROVISIONS RELATING TO THE OFFICERS OF THE SERVICE

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
 - Deputy Director
 - Senior Assistant Director
 - Assistant Director
 - Senior Warden
 - (ii) Senior Officers
 - Warden I
 - Warden II
 - (iii) Junior Officers
 - Assistant Warden I
 - Assistant Warden II
 - Assistant Warden III
 - Cadet
 - (iv) Rangers
 - Sergeant Major
 - Senior Sergeant
 - Sergeant
 - Corporal
 - Ranger
 - (v) Trainees
 - Management Trainee
 - Ranger Recruit

(b) Scientific Cadre

Chief Scientist
Senior Principal Scientist
Principal Scientist
Senior Scientist
Scientist I
Scientist II
Scientist III
Research Assistant I
Research Assistant II
Research Assistant III

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

- (3) The officers of the Service shall, in the performance of the duties conferred upon them under this Act and any other written law, conform to any lawful instructions, directions or orders which may be given by the Director.
- (4) The Director may, with the consent of the Trustees, from time to time make and issue administrative orders to be called Service Standing Orders for the general control, direction and information of the officers of the Service.

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 behaviour

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.

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

Definition

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

PART II

OATH OF ALLEGIANCE

“I,..... do hereby Swear by Almighty God (or do hereby solemnly and sincerely affirm) that I will give faithful and loyal service during my service in Kenya Wildlife Service and that I will bear true allegiance to the President and the Republic of Kenya: that I will subject myself to all Acts, Orders and Regulations now or in the future in force relating to my service in Kenya Wildlife Service; that I will obey all lawful orders of the officers placed over me; and that I will discharge all the duties of a Kenya Wildlife Service officer according to law, without fear, favour, affection or ill-will (so help me God”)

.....
Signature of Declarant

Personal Number.....

Sworn/affirmed before me.....

On the

THIRD SCHEDULE

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 two 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 comments on or objections to the proposal;
 - (d) specify the person or body to which any such comments are to be submitted; and
 - (e) specify a date by which any such comments or objections are required to be received, not being a date earlier than 60 days after publication of the notice.
2. The responsible authority shall make arrangements for the public to obtain copies, at reasonable cost, of documents relating to the proposal which are in the possession of the responsible authority.
3. The responsible authority shall consider –
 - (a) any written comments or objections received on or before the date specified under paragraph 1(2) (e); and
 - (b) any comments whether in writing or not, received at any public meeting held in relation to the proposal at which the responsible authority was represented, or pursuant to any other invitation, to comment.
4. The responsible authority shall publish, through the same media as were employed pursuant to paragraph 1, notice of the fact a copy of the decision in writing of the responsible authority in relation to the proposal, and of the reasons thereof, is available for public inspection at the same premises as were notified under paragraph 1(2) (b).
5. Where rules made under this Act so require, the responsible authority shall cause a public meeting to be held in relation to a proposal before the responsible authority makes its decision on the proposal.

FOURTH SCHEDULE

PROTECTED WATER TOWERS OF NATIONAL IMPORTANCE

- | | | |
|-----|---------------------|----------------------------------|
| 1 | Mt. Kenya Ecosystem | |
| 1. | | Aberdares Ecosystem |
| 2. | | Mt. Elgon Ecosystem |
| 3. | | Mau Forest Complex |
| 4. | | Cherangani Forests |
| 5. | | Shimba Hills Ecosystem |
| 6. | | Chyulu Hills |
| 7. | | Taita Hills |
| 8. | | Marsabit Forest |
| 9. | | Kibwezi Forest |
| 10. | | Ngong Forest |
| 11. | | Karura Forest |
| 12. | | Mathews Range |
| 13. | | Mua Hills |
| 14. | | Loita Hills |
| 15. | | Kakamega Forest National Reserve |
| 16. | | Bonjoge Forest |
| 17. | | OI Donyo Sabuk National Park |
| 19. | Ndundori Hills | |

