

# WILDLIFE CONSERVATION ENACTMENT 1997

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**STATE OF SABAH**

I assent,

TUN DATUK SERI PANGLIMA HAJI SAKARAN BIN DANDAI,

*Yang di-Pertua Negeri.*

24TH DECEMBER 1997.

**No. 6 of 1997**

An Enactment to make provisions for the conservation and management of wildlife and its habitats in the State of Sabah for the benefit and enjoyment of the present and future generations of the people of the State of Sabah.

ENACTED by the Legislature of the State of Sabah as follows:

## PART I

### PRELIMINARY

#### **Short title and commencement.**

1. (1) This Enactment may be cited as the Wildlife Conservation Enactment 1997 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint and the Minister may appoint different dates for the coming into force of different provisions of this Enactment.

(2) The Minister may, by order published in the *Gazette*—

- (a) the operation of the whole or any provision of this Enactment in any part of the State; and
- (b) at any time thereafter, remove the suspension, with effect from such date as the Minister may decide.

#### **Interpretation.**

2. In this Enactment, unless the context otherwise requires—

“aircraft” means any type of fixed or rotary winged aircraft, hovercraft, airship, balloon, or kite whether or not controlled by human agency;

“animal” means any vertebrate or invertebrate and the eggs thereof but does not include any domestic animal or the eggs thereof;

“animal bred in captivity” means an animal including eggs born or otherwise produced in a controlled environment, either of parents that mated or otherwise transferred gametes in a controlled environment, if reproduction is sexual, or of parents that were in a controlled environment when development of the animal began, if reproduction is asexual;

“animal product” means—

- (a) an ovum, embryo or sperm of an animal or any other part or product of an animal from which another animal could be produced;
- (b) any dung, cocoon, eggshell, nest, honey, beeswax or other product or thing produced by or from or built by an animal;
- (c) any dead animal or part thereof whether or not included in a manufactured or processed article except where it has ceased to be in a readily identifiable form as a result of such manufacturing or processing; or
- (d) anything having animal connections declared by the Minister by notice in the *Gazette* to be an animal product;

“Appendix I” or “Appendix II” means Appendices I or II of the Convention respectively including any amendment thereof;

“area” means an area of land and land includes land covered by water;

“artificially propagated plant” means a plant grown by man from seeds, cuttings, callus tissues, spores or other propagules under controlled conditions;

“ASEAN” means the Association of South-East Asian Nations;

“authorised officer” means a Wildlife Officer, an Honorary Wildlife Warden, a Park Officer, a Police Officer, a Customs Officer, a Forestry Officer, a Plant Quarantine Officer or any person designated an authorised officer by the Minister by notification published in the *Gazette*;

“botanical garden” means an area reserved or used for the propagation and cultivation of exotic and indigenous plants for the enjoyment, education and benefit of the public;

“building” includes any house, hut, shed, platform, wall, fence, gate, bridge or any other structure;

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“Collector” shall have the same meaning as in the Land Ordinance;

“compensation” includes the grant of land, rights or privileges;

“competent authority” means a national management authority designated pursuant to Article IX of the Convention by a party to the Convention or such other authority of a country understood by the Director to be competent to grant licences, permits, or certificates relating to animals, animal products or plants or having general responsibility for matters relating to wildlife in that country;

“Conservation Area” means a Conservation Area declared under section 21;

“Convention” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

“dealer” means any person who, in the course of any business or trade, exports, imports, preserves, processes, buys or sells any animal, animal product or plant, whether on his own behalf or on behalf of any other person;

“designated road” means a road designated under section 20(5);

“Director” means the Director of Wildlife appointed under section 3 and includes any person to whom he delegates functions under section 6;

“domestic animal” means an animal of any species that is generally accepted as domesticated by man and does not include any animal regarded as of a wild species which has been bred in captivity or taken from the wild and tamed;

“exotic animal” or “exotic plant” means an animal or a plant that is not generally accepted as indigenous to the State;

**Enactment No. 2 of 1968.**

“Forest Reserve” means a forest reserve declared as such under the Forest Enactment 1968 or constituted as such by any State law;

“harvest” means to gather, collect, take, pick, uproot, cut down, lop, prune any plant or take a cutting from any plant;

“hunt” means to pursue, molest, wound, kill or capture any animal by any method and includes any attempt so to do or the taking or destroying or attempting to take or destroy or disturb any egg or nest;

“kampung area” means the area specified in an animal kampung licence or if no area has been specified the area throughout which members of a kampung hunt or collect animal products or plants whether or not such area is used by members of any other kampung for such purposes;

“member of a kampung” means a person recognised as such by Headman of a kampung and who has been resident in that kampung for a continuous period of not less than twelve months prior to the time when such person exercises a right granted under this Enactment to a member of a kampung;

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

“mud wallow” means a place habitually visited by animals of one or more species for the purpose of wallowing in mud or cooling themselves therein;

**Enactment No. 6 of 1984.**

“Park” means an area declared as such under the Parks Enactment 1984;

“plant” means any species of plant or any part thereof whether living or dead and includes the stem, branch, tuber, bulb, corn, stock, budwood, cutting, layer, slip, sucker, root, leaf, flower, fruit, seed, or any other part or product whatsoever of a plant whether severed or attached but does not include any plant product that has undergone a process of heat and drying treatment;

“proposal” means a proposal referred to in section 9(1);

“protected animal” means an animal of a species specified in

Appendix I or II of the Convention, Part I of Schedule I, Part I of Schedule 2 or Schedule 3;

“protected area” means a Wildlife Sanctuary, a Conservation Area or a Wildlife Hunting Area;

“protected plant” means a plant of a species specified in Appendix I or II of the Convention, Part II of Schedule 1 or Part II of Schedule 2;

“public officer” means a member of the public service of the State;

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“reserved land” means land reserved for a public or residential purpose under the provisions of the Land Ordinance;

“salt lick” includes a mineral spring or any ground containing salt or another mineral sought by animals as a part of their diet;

“Scientific Authority” means the Ministerial Committee on Wildlife in the Ministry for the time being responsible for matters relating to wildlife or any other agencies as the Minister may designate by notice published in the *Gazette*;

“sell” includes to barter, exchange, hawk and offer, keep, possess or expose for sale;

“species” means any species, sub-species or geographically separate population thereof;

“timber” means any tree that has been felled or which has fallen and any part of any tree that has been cut or has fallen off and all round, sawn, split or hewn wood;

“wildlife” includes animals and plants;

“wildlife area” means a wildlife area declared by the Director under section 108;

“Wildlife Hunting Area” means an area declared as a Wildlife Hunting Area under section 64;

“Wildlife Officer” means the Director or any other officers referred to in section 3(1);

“Wildlife Sanctuary” means a Wildlife Sanctuary declared under section 9(6);

“zoological garden” means an area reserved for the breeding, rearing and keeping in captivity of exotic and indigenous animals for the enjoyment, education and benefit of the public.

PART II

ADMINISTRATION

**Sabah Wildlife Department.**

3. (1) There shall be a Director of Wildlife and such other officers appointed by the State Public Service Commission as shall be considered necessary for the proper carrying out of the provisions of this Enactment.

(2) This Enactment shall be administered by the Director and shall be enforced by Wildlife Officers and other authorised officers subject to the directions of the Director.

**Duties and functions of the Director.**

4. (1) The Director shall be generally responsible for the carrying into effect of the provisions of this Enactment and in particular but without derogating from the generality of this provision his duties and functions shall include—

- (a) advising the Minister on the formulation of conservation and management policies for wildlife and wildlife habitats;
- (b) advising the Minister on the establishment of Wildlife Sanctuaries, Conservation Areas and Wildlife Hunting Areas;
- (c) the implementation and administration of international conventions relating to wildlife or its habitats to which Malaysia has acceded on behalf of the State and the meeting of other international or bilateral obligations which are binding on the State;
- (d) the resolution of any dispute arising from the establishment of a Wildlife Sanctuary, a Conservation Area or a Wildlife Hunting Area under this Enactment and the negotiation of appropriate compensation where applicable;
- (e) the administration of protected areas established under this Enactment including the preparation and implementation of management plans;
- (f) the conservation of all wildlife with particular attention to endangered or threatened species and also the protection and, where needed, the restoration of wildlife habitats;
- (g) the carrying out, encouragement and coordination of research into wildlife and its habitats and the compilation of statistics concerning the fauna and flora of the State;
- (h) the control of the exploitation of wildlife resources including—
  - (i) hunting;
  - (ii) trade in animals, animal products including meat and plants;
  - (iii) farming of animals and cultivation of plants;
  - (iv) tourism and recreational facilities related to wildlife;



- (i) the promotion of public awareness relating to wildlife and its habitats and their conservation and for that purpose the provision and dissemination of information and the provision of education and educational materials;
- (j) the giving of advice on wildlife and wildlife habitat conservation to Government Departments, local authorities and members of the public;
- (k) liaison with the Federal Government and other State Departments for the purpose of avoiding conflicts of interest and ensuring the adoption of integrated policies for the protection of wildlife and its habitats;
- (l) liaison with competent authorities in other States of Malaysia and with other countries in the conservation and protection of wildlife and its habitats and the prevention of the smuggling of animals, animal products and plants;
- (m) the giving of such assistance as the Director may consider appropriate to the protection of persons and property from damage caused by animals; and
- (n) the establishment and administration of zoological gardens.

(2) The Director shall be subject to the directions of the Minister on matters of policy.

#### **Powers of the Director.**

5. (1) The Director shall, subject to this Enactment, have all the powers necessary to carry out the duties and functions provided for in section 4 and for the general superintendence of all matters within the scope of this Enactment.