FOURTH SCHEDULE

NATIONALLY LISTED ENDANGERED AND THREATENED ECOSYSTEMS

a) *Critically Endangered Ecosystem*

Name	Location	Major Threat	Status	Interventions
Mara	Mara National Reserve, Mara Conservancy, Siana, Koiyaki, Olare Orok Lemek, OI Pieyei, Loita hills, plains and forest, Suswa, Nguruman, Maji Moto, OI Choro Orua,	Reducing habitats due to land subdivision, over developments, impact of Tourism	National Reserve	Trans boundary Management
Amboseli	OI Gulului/ Lolorashi Group Ranch, Mbirikani Group Ranch, Kuku A and B Group Ranches, Selengei Group Ranch, OI Gulului Trust Land, Kimana Group Ranch, Rombo Group Ranch, West Chyulu National Park, Mashuru	Overgrazing, Unplanned and uncoordinated tourism developments desertification, land subdivision	Man and biosphere reserves; Part Protected as National Park	Integrated Management Planning
Nairobi	Nairobi national park, Athi-Kitengela & Kaputei Plains, Machakos ranches	Blockage of migration route; Land subdivision; urban sprawl	Nairobi National park is protected the rest is Private land	Strategic zoning through Development of Spatial frameworks/M aster Plans

b) *Endangered Ecosystem*

Name	Location	Major Threat	Status	Interventions
Lake Nakuru	Lake Nakuru. N.P and its catchment, Mau Forest Complex, Soysambu Ranch, Marula Ranch	Pollution, Siltation, invasive species, fluctuating water levels, Catchments degradation	Protected as National Park Ramsar site;	Concerted stakeholder efforts in the Mau forest catchments
Lake Elementaita	Lake Elementaita and its catchment and its basin, Soysambu Ranch, Marula ranch, Eburru Forest	Declining water levels due to catchments degradation, Encroachment, Water diversion, Pollution, mining	Ramsar site	Ramsar site; Concerted stakeholder efforts
Lake Turkana Ecosystem	Sibilo National Park, Kerio valley, Lake Turkana, Mt. Kulal, Loima hills, Mt. Nyiro, Central and Southern Islands N.P	Encroachment, water abstraction, desertification	World Heritage sites; National Park	Protected as a National Park; World Heritage sites
Tana Delta	Nairobi Ranch, Kipini, Witu forest, Tana Primate N.R, Lango la Simba Ranch, Sheikh Salim Ranch	Uncontrolled resource Harvesting; Encroachment	Trust Land Mangrove Forest Reserve	Stake holder collaboration; Joint management

c) Vulnerable Ecosystems

Name	Location	Major Threat	Status	Interventions
Mau Ecosystem	Chemorogorok, Eastern Mau, Eburru, Kilombe hills, Lembus, Londiani, Maasai Mau, Maji Mazuri, Mau Narok, Metkei, Molo east, Mt. Londiani, Nabkoi, Northern Tinderet, Ol	Illegal logging Encroachment, human settlement, fires, charcoal burning, illegal grazing,	Forest reserve	Integrated Management Planning

Pusimoru,
Southern Mau,
South West Mau,
Timboroa,
Tinderet,
Transmara,
Western Mau,
Western Molo

d) Areas of Environmental Significance

Name	Location	Major Threat	status	Interventions
Baringo Ecosystem	Ruko, Kamnarok, Iten, Rimoi, Tugen hills, Lake Bogoria, Lake Baringo	Encroachment, Over exploitation, Siltation , invasive species, Eutrophication, Declining water levels	Part is National Reserve	Ramsar site; Protected as National Reserve
Boni-Dodori - Kiunga Ecosystem	Kiunga Marine Reserve, Boni and Dodori forest reserves, mangrove forests	Overexploitation of mangrove resources	Man and biosphere reserves	Man and biosphere reserves
Malindi-Watamu Ecosystem	Arabuko-Sokoke, Mida Creek , Gede Forest,	Overexploitation of mangrove resources, logging, bushmeat	National Park/Reserves	Man and biosphere reserves; Protected as National Park/Reserves
Mt. Elgon Ecosystem	Mt. Elgon Park, Chepkitale, Saiwa Swamp, West Pokot, Nasolot, South Turkana, Cherenganyi forest,	Encroachment Illegal logging, invasive species	National Park	Man and biosphere reserves; Protected as National Park
Mt. Kenya Ecosystem	Mt. Kenya Park and Reserve, Laikipia Plateau, Ngaya forest, Imenti forest, Meru Park, Mwea N.R, Nyambene, Northern Grazing area, Samburu Conservacies, Ewaso Nyiro River Basin, Lewa Wildlife	Encroachment, Illegal logging, Uncontrolled water, abstraction Overgrazing	National Park and ; Forest Reserve	Man and biosphere reserves; Protected as National Park and ; Forest Reserve