(2) Without derogating from the generality of subsection (1) and subject to the provisions of any written law, the Director shall have power to—

- (a) supervise activities relating to wildlife conservation and habitat improvement, rehabilitation and protection;
- (b) undertake surveys of areas of major ecological or scientific importance or where wildlife or its habitats are under threat for the purpose of advising the Minister in the exercise of his powers under section 9, 21 or 64;
- (c) control, manage and maintain Wildlife Sanctuaries and Wildlife Hunting Areas;
- (d) reserve and set aside areas as breeding places for animals, places for treatment of sick or injured animals, places for rehabilitation of animals before return to the wild, nurseries for plants or any other purposes;

- (e) develop the facilities, including structures, roads, trails, bridges, airfields, fences and water supplies necessary for the operation of Wildlife Sanctuaries and Wildlife Hunting Areas;
- (f) license private organisations or individuals to provide services within the parts of Wildlife Sanctuaries open to the public and Wildlife Hunting Areas;
- (g) dispose of plants, animals or animal products grown, taken or culled or forfeited or confiscated for the purposes of this Enactment except where a sale would be contrary to the spirit of the Convention;
- (h) enter into arrangements for commercial hunting, breeding, farming and other exploitation of wildlife resources;
- (i) let sites for the erection of lodges or other accommodation for visitors to the parts of Wildlife Sanctuaries open to the public and Wildlife Hunting Areas;
- (j) carry out programmes for the restocking of wildlife and the reintroduction of indigenous species;
- (k) carry out programmes for the culling of overstocked species;
- (l) carry out wildlife translocation programmes;
- (m) enter into arrangements with competent authorities in other countries for—
  - (i) the donation, sale or purchase of animals or plants for the purpose of restocking and reintroduction of species into the State or such other countries;
  - (ii) co-operation in the protection and the saving of endangered species;
  - (iii) such other forms of co-operation as the Director shall consider appropriate;
- (n) enter into agreements for the purpose of ensuring animal migration patterns are maintained which may contain compensation arrangements;
- (o) to enforce any provisions of the Convention and any other provisions as may be applicable from time to time as deemed appropriate; and
- (p) do all things necessary for carrying out any of the purposes of this Enactment which the Director is authorised to carry out or for any purpose not specifically provided for in this Enactment.

**Delegation by the Director of his powers.**

6. The Director may in writing authorise any Wildlife Officer or any other public officer to exercise any or all of the powers of the Director either concurrently with him or in his absence, subject to such conditions including territorial restrictions as he may prescribe in the authorisation.

#### **Honorary Wildlife Wardens.**

7. (1) The Director may appoint suitable persons to be Honorary Wildlife Wardens to assist in the carrying into effect of the provisions of this Enactment or as a mark of recognition of valuable services rendered to wildlife and wildlife habitat conservation in the State.

(2) The appointment of an Honorary Wildlife Warden shall—

- (a) be notified in the *Gazette*;
- (b) unless made in recognition of valuable services, be made for a period of three years but may be renewable; and
- (c) be subject to such conditions as the Director may impose.

(3) The Director may pay Honorary Wildlife Wardens such honorarium as may be approved by the Minister.

#### **Wildlife guides.**

8. (1) The Director may license suitable persons to be wildlife guides for the purposes of this Enactment.

(2) Each licence issued under subsection (1) may be renewable and shall be given for such period, not exceeding three years, as the Director shall consider appropriate.

(3) The Director may cancel a licence given under subsection (1) without giving any reason therefor.

(4) The Minister may, acting on the advice of the Director, by notice in the *Gazette*, confer on licensed guides such of the powers of authorised officers as he shall consider appropriate.

(5) A wildlife guide shall be an authorised officer for the purposes of this Enactment when exercising any of the powers conferred on wildlife guides under subsection (4).

### **PART III**

#### **PROTECTED AREAS**

##### **Wildlife Sanctuaries.**

9. (1) If the Minister, after consultation with the Director, considers that it is necessary in an area to—

- (a) protect nature and maintain wildlife habitats and natural processes in an undisturbed state;
- (b) ensure the maintenance of biodiversity values; or
- (c) ensure the conditions necessary to protect significant species of animals or plants, biotic communities or genetic resources,

he may place a proposal before the Cabinet recommending that the Yang di-Pertua Negeri be advised that the area be declared a Wildlife Sanctuary.

(2) The proposal provided for under subsection (1) shall include—

- (a) as accurate a description as possible of the area and the boundaries of the proposed Sanctuary;
- (b) an assessment of the fauna and flora and other biodiversity values of the proposed Sanctuary;
- (c) particulars of the native or traditional rights that will continue to be exercisable after the coming into effect of the declaration of the proposed Sanctuary; and
- (d) a summary of the consultations held with relevant Government agencies and a summary of the representations made by persons and communities likely to be affected by the declaration of the proposed Sanctuary.

(3) The Minister may at any time after publication in the *Gazette* of the notice provided for in subsection 10(1)(a), publish a notice in the *Gazette* declaring that he has abandoned his intention to place a proposal before the Cabinet.

(4) When a notice of abandonment has been published in accordance with subsection (3) it shall also be posted in like manner as a notice of intention under section 10(1)(a).

(5) Section 11 shall cease to apply upon publication of a notice under subsection (3).

(6) The declaration of an area as a Wildlife Sanctuary shall be made by the Yang di-Pertua Negeri by notice published in the *Gazette* which shall state the date upon which the declaration shall come into effect.

(7) No Wildlife Sanctuary shall be revoked, reduced in size or have its boundaries altered except by resolution of the Legislative Assembly.

(8) From the date an area is declared a Wildlife Sanctuary under this section, no land may be alienated and no other grants may be made to any person in that Wildlife Sanctuary and no rights shall have effect therein except in accordance with this Enactment.

### **Consultation and compensation procedures.**

**10.** (1) No proposal shall be submitted by the Minister to the Cabinet for the declaration of a Wildlife Sanctuary or for increase in the size of a Wildlife Sanctuary unless—

- (a) a notice of intention to make the proposal in Bahasa Malaysia and English containing details of the proposed Sanctuary or increase in the size of a Sanctuary and in particular an indication of the boundaries thereof which shall be as accurate as possible and inviting objections thereto and claims in respect of loss of rights likely to arise from the establishment of the Sanctuary within a period of ninety days has been published in the *Gazette* and posted at the office of the Collector within whose District the whole or any part of the proposed Sanctuary is situated and such other places as the Director shall decide;
- (b) the Minister has satisfied himself that all claims in respect of loss of rights have been investigated and settled by agreement or by determination of the Collector under subsection (3), or the High Court under subsection (4); and
- (c) the Minister has taken into account the objections received in accordance with subsection (2).

(2) Any person or group of persons who—

- (a) objects to the declaration of the proposed Wildlife Sanctuary; or
- (b) claims for the loss of any rights,

may before the expiry of ninety days after the publication of the notice referred to in subsection (1)(a) give notice in writing stating the grounds of the objection or the rights claimed to the Collector referred to in subsection (1) who shall forthwith forward such objections or claims to the Director.

(3) A claim in respect of loss of rights may be settled by agreement between the Director and the claimant failing which the claimant may refer the claim to the Collector referred to in subsection (1) for determination.

(4) Any person aggrieved by the decision of the Collector may appeal to the High Court within thirty days of the notification of the decision of the Collector.

(5) The Minister, if he considers that the public interest so requires, may order a public enquiry to be held by the Collector in the District or one of the Districts in which the area to be declared a Wildlife

Sanctuary is situated at which the objectors may publicly state their objections and the Minister shall be represented and shall have a right of reply.

(6) A comprehensive report containing a record of objections and claims and a record of any public enquiry that may have been held under subsection (5) shall be laid before the Cabinet at the same time as the relevant proposal for the declaration of a Wildlife Sanctuary.

### **Cessation of alienation of land, cultivation and hunting. Cap. 68.**

**11.** (1) From the date of the publication in the *Gazette* of the notice provided for in section 10(1)(a), no land shall be alienated under the Land Ordinance, no construction of any building shall be commenced, no preparation for cultivation shall be commenced, no trees shall be felled, and no hunting shall be undertaken in the area of the proposed Sanctuary.

(2) Any land title, right or concession granted contrary to subsection (1) shall be void.

### **Compulsory acquisition of land. Cap. 69.**

**12.** The establishment or extension of a Wildlife Sanctuary shall be a public purpose within the meaning of the Land Acquisition Ordinance and the procedure specified in that Ordinance shall be followed for the acquisition of land in connection with such establishment or extension.

### **Management plans.**

**13.** (1) The Director shall within three years after the declaration of a Wildlife Sanctuary prepare and submit to the Minister a management plan which shall include—

- (a) an analysis of the major resources of the Sanctuary;
- (b) a map clearly defining the boundaries of the Sanctuary and a written description of such boundaries;
- (c) details of management objectives;
- (d) details of the zones into which the Sanctuary is divided for wildlife conservation and management purposes which may include zones or parts of zones to which members of the public may be admitted;
- (e) a detailed programme of management action for conservation and protection of wildlife and its habitats including details of requirements of staff, staff facilities and equipment and estimates of expenditure;
- (f) details of research proposals; and
- (g) such other matters as may be required.

(2) The management plan referred to in subsection (1) shall cover a period of five years.

(3) Further management plans or revision of parts thereof shall be submitted to the Minister at such intervals and in such manner as may be determined by the Minister.

(4) The Minister shall cause the management plan and any revision thereof to be published in such manner as shall be appropriate and to be made available for consultation by members of the public.

#### **Demarcation of boundaries of Wildlife Sanctuary.**

**14.** (1) The Director shall within five years of the declaration of a Wildlife Sanctuary demarcate the boundaries of that Wildlife Sanctuary.

(2) Where there is any conflict between a demarcation carried out under subsection (1) and a map or description prepared pursuant to section 13(1)(b) the demarcation under subsection (1) shall prevail for the purposes of this Enactment.

(3) Any person who moves, destroys or interferes with any notice, fence, gate, boundary marker, erected or put in place in accordance with subsection (1) commits an offence and shall be liable on conviction to a fine of ten thousand ringgit or to imprisonment for one year or to both.

#### **Restriction of residence in and entry into a Wildlife Sanctuary.**

**15.** (1) Subject to section 20, no person, except a public officer in the course of his duties or a person employed in the Sanctuary, shall reside in or enter a Wildlife Sanctuary, except as provided in subsections (2) and (3).

(2) Persons may, under the authority of a valid permit, enter such part of a Wildlife Sanctuary as may be designated as open to the public under the management plan for that Sanctuary prepared in accordance with section 13.

(3) The Director may, under the authority of a research permit granted in accordance with section 113, permit any persons named therein to enter any part of a Wildlife Sanctuary that is not open to the public for the purpose of scientific research only and for the period and in accordance with the conditions contained in the permit.

(4) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

#### **Hunting of animals and harvesting of plants in a Wildlife Sanctuary.**

**16.** (1) Subject to subsection (2) and section 20, any person, not being a Wildlife Officer acting in the course of his duties, who hunts any animal or searches for or harvests any plant in a Wildlife

Sanctuary commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

(2) A person may when so authorised by licence or permit fish with rod and line or a hand line in a zone of a Wildlife Sanctuary where fishing may be permitted.

**Other prohibited acts within a Wildlife Sanctuary.**

**17.** (1) Subject to sections 16(2) and 20, no person shall—

- (a) fell or cut any tree or cut, injure or set fire or allow fire lighted by himself or his servants outside a Wildlife Sanctuary to spread to any vegetation;
- (b) search for or collect any animal product;
- (c) wilfully damage any object of geological, prehistoric, marine or other scientific interest or remove such object or a portion thereof;
- (d) without lawful excuse, be in possession of any animal, animal product or plant;
- (e) knowingly introduce any animal or domestic animal or allow such animal to stray;
- (f) disturb or stampede any animal;
- (g) wilfully damage any structure;
- (h) occupy, clear, cultivate or break up for cultivation any land;
- (i) carry out any quarrying activities;
- (j) construct or occupy any structure or building; or
- (k) do any other thing that is prohibited by regulations, within a Wildlife Sanctuary.