Conservancy				
Marsabit Ecosystem	Losai, Marsabit Park and Reserve	Encroachment Illegal logging	Man and biosphere reserves	Man and biosphere reserves
Lake Naivasha Ecosystem	Aberdare range, Hells Gate National Park, Marula Ranch, Longonot, Kedong Ranch, Suswa, Nairek Engare	Pollution, clearance of riparian vegetation, invasive species, catchments degradation, Irrigation,	Non Protected	Ramsar site Concerted Stakeholders efforts
Aberdare Ecosystem Ranges	Aberdare Park and Reserve, Nyeri plains, Nyeri forest, Kabiruini forest, Thego forest, Sangare ranch, Solio ranch, Lake Ol Bolossat,	Encroachment, fires, overabstraction of water, charcoal burning, bhang cultivation, quarrying,	National Park	Protected as a National Park
Tsavo Ecosystem	Tsavo East and West N.P, Chyulu N.P, Taita hills, Ngai Ndeithya, Taita Ranches, Galana Ranch, Kulalu Ranch, South Kitui, Ithumba, Rombo, Kuku, Taveta, Jipe			
Shimba Hills Ecosystem	Shimba Hills N.P, Kuranze, Kilibasi, Mwaluganje, Kaya Mbombo, Mckinnon road,			

FIFTH SCHEDULE

NATIONALLY LISTED CRITICALLY ENDANGERED, ENDANGERED, VULNERABLE, NEAR THREATENED AND PROTECTED SPECIES

A) MAMMALS

Category and species name	Common name
Critically Endangered	
<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
Endangered	
<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
<i>Tragelaphus spekii</i>	Sitatunga
<i>Panthera pardus</i>	Leopard
<i>Alcelaphus buselaphus</i>	Lelwel hartebeest
<i>Giraffa camelopardalis rothschildi</i>	Rothschild's giraffe
	Giant forest hog
Vulnerable	
<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>Rhynchocyon petersi</i>	Black and rufous elephant shrew
<i>Pelomys hopkinsi</i>	Hopkins's groove-toothed swamp rat
<i>Taphozous hildegardeae</i>	Hildegarde'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 alex</i>	Highland shrew
<i>Taphozous hildegardeae</i>	Hildegarde'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
<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>Crocota crocuta</i>	Spotted hyaena
<i>Tragelaphus imberbis</i>	Lesser kudu
<i>Tragelaphus strepsiceros</i>	Greater kudu

B) BIRDS

Category and Species Name	Common Name
Critically Endangered	
<i>Apalis fuscigularis</i>	Taita Apalis
<i>Turdus helleri</i>	Taita Thrush
Endangered	
<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
Vulnerable	
<i>Falco naumanni</i>	Lesser Kestrel
<i>Trigonoceps occipitalis</i>	White-headed Vulture

<i>Torgos tracheliotos</i>	Lappet-faced Vulture
<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
Near Threatened	
<i>Francolinus streptophorus</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
<i>Prionops poliophopus</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
Protected species	
<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
<i>Ptilostomus afer</i>	Piapiac
<i>Galerida theklae</i>	Thekla Lark
<i>Hyliota australis</i>	Southern Hyliota
<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 castaneiceps</i>	Taveta Golden Weaver
<i>Crithagra koliensis</i>	Papyrus Canary
<i>Erythrocercus holochlorus</i>	Yellow flycatcher

C) Reptiles

Category and Species Name	Common Name
Critically Endangered	
<i>Eretmochelys imbricate</i>	Hawksbill turtle
<i>Petropedetes dutoiti</i>	Du Toit's Torrent Frog
Endangered	
<i>Chelonia mydas</i>	Green turtle
<i>Lepidochelys olivacea</i>	Olive ridley
<i>Python sebae</i>	Rock python
<i>Afrivalus sylvaticus</i>	Shimba Hills banana frog
<i>Hyperolius rubrovermiculatus</i>	Shimba Hills reed frog
<i>Afrivalus sylvaticus</i>	Forest frog
<i>Hyperolius rubrovermiculatus</i>	Treefrog
<i>Phrynobatrachus irangi</i>	Mount Kenya Frog
Threatened	