(2) No person shall bring into a Wildlife Sanctuary, or use, have or be in possession of within a Wildlife Sanctuary any equipment which may be used for carrying out any of the activities referred to in subsection (1) including but not limited to any skidder, bulldozer or tractor.

(3) Any person who contravenes subsection (1) or subsection (2) commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

**Environmental offences in Wildlife Sanctuary.**

**18.** (1) Any person who—



- (a) spreads chemicals or other toxic matters either from within or outside a Wildlife Sanctuary which cause harm to fauna or flora in that Sanctuary;
  - (b) discharges or allows the discharge of oil, chemicals or other toxic or waste matters capable of harming fauna and flora in or adjacent to any rivers, lakes and waters in or flowing into a Wildlife Sanctuary; or
  - (c) obstructs or diverts any rivers, pools, lakes or other bodies of water in or flowing into a Wildlife Sanctuary, commits an offence and shall be liable on conviction, if a corporate body, to a fine of one hundred thousand ringgit and, if not a corporate body, to a fine of fifty thousand ringgit or to imprisonment for five years or to both.
- (2) A Court that convicts a person of an offence under subsection (1) may order that person to pay to the Government such contribution towards the cost estimated by the Government of remedying the damage caused by the spread, discharge, obstruction or diversion as the Court shall consider appropriate.

#### **Flying restrictions relating to Wildlife Sanctuaries.**

**19.** (1) Except in cases of emergency or when carrying out wildlife management work on behalf of the Director, the proof whereof shall lie on the pilot thereof, no aircraft—

- (a) shall be landed in a Wildlife Sanctuary otherwise than at an approved airfield; or
- (b) except for the purposes of landing or taking off from an approved airfield, shall be flown at a height of less than five hundred metres over a Wildlife Sanctuary.

(2) The pilot of an aircraft who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

#### **Exceptions to restrictions and prohibitions relating to Wildlife Sanctuaries.**

**20.** (1) Subject to this Enactment, the native or traditional rights specified in a proposal may continue to be exercised in the Sanctuary described in that proposal, except where under agreement between the Director and the persons entitled to exercise those rights they cease to be exercisable in return for compensation.

(2) Except with the written authorisation of the Director or officer in charge of a Wildlife Sanctuary, no person shall—

- (a) make within the Sanctuary any commercial film or video recording or take still photographs for commercial purposes; or
- (b) enter any area of the Sanctuary that has been declared by the Director or officer in charge of the Wildlife Sanctuary to be closed to the public.

(3) Any person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

(4) The Director may authorise the construction of buildings for the proper management or development of a Wildlife Sanctuary and the provision of public facilities in those parts of a Sanctuary referred to in section 15(2).

(5) A person may use a road designated by the Director for such purpose by notification in the *Gazette*, for the purpose of passing through a Wildlife Sanctuary for a destination outside the Sanctuary or for entry to the Sanctuary through a designated entry point.

(6) A person travelling on a designated road—

- (a) shall stop at such barrier or guard post as may be established at such place where the designated road enters or exits the Sanctuary;
- (b) shall not carry any weapon or other equipment capable of killing, stunning or otherwise making an animal immobile or defenceless without the consent in writing of a Wildlife Officer; and
- (c) shall abide by such restrictions or conditions as may be prescribed and such directions as may be given to that person by a Wildlife Officer.

### **Conservation Areas.**

**21.** (1) Where the Yang di-Pertua Negeri is satisfied that a measure of control is required in an area for the purpose of protection of wildlife, wildlife habitats, migration sites, migration corridors and sites of scientific or other importance or value, for the purpose of ensuring the security of the wildlife or its habitats of a neighbouring Wildlife Sanctuary, or for the purpose of the control of the smuggling of animals, animal products or plants in areas bordering neighbouring States or countries, he may by order published in the *Gazette* declare that area to be a Conservation Area.

(2) The Yang di-Pertua Negeri may, by regulations, provide for control of—

- (a) development projects;
- (b) hunting and the carrying of firearms and other means of hunting;
- (c) the movement of animals, animal products and plants; and
- (d) aerial spraying of crops and grazing areas,

in a Conservation Area.

(3) The Minister may, from time to time, restrict entry of nonresidents without a permit into any part of a Conservation Area for the purpose of the protection of vulnerable wildlife populations including migrating or breeding wildlife or for the restoration or protection of flora or a wildlife habitat provided that no such restriction shall be imposed for a period of more than one year at any one time.

### **Declaration of provisional Wildlife Sanctuaries.**

22. (1) Where the Director is satisfied that there is an urgent need to save wildlife, a wildlife habitat or an ecosystem of an area from imminent destruction or irremedial damage he shall, by order published in the *Gazette*, declare that area to be a provisional Wildlife Sanctuary.

(2) Subject to subsection (3), a declaration made under subsection (1) shall be effective for one hundred and twenty days from and including the day on which the declaration is published in the *Gazette* or until a declaration is made under section 9(6), whichever is the earlier.

(3) The Minister may, after consultation with the Director—

- (a) rescind a declaration made under subsection (1);
- (b) vary such declaration; or
- (c) extend such declaration for not more than one hundred and twenty days from the date of its expiry.

(4) Section 13 shall apply to a provisional Wildlife Sanctuary from the date of its declaration.

(5) Subject to subsection (6), where a declaration is made under subsection (1) the Director may, by notice in the *Gazette*, apply such of the provisions of this Enactment as he may consider necessary for the protection in the area of wildlife and its habitats.

(6) No declaration made under subsection (1) shall—

- (a) prevent or make unlawful the residence of persons already lawfully resident in the area;
- (b) restrict the movement of persons already lawfully resident in the area except in those parts closed for the protection of vulnerable wildlife populations.

(7) The provision as to residence referred to in subsection (6)(a) shall not prevent the Director from negotiating with the persons affected for their removal from the area which has been declared a provisional Wildlife Sanctuary under subsection (1), to an alternative place of residence in return for agreed compensation.

### **Periods of grace.**

**23.** (1) The Minister may, after consultation with the Director, by order published in the *Gazette*, provide for periods of grace during which persons lawfully living in an area which has been declared a Wildlife Sanctuary may be excepted from—

- (a) the restriction on residence therein;
- (b) the restriction from entry for the purpose of tending and harvesting crops planted before the coming into force of the relevant declaration;
- (c) the restriction from entry for the purpose of watering and grazing animals.

(2) A period of grace notified under subsection (1) shall not exceed twelve months from the date of the declaration of a Wildlife Sanctuary under section 9(6).

#### **Impounding of domestic animals.**

**24.** (1) Any domestic animal found in a Wildlife Sanctuary may be impounded by a Wildlife Officer and shall be returned to any person claiming ownership of it—

- (a) if a Wildlife Officer is satisfied that the claimant is the true owner; and
- (b) the claimant has paid to the Government the total prescribed daily pound fees for that domestic animal.

(2) Where an animal has been released under subsection (1) the Government shall be absolved from all liabilities and all claims in respect of that animal.

(3) Where a domestic animal impounded under subsection (1) has not been claimed within thirty days of being impounded, the officer in charge of the Wildlife Sanctuary may dispose of that animal as he shall consider fit.

(4) A domestic animal shall include, for the purposes of this section, an animal of a wild species that has escaped from captivity or is owned by any person pursuant to a farming permit.

## PART IV

### PROTECTION OF ANIMALS AND HUNTING

#### **Animals that shall not be hunted.**

**25.** (1) No person shall hunt any animal of a species listed in Part I of Schedule 1.

(2) No person shall hunt—

- (a) an animal of a species listed in Part I of Schedule 2 or Schedule 3 without a licence;
- (b) more than the quota of that species of animal included in a licence.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction—

- (a) in respect of an offence relating to an animal of a species listed in Part I of Schedule 1 to a term of imprisonment for not less than six months but not exceeding five years; or
- (b) in respect of an offence relating to an animal of a species listed in Part I of Schedule 2 or Schedule 3, to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

### **Animals that may be hunted in limited numbers.**

26. (1) A person may hunt an animal of a species listed in Part I of Schedule 2 under the authority of a licence issued by the Director.

(2) The Director may at any time by notice published in the *Gazette* declare—

- (a) the total number of animals of each species listed in Part I of Schedule 2 that may be hunted;
- (b) the number of animals of each species listed in Part I of Schedule 2 that may be hunted in each Wildlife Area;
- (c) the maximum number of animals of each species listed in Part I of Schedule 2 that any individual may be licensed to hunt.

### **Other animals that may be hunted under licence.**

27. A person may hunt any animal of a species listed in Schedule 3 under the authority of a licence issued by the Director.

### **General provisions relating to all hunting licences.**

28. (1) No hunting licence shall be issued unless the applicant or any other person entitled to hunt under the licence is in possession of a current valid firearm licence authorising the applicant or such person to possess or use an appropriate firearm or both for the purpose of hunting under the licence and the Director may require the applicant to produce the firearm licence and the firearm specified in such licence before issuing the hunting licence.

(2) The Director may refuse to grant a licence without assigning any reason for such refusal.

(3) Licences may be divided into such sub-categories as may be prescribed and the Director may decide that different sub-categories of licence may attract different fees.

(4) No hunting licence shall be issued by the Director to an applicant unless the Director is satisfied that the applicant or persons authorised to hunt under the licence are—

- (a) in possession of suitable firearms permitted to be used under the licence;
- (b) competent to use the firearms; and
- (c) able to identify the animals of the species listed in Part I of Schedule 1, Part I of Schedule 2 and Schedule 3.

(5) The Director may require an applicant for a hunting licence or person who will be entitled to hunt under the licence to undergo tests to ensure the competence of that person to use firearms and to identify species of animals.

(6) A person hunting under the authority of a hunting licence shall be accompanied by such persons as may be required by the conditions of the licence.

(7) A person hunting under the authority of a sporting or commercial licence shall not hunt in the company of more than such number of other persons holding hunting licences as the Director may stipulate in the licence.

(8) No person may transfer a hunting licence to another person and no person shall hunt under a licence unless he is by the licence authorised to hunt.

(9) No hunting licence shall entitle the person authorised to hunt under it to hunt on any alienated land, Forest Reserve, Park, reserved land or State land where entry is restricted without the consent of the owner thereof or of the appropriate authority in charge thereof, as the case may be.

(10) No hunting licence except an animal kampung licence shall entitle a person to hunt in the hunting area of a kampung except with the consent of the person holding the animal kampung licence for each kampung to which the area relates and on payment of such kampung fee to each kampung as the Director may approve.

(11) Subject to section 52 and the terms of the licence, a hunting licence shall entitle the person authorised to hunt thereunder, to kill or capture any animal to which it relates and to remove such animal from the place where it has been killed or captured.

### **Categories of hunting licences.**

**29.** There shall be the following categories of hunting licences:

- (a) sporting licence;
- (b) commercial hunting licence;
- (c) animal kampung licence; and
- (d) such other licences as may be prescribed.

### **Sporting licence.**

**30. (1)** A sporting licence shall entitle the holder thereof to hunt animals of the species listed in Part I of Schedule 2 in the wildlife area or areas and in the numbers thereof specified therein and any animal of a species listed in Schedule 3 in the wildlife area or areas specified in such licence.

(2) An additional wildlife area may be endorsed on a sporting licence upon application therefor and payment of the prescribed fee.

(3) A sporting licence may be granted for such period as may be stated therein which shall not be more than six months.

(4) The Director may at the request of the Minister issue a sporting licence to an official State visitor free of payment of any fee.

### **Commercial licence.**

**31.** (1) A commercial licence shall entitle the holder thereof and any other persons designated in the licence to—

- (a) hunt the animals of the species and in the numbers specified in the licence for commercial farming, export and sale of animals or the meat therefrom;
- (b) hunt such animals for the purpose of trade in or the export of animal products therefrom;
- (c) collect eggs and other animal products, except where otherwise prescribed, for sale, commercial farming and rearing of the progeny therefrom, as the case may be,

in the wildlife area or areas specified in the licence.

(2) An additional wildlife area may be endorsed on a commercial licence upon application therefor and payment of the prescribed fee.

(3) A commercial licence may be granted for such period as may be stated therein and may be renewed upon application and payment of the prescribed fee.

### **Animal kampung licence.**

**32.** (1) An animal kampung licence may be granted to a suitable person to hold on behalf of and for the benefit of the kampung to which that person belongs.

(2) An animal kampung licence shall entitle the members of the kampung for which it is granted to hunt in the area specified in the licence for the species of animals listed in Part I of Schedule 2 and Schedule 3 specified in the licence.

(3) The Director shall also specify in the licence the weapons and methods of hunting that may be used for hunting under the licence and the maximum number of animals of each species that may be hunted and he may at any time reduce such number if he is satisfied that an animal or animals of any species specified in the licence or of any other species have been illegally captured, wounded or killed in the area to which the licence applies.



(4) No fee shall be payable in respect of an animal kampung licence which shall be granted for one year but may be renewed annually subject to changes made in the licence by the Director in respect of the species and numbers of animals therein specified.

(5) Any member of a kampung who—

- (a) uses a weapon or method of hunting not permitted under an animal kampung licence;
- (b) hunts a protected animal of a species not included in an animal kampung licence; or
- (c) hunts an animal of a species included in an animal kampung licence knowing that the limit on the number of such animals that may be hunted has been reached,

commits an offence and shall be liable on conviction thereof to a fine of ten thousand ringgit or to imprisonment for one year or to both.

#### **Prohibited methods of hunting.**

**33.** (1) No person, except with the authorisation of the Director, Shall—

- (a) hunt any young animal which is still a suckling;
- (b) hunt any female animal when it is—
  - (i) clearly or seemingly pregnant;
  - (ii) in a condition indicating that it is suckling young whether or not the young are apparent; or
  - (iii) accompanied by immature young, whether dependant on it or not;
- (c) shoot at any animal from any motor vehicle, aircraft, launch or other craft propelled by mechanical means attached to such craft;
- (d) approach within three hundred metres of any animal in a motor vehicle, launch or aircraft for the purpose of hunting that animal;
- (e) use any aircraft, motor vehicle or mechanically propelled vessel so as to drive, stampede or disturb any animal;
- (f) use an aircraft or radio telephone for locating an animal for the purpose of hunting that animal within forty-eight hours of such location;
- (g) for the purposes of hunting, approach or build any platform or hide within five hundred metres of any salt lick or mud wallow;

- (h) set fire to any grass or other vegetation for the purpose of hunting any animal;
- (i) use dogs for hunting or driving animals except birds;
- (j) hunt any animal during the period between six in the evening and six in the morning;
- (k) employ or have in his possession for such employment for the purposes of hunting—
  - (i) any drugs, poisons, poisoned weapons or poisoned baits;
  - (ii) any explosives or missiles containing detonators;
  - (iii) any traps, snares, gins, nets, deadfalls, fixed stakes or the like, pits or set guns or any contrivance likely to endanger human life or cause bodily harm to any person;
  - (iv) any devices capable of producing an electric current sufficient to kill a fish or any other animal;
  - (v) any lures, artificial calls, electronic devices or recordings;
  - (vi) any artificial light;
  - (vii) any firearms capable of firing more than one round at each pull of the trigger or any other firearms prescribed generally or for the hunting of particular species of animals; or
- (l) employ any other prohibited method of hunting or thing that may be prescribed.

(2) Any person found away from his place of abode in possession of any of the things listed in subsection (1)(k) or prescribed under subsection (1)(l) in circumstances that, having regard to the place in which he is found and the place to or from which he appears to be travelling, give rise to a reasonable assumption that he has used or intends to use such thing for hunting shall, unless he proves otherwise to the satisfaction of the Court, be presumed to have such thing in his possession for the purpose of hunting an animal.

(3) Any person who contravenes any provision of subsection (1) commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

**Restriction on hunting in vicinity of dwelling, road or track.**

**34.** (1) No person shall knowingly hunt with any firearm within three hundred metres of any dwelling, road or track that is in habitual use.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of ten thousand ringgit or to imprisonment for one year or to both.

## **Records and reporting.**

**35.** (1) Except in the case of an animal kampung licence, the holder or person exercising rights under a hunting licence shall, unless stated otherwise in the licence—

- (a) keep in the prescribed form a register of all animals killed, wounded or captured under such licence;
- (b) keep in the prescribed form a record of the ammunition carried and used when hunting; and
- (c) carry a map showing the area where he is hunting with the boundaries of any protected area clearly marked.

(2) A person required to keep the records under subsection (1) shall enter the particulars therein as soon as practicable and in any event not later than forty-eight hours after each day's hunting.

(3) The person required to keep the records under subsection (1) shall—

- (a) produce any such record at any reasonable time when so requested by an authorised officer;
- (b) furnish the record or a true copy thereof to the Director at the expiry or sooner determination of the hunting licence under which that person is authorised to hunt;
- (c) if a non-resident, furnish the record or a true copy thereof to the Director before departure from the State.

(4) If the Director or another authorised officer is satisfied that a person required to keep records under subsection (1) is illiterate he shall accept an oral statement in lieu of production of the records required under subsection (1).

## **Wounding of animals and reports.**

**36.** (1) Any person who, when hunting, wounds an animal and fails to kill it shall use all reasonable endeavours to kill it as soon as possible provided that nothing in this section shall authorise any person to follow any animal into a Wildlife Sanctuary or a Park or to hunt any animal therein.

(2) When a person wounds an animal and fails to kill it, that animal shall be considered to have been killed for the purpose of any quota contained in the hunting licence under which that person is authorised to hunt.

(3) When it is likely that a wounded animal will constitute a danger to man the person who wounded it shall report the date and approximate place of the wounding, a description of the animal and of its wound to the nearest authorised officer without delay.

## **Reckless injury or killing of animal.**

**37.** Any person who does any act with such recklessness that he should have foreseen that the injury or death of an animal might occur as a result of such act commits an offence, if a protected animal is injured or killed as a result of such act, and shall be liable on conviction, if the animal is an animal listed in Part I of Schedule 1, to a fine of twenty thousand ringgit or to imprisonment for two years or to both, or, if it is any other protected animal, to a fine of ten thousand ringgit or to imprisonment for one year or to both.

**Animal rescue operations.**

**38. (1)** Any person who intends to clear any land in natural forest for cultivation, for construction of buildings, or for civil engineering works or to commence logging operations in any natural forest shall not less than thirty days prior to the intended commencement of such clearance or logging operations notify the Director of such intention.

(2) The Director upon receipt of such notification shall cause an inspection of such land to be carried out and notify the person who gave the notification under subsection (1) either that—

- (a) the clearance operation may proceed without further notification to the Director; or
- (b) an animal rescue operation shall be necessary prior to the commencement or during the clearance or logging operations.

(3) As soon as practicable after receipt of a notification under subsection (2)(b), the person who gave notification under subsection (1) shall agree to an arrangement with the Director—

- (a) for the carrying out of an animal rescue operation by himself, his servants or agents under the supervision of a Wildlife Officer; or
- (b) for the carrying out of an animal rescue operation by Wildlife Officers or their servants or agents at his expense.

(4) If any person fails to give any notification under subsection (1) or refuses or fails, within such time as may be reasonable, to agree to an arrangement with the Director under subsection (3) the Director may cause an animal rescue operation to be carried out at the expense of the person carrying out the clearance or logging operations.

(5) Any animal taken captive in an animal rescue operation shall be disposed of as the Director shall decide.

(6) Any person who fails to give any notification under subsection (1) or without good reason, the proof of which shall be upon him, refuses or fails to agree to an arrangement under subsection (3) commits an offence and shall be liable on conviction, if a corporate body, to a fine of one hundred thousand ringgit, or, if not a corporate body, to a fine of fifty thousand ringgit or to imprisonment of five years or to both.

## **Protection of land and property and self defence.**

**39.** (1) An owner of land shall—

- (a) take such steps as shall be reasonable to protect his land, crops and other property from entry and damage by protected animals;
- (b) without undue delay, inform the nearest Wildlife Officer of—
  - (i) the presence in the vicinity of his land of any protected animal likely to endanger life or property; or
  - (ii) any death, personal injury or damage to his property caused by a protected animal.

(2) Subject to subsections (3), (4) and (5), nothing in this Enactment shall make it unlawful for any person to take such measures as shall be reasonably necessary to defend his person or any other person or defend any livestock or any other property which he has a duty to protect or a legitimate interest in protecting, from a direct or immediate attack by any protected animal.

(3) The use of a firearm for defending persons or property in accordance with subsection (2) shall only be resorted to where no other alternative is possible.

(4) Subsection (2) shall not apply to any person who incites or provokes the protected animal to attack, or who, at the time of the attack, is committing an offence against this Enactment.

(5) Subsection (2) shall not apply to the defence of livestock or other property against an attack by an animal of a species listed in Part I of Schedule 1.