<i>Malacochersus tornieri</i>	Crevice tortoise
<i>Pelusios broadleyi</i>	Turkana mud turtle
<i>Bufo kerinyagae</i>	Montane toad
Vulnerable	
<i>Hyperolius cystocandicans</i>	Montane Tree Frog
<i>Atheris desaixi</i>	Mt. Kenya bush viper
Protected species	
<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
<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
Critically Endangered	
<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
Endangered	
<i>Alcolapia alcalicus</i>	Magadi tilapia
<i>Cheilinus undulates</i>	Giant wrasse
<i>Marcusenius victoriae</i>	Victoria stonebasher
<i>Xystichromis nuchisquamulatus</i>	Kyoga flameback
Vulnerable	
<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 breviceudatum</i>	Shorttail nurse shark
<i>Epinephelus 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
Endangered	
<i>Encephalartos kisambo</i>	Voi cycad
<i>Osyris lanceolata</i>	East african sandalwood
Vulnerable	
<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

SIXTH SCHEDULE

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
<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>Aspidozelis 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
<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

SEVENTH SCHEDULE

WILDLIFE SPECIES FOR WHICH GAME FARMING MAY BE ALLOWED

Animals

Crocodile
Tortoise
Chameleon
Reptiles (other than snakes)
Snails
Frog
Lizards
Butterfly
Snake (for display and venom extraction, export of live for breeding)

Plants

Aloe
Prunus africana
Osyris lanceolata- East African Sandalwood
Mondia whytei - White's Ginger (Mkombera)
Ocimum kilimanscharicum - Camphor Basil

Birds

Ostrich
Pigeon (except those listed in Schedule 5)
Doves (except those listed in schedule 5)
Ducks
Helmeted Guinea fowl
Vulturine Guinea fowl
Quelea

EIGHTH SCHEDULE

WILDLIFE SPECIES FOR 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
Wildebeest
Snakes
Wild dog

TENTH SCHEDULE LICENCING

PART 1 – CONSUMPTIVE WILDLIFE UTILISATION

General

- (1) In considering the license application for consumptive wildlife utilization, the Authority 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 regional 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 Authority 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 Authority 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 Authority 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 regional wildlife conservation area committee.

Cropping

- (5) Subject to the rules and regulations made under this section, the Cabinet Secretary may, on recommendation of the Authority 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 Authority, 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority 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.

ELEVENTH SCHEDULE MANAGEMENT PLANS

PART 1 – 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 Schedule 10 and any other legal requirement set out in this Act;

PART 3 – SPECIFIC REQUIREMENTS

Management of national parks

- (1) The Service shall, in consultation with the regional wildlife conservation area committees, manage, control and maintain all national parks and national reserves under its management.
- (2) The Service shall produce a management plan for all national parks and national reserves under its management. These management plans, which will be gazetted by the Cabinet Secretary, will regulate what development is to be allowed. No development can be approved in the absence of a management plan.
- (3) Within a national park; national reserve or sanctuary managed by the Service, the Trustees may, subject to the management plan:-
 - (a) reserve or set aside any portion of the park as a breeding and critical foraging habitat for wildlife or as nurseries for vegetation;
 - (b) authorize the construction of such roads, bridges, airfields, buildings, sanitary facilities and fences, the provision of such water supplies, and the carrying out of such other works as may be necessary for the purposes of the park;
 - (c) authorize snorkeling, diving and other marine related recreational activities;
 - (d) let sites for the erection of hotels or other accommodation for visitors to the park,
 - (e) set aside camping areas; and
 - (f) erect accommodation facilities within the parks:

Provided that nothing in any document connected with the letting shall be construed as in any manner abridging the overall control of the park, reserve or sanctuary by the Service, or as preventing the Director from giving directions as to the manner in which the premises concerned shall be managed in the interest of the long term conservation of wildlife resources.