(6) The burden of proving that a protected animal has been wounded or killed in accordance with this section shall lie upon the person who wounded or killed such animal.

(7) Where any protected animal is killed or wounded in accordance with this section, the facts and circumstances of such killing or wounding shall be reported immediately to the nearest authorised officer and such animal if dead and any animal product therefrom shall be the property of the Government.

## **PART V**

### **POSSESSION OF AND TRADE IN ANIMALS**

#### **Animals the property of the Government.**

**40.** (1) Every live protected animal or any animal product therefrom shall be the property of the Government unless the same has been lawfully imported or obtained by a person under the authority of a valid licence or permit or through operation of the law.

(2) Any protected animal—

- (a) or animal product thereof in respect of which an offence under this Enactment has been committed or any protected animal or animal product thereof found and in respect of which no person can show lawful ownership; or
- (b) killed accidentally or killed by a Wildlife Officer in the course of his duties or in defence of life and property and any animal product thereof,

shall be handed over to the nearest authorised officer or may be seized by any authorised officer who shall subject to section 90 dispose of such animal or animal product as the Director shall direct and any proceeds from such disposal shall be paid into the State Consolidated Fund.

(3) Any person who obtains possession of a protected animal or animal product thereof being the property of the Government and fails to hand it over in accordance with subsection (2) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

#### **Possession of protected animals and animal products.**

**41.** (1) No person shall possess any animal of a species listed in Part I of Schedule 1 or an animal product of an animal listed in Part I of Schedule 1 unless authorised in writing by the Minister acting on the advice of the Director.

(2) No person shall possess any other protected animal or animal product thereof unless such animal or animal product has been lawfully imported, obtained under the authority of a valid licence or permit, through operation of the law or in consequence of the death of any person or has been purchased in accordance with section 48(2).

(3) The burden of proving lawful possession of any animal or animal product shall be upon the person possessing such animal or animal product.

(4) A person who contravenes subsection (1) or subsection (2) commits an offence and shall be liable on conviction, in the case of an offence relating to an animal or an animal product of a species listed in Appendix I or Part I of Schedule 1, to a fine of fifty thousand ringgit or to imprisonment for five years or to both and, in the case of an animal or an animal product of a species listed in Appendix II, Part I of Schedule 2 or Schedule 3, to a fine of thirty thousand ringgit or to imprisonment for three years or to both.

#### **Wounded and orphaned animals to be surrendered to the Government.**

**42.** Any person who finds and takes possession of any wounded, immature, orphaned or abandoned animal shall surrender the same to the nearest authorised officer who shall hand over the same to the Director.

### **Keeping animals in captivity.**

**43.** (1) Subject to sections 78 and 83, no person shall keep any protected animal or any animal that may be prescribed for the purposes of this section in captivity, except under the authority of a permit issued by the Director.

(2) The Director shall have the discretion to exempt payment of permit fee for the first offspring of any licensed parent of protected animal under this section.

(3) The grant of a permit under this section shall be discretionary and no permit shall not be granted unless the Director is satisfied that the applicant is a fit person to keep the animal and has made adequate arrangement for housing the animal including arrangement to prevent its escape.

(4) A permit granted under this section shall, subject to section 47, be valid for the life of the animal kept under the authority of the permit, and the permit holder shall, without undue delay, inform the Director of the death of the animal and surrender its body to the Director unless the Director otherwise directs.

### **Inspection and cancellation of permit to keep animal.**

**44.** (1) Any animal kept under the authority of a permit issued under section 43 together with the cage or other quarters in which it is kept shall be made available by the permit holder for inspection by any Wildlife Officer at any reasonable time.

(2) A Wildlife Officer may enter any premises where an animal is being kept under the authority of a permit granted under section 43 for the purpose of ascertaining whether the animal is being kept in compliance with the conditions of the permit and this Enactment.

(3) If upon an inspection under subsection (1), the Director is satisfied that the animal is not being kept in compliance with the conditions of the permit and this Enactment or is not otherwise adequately cared for, the Director may cancel the permit and confiscate the animal.

### **Security of captive animals and limitation of danger to the public.**

**45.** (1) The holder of a permit granted under section 43 shall take all reasonable precautions to ensure that the animal kept under the authority of the permit is kept so as to minimise the risk of its escape.

(2) The holder of a permit granted under section 43 shall take every care to ensure that the animal kept under the authority of the permit does not constitute a danger to the public and the grant of the permit shall not absolve the holder thereof from any liability under the law for death, injury or damage caused by the animal.

(3) The holder of a permit granted under section 43 who allows an animal to escape without having taken reasonable precautions to prevent such escape, the onus of proving such precautions being on that person, commits an offence and shall be liable on conviction to a fine of five thousand ringgit.

#### **Causing suffering to animals.**

**46.** Any person who causes unnecessary or undue suffering to an animal kept under the authority of a permit issued under section 43 commits an offence and shall be liable on conviction to a fine of five thousand ringgit or to imprisonment for six months or to both.

#### **Certificate of legal ownership.**

**47.** (1) The Director may, upon application therefor in the prescribed form, issue a certificate of legal ownership in respect of any protected animal or animal product of a protected animal where he is satisfied that such animal or animal product has been lawfully obtained under the authority of a valid licence or permit, lawfully imported, lawfully purchased pursuant to section 48 or obtained by other lawful means; which certificate shall include the name of the owner, details of the animal or animal product and the date and place of issue.

(2) A person who acquires an animal or animal product under the authority of a valid hunting licence or permit or by lawful purchase pursuant to section 48 shall not be required to obtain a certificate of legal ownership if such person applies, within thirty days or such longer period as the Director may allow of such acquisition, for a permit to take such animal or animal product out of the State under section 53.

(3) Subject to section 48, no person shall sell or otherwise transfer any protected animal or animal product of a protected animal unless he is in possession of a valid certificate of legal ownership issued to him in respect thereof and unless at the time of transfer he endorses on the certificate with the date of transfer and the name of the new owner and hands over the certificate, unless in the latter case he hands over an article made from part of such animal or animal product and also retains a part of the animal or animal product.

(4) A person to whom an animal product is transferred in accordance with subsection (3) without a certificate of legal ownership shall be entitled, on application therefor within thirty days of such transfer, in the prescribed form and upon satisfying the Director as to the circumstances and details of his purchase, to be issued with a certificate of legal ownership in accordance with subsection (1).

(5) If no application is made under subsection (4), ownership of the animal product shall vest in the Government and the provisions under this Enactment relating to seizure shall apply.

#### **Control of sale and purchase of protected animals and animal products.**

**48.** (1) No person shall sell any live protected animal or animal product of a protected animal except—



- (a) where that person has a certificate of legal ownership in respect of that animal or animal product;
- (b) under the authority of an animal dealer's permit granted under section 51;
- (c) where the person has an animal farming permit granted under section 78;
- (d) where the person has captured or killed the animal under the authority of a commercial hunting licence and sells the animal or animal product therefrom to a person having an animal dealer's permit or animal farming permit; or
- (e) where a member of a kampung sells an animal product of a protected animal obtained pursuant to an animal kampung licence to a person holding an animal dealer's permit or sells such animal product to another member of the kampung in that kampung market.

(2) No person shall purchase any live protected animal or animal product of a protected animal except—

- (a) from a person with a certificate of legal ownership in respect of that animal or animal product;
- (b) from a person holding an animal dealer's permit granted under section 51;
- (c) from a person holding an animal farming permit granted under section 78;
- (d) where the purchaser holds an animal dealer's permit or an animal farming permit and the vendor holds a commercial hunting licence;
- (e) where the purchaser holds an animal dealer's permit and buys an animal product of a protected animal obtained pursuant to an animal kampung licence from a member of a kampung or where the purchaser, being a member of a kampung, buys such an animal product from another member of the kampung in the kampung market; or
- (f) from the Government.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine of thirty thousand ringgit or to imprisonment for three years or to both.

#### **Power to prohibit transfer of animals and animal products.**

49. The Minister may, by order published in the *Gazette*, prohibit the transfer of any protected animal or any animal product therefrom by sale, gift or otherwise except by operation of law.

#### **Registration and marking of animal products.**

**50.** A person who validly acquires any animal product which is required under this Enactment to be presented for registration shall within thirty days of such acquisition present the animal product to the Director for registration and marking in such manner as may be required by the Director from time to time.

**Animal dealer's permit.**

**51.** (1) No person shall engage in taxidermy or manufacture articles from protected animals for sale or sell or carry on the business of a dealer in protected animals or animal products except under the authority of valid animal dealer's permit issued by the Director.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of thirty thousand ringgit or to imprisonment for three years or to both.

**Control of trade in meat.**

**52.** (1) The meat of any animal killed under a sporting licence shall not be sold.

(2) Any meat not required by the holder or person authorised to hunt under a sporting licence shall be offered to the headman of the most conveniently accessible kampung who shall if he accepts the meat be entitled to remove it from where it is situated.

(3) Notwithstanding any other provision of this Enactment, no person shall sell the meat of any protected animal except—

- (a) under the authority of a meat dealer's permit;
- (b) where that person has an animal farming permit;
- (c) when that person has hunted the animal from which the meat has been obtained under a commercial hunting licence and sells the meat to a person holding a meat dealer's permit granted by the Director in the prescribed manner;
- (d) a member of a kampung who obtains the meat pursuant to an animal kampung licence and sells the meat to a person holding a dealer's permit or in the kampung market to another member of the kampung; or
- (e) to the Government.

(4) Subject to subsections (1), (2) and (3), the Minister may, by regulations, prohibit, control or regulate the possession or movement or any dealings of any nature whatsoever in any meat of protected animals to which this Enactment applies.

(5) Without derogating from the generality of subsection (4), regulations made thereunder may provide for confiscation and forfeiture of any meat in respect of which a breach of the regulations occurs.

**Control of movement of protected animals into or out of the State.**

**53.** (1) No person shall—

- (a) bring or cause to be brought into the State; or
- (b) take or cause to be taken out of the State,

by land, sea or air any live protected animal or animal product of a protected animal except under the authority of permit granted by the Director upon such conditions as may be specified therein and subject to the payment of such fee as may be prescribed.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

PART VI

PROTECTION OF PLANT

**Plants that may not be harvested.**

**54.** (1) Subject to section 56, no person shall harvest a plant of—

- (a) a species listed in Appendix I or Part II of Schedule 1; or
- (b) a species listed in Appendix II or Part II of Schedule 2, without a licence.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction—

- (a) in respect of an offence relating to a plant of a species listed in Appendix I or Part II of Schedule 1 to a fine of fifty thousand ringgit or to imprisonment for five years or to both; or
- (b) in respect of an offence relating to a plant of a species listed in Appendix II or Part II of Schedule 2, to a fine of thirty thousand ringgit or to imprisonment for three years or to both.

## **Special exemption**

**55.** (1) Notwithstanding section 54 and subject to subsection (2), the Director, acting on the advice of the Scientific Authority and on being satisfied, having taken into account all the information at his disposal, that it is in the public interest so to do, may grant a special exemption allowing the harvesting of a plant to which section 56 applies for the purpose of—

- (a) construction of buildings or other structures;
- (b) civil engineering works;
- (c) forestry or agricultural development; or
- (d) such other works or activities as the Scientific Authority may approve.

(2) The Director may, where such a course is practical, require an applicant for a special exemption to facilitate the harvesting by the Director of the plant, for which exemption is applied, or the relocation of the plant to a site selected by the Director.

## **Plant collection licence.**

**56.** (1) A person may search for and harvest a plant of a species listed in Appendix II or Part II of Schedule 2 under the authority of a plant collection licence issued by the Director.

(2) The Director may, on the advice of the Scientific Authority, by notice published in the *Gazette*, declare in respect of any calendar year—

- (a) the total number of plants of each species of plant listed in Appendix II or Part II of Schedule 2 that may be harvested; and
- (b) the maximum number of plants of each species of plant listed in Appendix II or Part II of Schedule 2 that any individual may be licensed to harvest.

(3) The Director may refuse to grant or to renew a plant collection licence without assigning any reason therefor.

(4) A person exercising rights under a plant collection licence shall be accompanied by such persons as may be required as a condition of the licence or as may be prescribed.

(5) No person shall transfer a plant collection licence to another person and no person shall exercise rights under such licence unless that person is by that licence authorised to search for and harvest plants.

(6) A person exercising rights under a plant collection licence shall not be entitled to enter any alienated land, Forest Reserve, Park, reserved land or State land where entry is restricted without the consent of the owner thereof or of the appropriate authority in charge thereof, as the case may be.

#### **Categories of plant collection licences.**

57. A plant collection licence shall be applied for and issued under one of the following categories:

- (a) collector's plant collection licence;
- (b) commercial plant collection licence;
- (c) such other types of licences as may be prescribed.

#### **Collector's plant collection licence.**

58. (1) A collector's plant collection licence shall entitle the holder thereof to search for and harvest plants of the species listed in Appendix II or Part II of Schedule 2 in the wildlife area or areas and in the numbers thereof specified therein.

(2) A collector's plant collection licence may be granted for such period as may be stated therein which shall not be more than ninety days but may be renewed for a like period on payment of the prescribed fee.

#### **Commercial plant collection licence.**

59. (1) A commercial plant collection licence shall entitle the holder and any person specified in the licence in the wildlife area or areas specified in the licence to search for and harvest plants of the species and in the numbers specified in the licence for—

- (a) sale;
- (b) export; or
- (c) cultivation and propagation.

(2) An additional wildlife area may be endorsed on a commercial plant collection licence upon application therefor and upon payment of the prescribed fee.

(3) A commercial plant collection licence may be granted for such period as may be stated therein and may be renewed upon application and upon payment of the prescribed fee.

#### **Control of sale and purchase of plants.**

60. (1) Subject to subsection (3), no person shall sell any protected plant, except—

- (a) under the authority of a plant dealer's permit granted under section 61;
- (b) where that person has a plant cultivation permit granted under section 79;
- (c) when that person has harvested that plant under a commercial plant collection licence and sells the plant to a person holding a plant dealer's permit or a plant cultivation permit;
- (d) under the authority of a temporary sale or transfer permit granted under subsection (3);
- (e) to the Government.

(2) No person shall purchase a protected plant, except—

- (a) from a person holding a plant dealer's permit granted under section 61;
- (b) from a person holding a plant cultivation permit granted under section 79;
- (c) where the purchaser holds a plant dealer's permit or a plant cultivation permit and the vendor holds a commercial plant collection licence;
- (d) from a person holding a temporary plant sale or transfer permit granted under subsection (3);
- (e) from the Government.

(3) The Director may where he considers it appropriate and on payment of the prescribed fee grant a temporary sale or transfer permit to any person for the sale or transfer of any protected plant.

(4) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine of thirty thousand ringgit or to imprisonment for three years or to both.

#### **Plant dealer's permit.**

**61.** (1) No person, except a person holding a valid plant cultivation permit or temporary sale or transfer permit or who has obtained the protected plant being sold under a commercial plant collection licence, shall sell or carry on the business of a dealer in protected plants, except under the authority of a plant dealer's permit granted by the Director.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

#### **Possession of protected plant.**

**62.** (1) No person shall possess a protected plant that has been removed from its habitat or other place of propagation, except—

- (a) under the authority of a valid licence or permit granted under this Enactment;
- (b) by way of purchase pursuant to section 60 (2); or
- (c) by way of inheritance or gift or other form of transfer pursuant to a temporary plant sale or transfer permit granted pursuant to section 60 (3).

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction, in respect of a plant listed in Appendix I or Part II of Schedule I, to a fine of fifty thousand ringgit or to imprisonment for five years or to both and in respect of a plant listed in Appendix II or Part II of Schedule 2, to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

(3) The burden of proving lawful possession of a plant shall be upon the person in possession of the plant.

### **Control of movement of protected plants into or out of the State.**

**63.** (1) No person shall—

- (a) bring or cause to be brought into the State; or
- (b) take or cause to be taken out of the State, by land, sea or air any protected plant except under the authority of a permit granted by the Director upon such conditions as may be specified therein and subject to the payment of such fee as may be prescribed.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

## PART VII

### UTILIZATION OF WILDLIFE

#### **Wildlife Hunting Areas.**

**64.** (1) If the Minister, after consultation with the Director, considers that it is necessary in an area to manage the habitat and animal populations therein for the purposes of regulating and providing facilities for hunting wildlife, he shall place a proposal before the Cabinet recommending that the Yang di-Pertua Negeri be advised that the area be declared a Wildlife Hunting Area.

(2) The proposal provided for under subsection (1) shall include—

- (a) as accurate a description as possible of the area and the boundaries of the proposed Wildlife Hunting Area;
- (b) a description of wildlife to be hunted and the form of management proposed;

- (c) particulars of any native or traditional rights that will continue to be exercisable after the coming into effect of the declaration of the Wildlife Hunting Area; and
- (d) a summary of the consultations held with relevant Government agencies and communities likely to be affected by the proposed declaration of the Wildlife Hunting Area.

(3) The Minister may at any time after publication in the *Gazette* of the notice provided for in section 65(1)(a) publish a notice in the *Gazette* declaring that he has abandoned his attention to place a proposal before Cabinet.

(4) When a notice of abandonment has been published in accordance with subsection (3), it shall also be posted in like manner as a notice of intention under section 65(1)(a).

(5) The declaration of an area as a Wildlife Hunting Area shall be made by Yang di-Pertua Negeri by notice published in the *Gazette* which shall state the date upon which the declaration shall come into effect.

(6) No Wildlife Hunting Area shall be revoked, reduced in size or have its boundaries altered except by resolution of the Legislative Assembly.

#### **Consultation and compensation procedures.**

**65.** (1) No proposal shall be submitted by the Minister to the Cabinet for the declaration of a Wildlife Hunting Area or for increase in the size of a Wildlife Hunting Area, unless—

- (a) a notice of intention to make the proposal in Bahasa Malaysia and English containing details of the proposed Wildlife Hunting Area or increase in the size of a Wildlife Hunting Area and in particular an indication of the boundaries thereof which shall be as accurate as possible and inviting objections thereto and claims in respect of loss of rights likely to arise from the establishment of the Wildlife Hunting Area within a period of ninety days has been published in the *Gazette* and posted at the office of the Collector within whose District the whole or any part of the proposed Wildlife Hunting Area is situated and at such other places as the Director may decide;
- (b) the Minister has satisfied himself that all claims in respect of loss of rights have been investigated and settled by agreement or by determination of the Collector under subsection (3) or the High Court under subsection (4); and
- (c) the Minister has taken into account the objections received in accordance with subsection (2).

(2) Any person or group of persons who—

- (a) objects to the declaration of the proposed Wildlife Hunting Area; or



(b) claims for the loss of any rights,

may before the expiry of ninety days after the publication of the notice referred to in subsection (1)(a) give notice in writing stating the grounds of the objection or the rights claimed to the Collector referred to in subsection (1) who shall forthwith forward such objections or claims to the Director.

(3) A claim in respect of loss of rights may be settled by agreement between the Director and the claimant failing which the claimant may refer the claim to the Collector referred to in subsection (1) for determination.

(4) Any person aggrieved by the decision of the Collector may appeal to the High Court within thirty days of the notification of the decision of the Collector.

(5) The Minister, if he considers that the public interest so requires, may order a public enquiry to be held by the Collector in the District or one of the Districts in which the area to be declared a Wildlife Hunting Area is situated at which the objectors may publicly state their objections and the Minister may be represented and shall have a right of reply.

(6) A comprehensive report containing a record of objections and claims and a record of any public enquiry that may have been held under subsection (5) shall be laid before the Cabinet at the same time as the relevant proposal for the declaration of a Wildlife Hunting Area.

#### **Cessation of alienation of land, cultivation and construction. Cap. 68.**

**66.** (1) From the date of the publication in the *Gazette* of the notice provided for in section 65(1)(a), no land shall be alienated under the Land Ordinance, no construction of any building shall be commenced, no preparation for cultivation shall be commenced, no trees shall be felled and no hunting shall be undertaken in the area of the proposed Wildlife Hunting Area.

(2) Any land title, right or concession granted contrary to subsection (1) shall be void.

#### **Compulsory acquisition of land.**

#### **Cap. 69.**

**67.** The establishment or extension of a Wildlife Hunting Area shall be deemed to be a public purpose within the meaning of the Land Acquisition Ordinance and the procedure specified in that Ordinance shall be followed for the acquisition of land in connection with such establishment or extension.

#### **Management plans.**

**68.** (1) The Director shall within three years after the declaration of a Wildlife Hunting Area prepare and submit to the Minister a management plan which shall include—

- (a) an analysis of the major resources of the Wildlife Hunting Area;
- (b) a map clearly defining the boundaries of the Wildlife Hunting Area and a written description of such boundaries;
- (c) details of management objectives;
- (d) details of zones into which the Wildlife Hunting Area is divided for hunting and management purposes which may include zones or parts of zones to which members of the public may be admitted;
- (e) a detailed programme of action for management of wildlife hunting including details of requirements of staff, staff facilities and equipment and estimates of expenditures;
- (f) details of research proposals; and
- (g) such other matters as may be required.

(2) The management plan referred to in subsection (1) shall cover a period of five years.

(3) Further management plans or revisions of parts thereof shall be submitted to the Minister at such intervals and in such manner as may be determined by the Minister.