(4) The Cabinet Secretary may, with the recommendation from the Service, by notice in the Gazette, publish rules to regulate and govern activities to be undertaken in the national parks, reserves and sanctuaries managed by the Service.

(5) Subject to the provisions of this Act, the Director may from time to time, by notice in the Gazette, prescribe the amount of fees payable for entry and activities in the national parks, reserves and sanctuaries managed by the Service.

Management of wildlife conservancies and sanctuaries

(1) An individual land owner, group of land owners or a community shall, on the advice of the Service and in collaboration with the regional wildlife conservation area committees, manage, control and maintain a wildlife conservancy and/or sanctuary.

(2) The owners shall undertake the development of a management plan as guided by part 2 of this schedule. By mutual agreement, these management plans may be gazette by the Director of the Service.

(3) Within a wildlife conservancy or sanctuary, the owners may, with the approval of the Authority and subject to the management plan:-

(a) reserve or set aside any portion of the wildlife conservancy or sanctuary as a breeding place for animals or as nurseries for vegetation;

(b) authorize the construction of such roads, bridges, airfields, buildings and fences, the provision of such water supplies, and the carrying out of such other works as may be necessary for the purposes of the wildlife conservancy or sanctuary; or

(c) let sites for the erection of hotels or other accommodation for visitors to the wildlife conservancy or sanctuary

(d) set aside camping areas; or

(e) erect accommodation facilities within the wildlife conservancy or sanctuary,

Provided that nothing in any document connected with the letting shall be construed as in any manner abridging the overall control of the wildlife conservancy or sanctuary by the land owners, or as preventing the Authority from giving directions as to the manner in which the premises concerned shall be managed in the interest of the long term conservation of wildlife resources.

(4) The individual land owner, group of landowners or a community may, with the approval of the Authority enter into a partnership or management agreement with a suitably qualified agent on mutually agreed terms for the management of the wildlife conservancy or sanctuary.

(5) The Cabinet Secretary may, on recommendation of the Service, by notice in the Gazette, publish rules to regulate and govern activities to be undertaken in wildlife conservancy and sanctuary.

(6) Subject to the provisions of this Act, an individual landowner, group of land owners or a community may, from time to time, prescribe the amount of fees payable for entry and activities in the wildlife conservancy or sanctuary under their management.

Twelfth Schedule

Benefit Sharing

Part 1 - Protected Areas under Service management

Benefit Generation

1. The Service shall charge entry fees for persons and vehicles visiting the protected area in the following manner.
 - (a) Such fees shall cover a 24hour period.
 - (b) Such fees shall be charged by Non-resident, Resident and Citizen categories as well as by vehicle size categories.
 - (c) The fee rates shall be set by the Service periodically, in consultation with stakeholders and gazetted by the Cabinet Secretary.
 - (d) Such fees will be clearly visible to the public at all protected area entrances.

Benefit allocation

2. The service may use such fees as follows:
 - 2.1 To defray the costs of managing the protected areas under their authority.
 - 2.2 To develop a programme for assisting Community Projects. This programme can include supplementation of facilities in regard to
 - Education
 - Health
 - Social Services
 - Mitigation of human/wildlife conflict
 - Conservation initiatives
 - 2.3 To purchase or pay a fair rent, where corridors are agreed on community or private land, that facilitate the dispersal of wildlife from Service managed protected areas. However, in the case of communities, they should be legally constituted to ensure fair and equitable distribution.
 - 2.4 With the approval of the Cabinet Secretary, to pay a licence fee to pastoralist communities, who facilitate the sharing of their

grazing lands with wildlife and agree that arable agriculture will not be undertaken.

2.5 With the approval of the Cabinet Secretary, to pay a licence fee to farmers who agree to allocate their land to facilitate wildlife grazing and browsing.

Benefit Opportunities

3. Where tourism facilities are provided for under a management plan, adjacent to protected areas, the adjacent communities should be provided the opportunity to participate in the tourism enterprise.
4. Where communities require a professional partnership to undertake such tourism ventures, then the Service should ensure equitable sharing of rents and profits. The Service shall provide guidelines for this purpose.