(4) The Minister shall cause the management plan and any revisions thereof to be published in such manner as shall be appropriate and to be made available for consultation by members of the public.

#### **Demarcation of boundaries of Wildlife Hunting Area.**

**69.** (1) The Director shall within five years of the declaration of a Wildlife Hunting Area demarcate the boundaries of that Wildlife Hunting Area.

(2) Where there is any conflict between a demarcation carried out under subsection (1) and a map or description prepared pursuant to section 68(1)(b) the demarcation under subsection (1) shall prevail for the purposes of this Enactment.

(3) Any person who moves, destroys or interferes with any notice, fence, gate, boundary marker, erected or put in place in accordance with subsection (1) commits an offence and shall be liable on conviction to a fine of ten thousand ringgit or to imprisonment for one year or to both.

#### **Restriction of residence in and entry into a Wildlife Hunting Area.**

**70.** (1) Subject to section 75, no person, except a public officer in the course of his duties or a person employed in the Wildlife Hunting Area, shall reside in or enter a Wildlife Hunting Area, except as provided in subsections (2) and (3).

(2) Persons may, under the authority of a valid permit, enter such part of a Wildlife Hunting Area as may be designated for hunting under the management plan for that Wildlife Hunting Area prepared in accordance with section 68.

(3) The Director may, under the authority of a research permit granted in accordance with section 113, permit any person named therein to enter any part of Wildlife Hunting Area that is not for hunting for the purpose of scientific research only and for the period and in accordance with the conditions contained in the permit.

(4) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

### **Hunting of animals and harvesting of plants in a Wildlife Hunting Area.**

**71.** (1) A person may, when so authorised by a permit issued by the Director, hunt any animal or harvest any plant listed in Schedule 2 or 3 in a zone of a Wildlife Hunting Area where hunting or harvesting is permitted.

(2) Subject to subsection (3) and section 75, any person, not being a Wildlife Officer acting in the course of his duties, who hunts any animal or searches for or harvests any plant in a Wildlife Hunting Area commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

(3) A person may, when so authorised by a permit issued by the Director, fish with rod and line or a hand line in a zone of a Wildlife Hunting Area where fishing may be permitted.

### **Other prohibited acts within a Wildlife Hunting Area.**

**72.** (1) Subject to sections 71(1), 71(3) and 75, no person shall—

- (a) fell or cut any tree or cut, injure or set fire or allow fire lighted by himself or his servants outside a Wildlife Hunting Area to spread to any vegetation;
- (b) wilfully damage any object of geological, prehistoric, marine or other scientific interest or remove such object or a portion thereof;
- (c) without lawful excuse, be in possession of any animal, animal product or plant;
- (d) knowingly introduce any animal or domestic animal or allow such animal to stray;
- (e) wilfully damage any structure;
- (f) occupy, clear, cultivate or break up for cultivation any land;
- (g) carry out any quarrying activities;

- (h) construct or occupy any structure or building; or
- (i) do any other thing that is prohibited by regulations, within a Wildlife Hunting Area.

(2) Except for the purposes of hunting under a hunting licence, no person shall bring into a Wildlife Hunting Area or, use, have or be in possession of within a Wildlife Hunting Area any equipment which may be used for carrying out any of the activities referred to in subsection (1) including but not limited to any skidder, bulldozer or tractor.

(3) Any person who contravenes subsection (1) or subsection (2) commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

### **Environmental offences in Wildlife Hunting Area.**

**73.** (1) Any person who—

- (a) spreads chemicals or other toxic matters either from within or outside a Wildlife Hunting Area which cause harm to fauna or flora in that Wildlife Hunting Area;
- (b) discharges or allows the discharge of oil, chemicals or other toxic or waste matters capable of harming fauna and flora in or adjacent to any rivers, lakes and waters in or flowing into a Wildlife Hunting Area; or
- (c) obstructs or diverts any rivers, pools, lakes or other bodies of water in or flowing into a Wildlife Hunting Area,

commits an offence and shall be liable on conviction, if a corporate body, to a fine of one hundred thousand ringgit and, if not a corporate body, to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

(2) A Court that convicts a person of an offence under subsection (1) may order that person to pay to the Government such contribution towards the cost estimated by the Government of remedying the damage caused by the spread, discharge, obstruction or diversion as the Court shall consider appropriate.

### **Flying restrictions relating to Wildlife Hunting Area.**

**74.** (1) Except in cases of emergency or when carrying out wildlife management work on behalf of the Director, the proof whereof shall lie on the pilot thereof, no aircraft—

- (a) shall be landed in a Wildlife Hunting Area otherwise than at an approved airfield; or
- (b) except for the purposes of landing at or taking off from an approved airfield, shall be flown at a height of less than five hundred metres over a Wildlife Hunting Area.

(2) The pilot of an aircraft who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

**Exception to restrictions and prohibitions relating to Wildlife Hunting Area.**

75. (1) Subject to this Enactment, the native or traditional rights specified in a proposal may continue to be exercised in the Wildlife Hunting Area described in that proposal, except where under agreement between the Director and the persons entitled to exercise those rights they cease to be exercisable in return for compensation.

(2) Except with the written authorisation of the Director or officer in charge of a Wildlife Hunting Area, no person shall—

- (a) make within the Wildlife Hunting Area any commercial film or video recording or take still photographs for commercial purposes; or
- (b) enter any area of the Wildlife Hunting Area that has been declared by the Director or officer in charge of the Wildlife Hunting Area to be closed to the public.

(3) Any person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

(4) The Director may authorise the construction of buildings for the proper management or development of a Wildlife Hunting Area and the provision of public facilities in those parts of a Wildlife Hunting Area referred to in section 70(2).

(5) A person may use a road, designated by the Director for such purpose, by notification in the *Gazette*, for the purpose of passing through a Wildlife Hunting Area for a destination outside the Wildlife Hunting Area or for entry to the Wildlife Hunting Area through a designated entry point.

(6) A person travelling on a designated road—

- (a) shall stop at such barrier or guard post as may be established at such place where the designated road enters or exits the Wildlife Hunting Area;
- (b) shall not carry any weapon or other equipment capable of killing, stunning or otherwise making an animal immobile or defenceless without the consent in writing of a Wildlife Officer or without a permit specified in subsection (1) or (3) of section 71; and
- (c) shall abide by such restrictions or conditions as may be prescribed and such directions as may be given to that person by a Wildlife Officer.

**Wildlife tour operators.**

76. (1) No person shall carry on the business of a wildlife tour operator in any protected area, except under the authority of a permit issued by the Director.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

(3) No wildlife tour operator's permit shall be issued by the Director, unless he is satisfied that such person is a responsible person competent to act as a wildlife tour operator and the Director may require the applicant or members of the staff of the applicant to undergo tests relating to the recognition of the flora and fauna of the State and the basic wildlife law to ensure the competence of that person or his tour conductors.

(4) An applicant for a wildlife tour operator's permit shall also be required to satisfy the Director of the knowledge of that person or his staff of the terrain of the State and in particular of the boundaries of all protected areas.

(5) A wildlife tour operator shall ensure that persons accompanied by him or his tour conductors comply with the requirements of this Enactment.

(6) A wildlife tour operator shall be required to furnish such periodic reports as may be prescribed and shall without delay report to the nearest authorised officer when on a wildlife expedition details of—

- (a) any sign of unlawful human activity in or near any protected area;
- (b) any wounded animal sighted; and
- (c) any animal remains discovered.

(7) A wildlife tour operator's permit may be issued for such period as may be stated therein which in the first instance shall be for one year and thereafter may be renewed for a period of not more than three years.

(8) A wildlife tour operator's permit shall authorise the holder thereof including his tour conductors to conduct for reward any hunting, photographic or sightseeing expedition for wild animals or plants whether in an aircraft, boat or other vehicle, on horseback or on foot in a protected area.

#### **Commercial filming, sound recording and photography.**

77. (1) No person shall carry out for any commercial purposes any—

- (a) filming;
- (b) still photography; or
- (c) video or sound recording,

relating to wildlife or the habitats thereof in any protected area, except under the authority of a permit issued by the Director.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit.

### **Animal farming**

**78.** (1) No person shall carry on the business of breeding, rearing or keeping animals for—

- (a) sale;
- (b) slaughtering, preserving or otherwise processing the slaughtered animals;
- (c) sale of meat or animal products therefrom; or
- (d) display to the public in return for payment or other reward,

except under the authority of an animal farming permit issued by the Director.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

### **Plant cultivation permit.**

**79.** (1) No person shall carry on the business of a cultivator of protected plants, except under the authority of a plant cultivation permit issued by the Director.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

### **Period of validity of animal farming and plant cultivation permits, waiver of fees and royalties.**

**80.** (1) A permit under section 78 or section 79 may be issued for such period being not less than three years as may be stated therein and may be renewed for a like period.

(2) The Director may waive such fees and such royalties as may be payable by persons issued with permits and renewals thereof under section 78 or section 79 for such period, not exceeding ten years, as he shall consider appropriate.

### **Transfer of animal farming or plant cultivation permits, exclusivity of harvesting and conditions applicable to such permits.**

**81.** (1) An animal farming permit or a plant cultivation permit shall be issued to the person specified therein and shall not be transferred without the prior written consent of the Director.

(2) An animal farming permit or plant cultivation permit shall confer on the permit holder exclusive right to harvest the products of the animal or plant within the farm established within the area specified in the permit either on land or in water.

(3) An animal farming permit or plant cultivation permit shall be subject to such conditions as appear to the Director to be necessary or expedient for the regulation of animal farming or plant cultivation, the management of wildlife or for the economic benefit of the State and, in particular, a permit may contain without prejudice to the generality of the foregoing—

- (a) conditions as to the siting, design and materials used in the construction of buildings;
- (b) sanitary conditions of animals, animal products, plants or plant products;
- (c) measures for the prevention of the escape of exotic species of animals introduced into the State for animal farming;
- (d) measures for the prevention of animal or plant diseases; and
- (e) provisions relating to the marketing of animals, plants and the products therefrom.

**Records to be kept by animal farmers and plant cultivators.**

**82.** A person issued with a permit under section 78 or section 79 shall keep such records as may be required by the Director.

**Private zoological gardens.**

**83.** (1) No person, shall keep a zoological garden, except under the authority of a permit issued by the Director.

(2) A permit under subsection (1) may be issued for such period as may be stated therein.

(3) A zoological garden permit shall confer on the permit holder the right to keep the animals specified in the permit within the area specified in the permit.