Payment for Environmental Services

5. Where protected area land under Service management contributes to national environmental services, the Service shall negotiate a charge with the Institutions or Agencies benefitting from the resource. Where neighbouring communities contribute to the maintenance of the environmental service, the charge will be shared between the Service and the Community.
6. Such environmental services shall include:
 - Water supply
 - Biodiversity quality
 - Carbon trade
 - Geothermal energy
 - Wind energy
 - Solar energy

Part 2 – Areas registered under Article 21.

Private Land

7. Entry fees for persons and vehicles and where appropriate, accommodation fees may be charged. In charging such fees, the duration, and any differentiation between categories of citizenship, residency and vehicle type must be clearly set out and made available to all visitors
8. Where such land is applied to facilitating wildlife corridors, a fair annual rent shall be paid by the Service, who will maintain funds for such purposes.

9. Where such land contributes to national environmental services, the Service shall negotiate with the Institutions or Agencies benefitting from the resource, a charge that will be passed onto the registered management. The categories listed under (6) will apply

Community Land

10. Entry fees for persons and vehicles and where appropriate, accommodation fees may be charged. In charging such fees, the duration, and any differentiation between categories of citizenship, residency and vehicle type must be clearly set out and made available to all visitors. However, in the case of communities, they should be legally constituted to ensure fair and equitable distribution.
11. Where communities require a professional partnership to undertake tourism ventures, then the Service should ensure that there is equity in the relationship in relation to rents and profit sharing. The Service shall provide guidelines for this purpose.
12. Where such land is applied to facilitating wildlife corridors, a fair annual rent shall be paid by the Service, who will maintain funds for such purposes.
13. Where such land contributes to national environmental services, the Service shall negotiate with the Institutions or Agencies benefitting from the resource, a charge that will be passed onto the registered management. The categories listed under (6) will apply.

Thirteenth Schedule

Penalties

The following fines and terms of imprisonment shall be applied upon conviction for an offence committed under this Act.

1. *Offences relating to sport hunting (Article 37)*

Fine – not less than two million shillings
Imprisonment – not less than seven years

2. *Offences relating to subsistence hunting (Article 38)*
Fine – not less than two hundred thousand shillings
Imprisonment – not less than two years
3. *Offences relating to Government trophies (article 41)*
Fine – not less than five hundred thousand shillings
Imprisonment – not less than three years
4. *Offences relating to control of invasive species (article 56)*
Fine – not less than one hundred thousand shillings
Imprisonment – not less than six months
5. *Offences relating to trade in endangered species (article 57)*
Fine – not less than five hundred thousand shillings
Imprisonment – not less than twelve months
6. *Offences relating to issuance of permits (article 58)*
Fine – not less than five hundred thousand shillings
Imprisonment – not less than six months
7. *Offences relating to bioprospecting (article 66)*
Fine – not less than five hundred thousand shillings
Imprisonment – not less than six months
8. *Offences relating to management plans (article 83)*
Fine – not less than one hundred thousand shillings
Imprisonment – not less than two years
9. *Offences relating to pollution (article 84)*
Fine – not less than five hundred thousand shillings
Imprisonment – not less than five years
10. *Offences relating to conservation orders and easements (article 85)*
Fine – not less than three hundred thousand shillings

Imprisonment – not less than three years

11. *Offences relating to licences and permits (article 86)*

Fine – not less than fifty thousand shillings

Imprisonment – not less than six months

12. *Offences relating to endangered and threatened species (article 87)*

Fine – not less than two million shillings

Imprisonment – not less than five years

13. *Offences relating to flying of aircraft (article 88)*

Fine – not less than five hundred thousand shillings

Imprisonment – not less than six months

14. *Offences relating to general offences (article 89)*

89 (a): Fine – not less than ten thousand shillings; imprisonment, one month.

89 (c), (f), and (k) Fine – not less than fifty thousand shillings

Imprisonment – not less than six months

89 (b), (g) and (h): Fine – not less than one hundred thousand; imprisonment, one year

89 (e), (i) and (j): Fine – not less than two hundred thousand; livestock confiscated; imprisonment, two years

15. *Offences relating to those with no specific penalty (article 91)*

Fine – not less than one hundred thousand shillings

Imprisonment – not less than two years