(4) A zoological garden permit shall be subject to such conditions as appear to the Director to be necessary or expedient for the regulation of zoological gardens or the management of wildlife and, in particular, a permit may contain without prejudice to the generality of the foregoing—

- (a) conditions as to the siting, design and materials used in the construction of buildings;
- (b) sanitary conditions of animals;



- (c) measures for the prevention of the escape of exotic species of animals introduced into the State; and
- (d) measures for the prevention of animal diseases.

**Control of collection of animal products.**

**84.** (1) Subject to subsection (2) and section 87, no person shall hunt for or collect—

- (a) any animal product of a species of animal listed in Part I of Schedule 1;
- (b) any animal product where so prescribed;
- (c) any animal product of a species of animal listed in Part I of Schedule 2 or Schedule 3 without a permit;
- (d) any animal product without a permit where so required;
- (e) any animal product of a protected animal where such animal product is not included in a permit; or
- (f) more than the quota of an animal included in a permit.

(2) The Minister, acting on the advice of the Director, may exclude an animal product referred to in paragraph (b) of the definition of “animal product” contained in section 2 of this Enactment from the requirements of subsection (1).

(3) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of thirty thousand ringgit or to imprisonment for three years or to both.

**Edible birds’ nests and guano.**

**85.** (1) All—

- (a) caves including the caves enumerated in Part II of Schedule 4, except those enumerated in Part I of Schedule 4, which from time to time contain edible birds’ nests; and
- (b) edible birds’ nests and guano,

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are the property of the Government and shall remain reserved to the Government when any grant of land containing such caves, nests or guano is made to any person by the Government under the Land Ordinance or otherwise.

(2) Caves enumerated in Part I of Schedule 4 are recognised by the Government as the property of private individuals or communities subject to the payment of royalty reserved and set forth therein and subject to other terms and conditions of collection as may be imposed by the Director.

(3) The Director and all persons acting on behalf of or under the authority of the Director shall have the right at all times to enter on any alienated land for the purpose of conservation and management of the caves referred to in subsection (1) or for removing edible birds' nests or guano.

(4) The owner of alienated land to which there is a right to access pursuant to subsection (2) shall not obstruct the traditional route established by the Director for the exercise of such right.

(5) The Government shall pay a fair compensation to the landowner for any damage caused to any crop, property or land not being part of the route referred to in subsection (3) by persons referred to therein during the course of the exercise of the right referred to in the said subsection.

(6) No person shall collect any edible birds' nest or guano from a cave owned by the Government except under the authority of and pursuant to a contract for collection of edible birds' nests or guano awarded by the Minister in accordance with Government tender procedures and subject to such terms and conditions including the payment of royalty and duration of contract as may be specified therein.

(7) Interests in any cave enumerated in Part I of Schedule 4 shall pass by inheritance only and shall not be transferable in any manner whatsoever.

#### **Disputes over ownership of caves or rights to harvest nests.**

**86.** (1) All disputes connected with the ownership of including the right of succession to any cave enumerated in Part I of Schedule 4 or share of a deceased person therein shall be referred to a Native Court for settlement.

(2) Where the Director is satisfied that there is an unresolved dispute over the ownership of a cave or part of a cave enumerated in Part I of Schedule 4 or over the right of any person to harvest the nests or a share of the nests in such cave, the Director, after notifying the persons in dispute, if practicable, shall cause the nests in the cave or the part of the cave in dispute or the subject of the right which is in dispute to be collected during the appropriate season.

(3) Monies realised from the sale of nests collected under subsection (2) shall, after deduction of the royalty payable and the costs of collection and sale, be held by the Director in a trust fund established for the purpose until such time as he shall be notified of decision by the Native Court as regards the true owner of the cave, part thereof or the right to collect such birds' nests.

(4) Upon receiving a notification under subsection (3), the Director shall pay to the owner referred to in that subsection the monies held in the trust fund together with any accumulated interest earned thereon.

### **Declaration of turtle egg traditional collection area.**

**87.** (1) Notwithstanding section 84, the Director, may declare, by notice in the *Gazette*, an area as a turtle egg traditional collection area.

(2) Where an area is declared to be a turtle egg traditional collection area, it shall be reserved exclusively for collection of turtle eggs without a permit in accordance with the traditional rights of the people who dwell reasonably adjacent to such area and whose rights have been recognised by the Government prior to this Enactment.

(3) The rights of collection referred to in subsection (2) shall not entitle the person exercising such rights to sell any turtle egg.

(4) Any person who—

(a) collects or has in his possession any turtle egg other than pursuant to a right referred to in subsection (2); or

(b) sells any turtle egg,

commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

## **PART VIII**

### **ENFORCEMENT**

#### **Powers of inspection.**

**88.** (1) An authorised officer may, for the purpose of determining whether an offence has been committed against this Enactment—

(a) require any person to produce for inspection any licence or permit required to be held by such person under this Enactment for doing any act or carrying out any activity which the officer sees the person doing or carrying out or believes on reasonable grounds that the person has done or carried out;

(b) inspect any weapon, ammunition, animal, animal product, meat, plant, trap, net, poison or article in such person's possession; and

(c) require such person to furnish his full name and address and to produce adequate means of identification.

(2) An authorised officer may, for the purpose of the enforcement of this Enactment—

- (a) require any vehicle, aircraft, boat or other means of conveyance to stop;
- (b) enter any vehicle, aircraft, boat or other means of conveyance with or without assistance to inspect the same;
- (c) upon an inspection under paragraph (b) of this subsection, require the person in charge of the vehicle, aircraft, boat or other conveyance to—
  - (i) produce any manifest or other documents listing the cargo on board; and
  - (ii) answer any questions concerning such cargo or any other contents of the vehicle, aircraft, boat or other conveyance.

(3) If upon an inspection under subsection (1) or (2), an authorised officer has reasonable grounds to believe that an offence against this Enactment is being or has been committed, he may exercise such of the powers provided under section 89 as may be appropriate.

**Powers of search, seizure, demolition and arrest.**

**89.** (1) Subject to section 90, an authorised officer may, where he has reasonable grounds to believe that an offence is being or has been committed against this Enactment—

- (a) enter and search with or without assistance any land, building, camp, tent or other premises or any vehicle, aircraft, boat, or other means of conveyance and open and search any baggage, pack or other thing;
- (b) require any person to produce for inspection or copying in whole or in part any record or other document that the officer believes on reasonable grounds contains any information relevant to the administration of this Enactment;
- (c) seize any weapon, ammunition, trap, snare, light, explosive, poison, chemical, machinery, equipment, vehicle, boat, pack animal, aircraft, mobile telephone or other thing that he believes has been used in the commission of such offence;
- (d) seize any animal, animal product including meat, plant in respect of which he believes that an offence under this Enactment has been committed;
- (e) seize and detain any livestock or domestic animal found unlawfully within the boundaries of any protected area;
- (f) demolish or take possession of any building, structure, barrier, obstruction or trap that appears to him to have been erected or constructed contrary to the provisions of this Enactment;

- (g) take possession of any cultivated plants, crops or other property in respect of which he believes that an offence under this Enactment has been committed;
- (h) suspend and, in the case of the Director, cancel any licence or permit issued under this Enactment;
- (i) arrest without warrant any person who he has reasonable grounds to believe is committing or has committed such offence and use such force as may be reasonably necessary to effect such arrest, unless he is satisfied that such person will appear and answer any charge that may be preferred against him.

(2) Any animal, animal product including meat, plant, weapon, vehicle or other thing that may be seized pursuant to subsection (1) may be so seized whether or not any owner or person in possession or control thereof can be found.

(3) For the purpose of carrying out the powers provided under subsection (1)(a), an authorised officer may break open any hold or compartment or any container or other receptacle (including any place or thing that could be used as a receptacle) on any vehicle, aircraft, boat or premises.

(4) In carrying out a search under this section in any place, an authorised officer may—

- (a) use or cause to be used any data processing system at the place for the purpose of examining any data contained in or available to the system; and
- (b) reproduce any record or cause to be reproduced from the data in the form of a printout or other intelligible output and take the printout for examining or copying and use or cause to be used any copying equipment at the place to make copies of any record or other document.

(5) For more effective enforcement of this Enactment, an authorised officer may erect a temporary barrier across any road or place or water course and any person approaching the barrier shall, upon being required by such officer so to do, stop and allow such officer to carry out such search of his person, vehicle, pack animal, boat or baggage as such officer may consider appropriate.

### **Warrant to enter a dwelling place.**

**90.** (1) An authorised officer may not enter a dwelling place, except with the consent of the occupier or under the authority of a warrant.

(2) When on an *ex-parte* application, a Magistrate is satisfied that—

- (a) there are reasonable grounds to believe that any thing in respect of which an offence against this Enactment has been committed is likely to be found in a dwelling place;

- (b) entry to the dwelling place is necessary for any purpose relating to the enforcement of the provisions of this Enactment; and
- (c) entry to the dwelling place has been refused or there are reasonable grounds to believe that entry will be refused,

he may at any time sign and issue a warrant authorising the authorised officer named in the warrant to search the dwelling place subject to any conditions that may be specified in the warrant.

(3) An authorised officer may use such force as may be reasonably necessary to execute a warrant under this section.

#### **Authorised officer to give receipt.**

**91.** An authorised officer who seizes any animal or other thing under section 89 shall where feasible give a written receipt therefor.

#### **Disposal of perishable goods and live animals.**

**92.** (1) Subject to subsection (4), any dead animal, meat, plant or other perishable thing seized in accordance with section 89 may, with the approval of the Director, be sold or otherwise disposed of, and any proceeds of such sale or disposal shall be held by the Director pending the outcome of any Court proceeding under this Enactment.

(2) In the event that the Court finds the seizure wrongful or that no offence has been committed, the Court may order that such proceeds be paid to the person from whom the animal or thing was seized.

(3) Where any live animal is seized in accordance with section 89, it may be released or destroyed at the discretion of the seizing officer where he considers such act desirable in order to prevent undue suffering or for other good and sufficient reason.

(4) Any animal, meat, plant or other perishable thing of or originating from a species listed in Appendix I or Schedule 1 seized in accordance with section 89 may not be disposed of under this section so as to become an object of trade.

#### **Disposal of persons arrested and things seized.**

**93.** (1) Subject to section 91, any person arrested and any article or thing seized shall be brought before a Court of competent jurisdiction without undue delay.

(2) Where any person arrested under subsection (1) is released without charge or the prosecution of that person is not proceeded with, any article or thing seized or the proceeds of sale thereof shall, unless it is an animal or animal product which is the property of the Government, subject to section 92(3), be returned to that person.

(3) Where the Court holds an animal or an animal product belonging to the Government brought before the Court under subsection (1), and no prosecution is proceeded with within three months of the animal or animal product being brought to the Court, the Court shall return the animal or animal product to the Government.

(4) Where the Court holds any article or thing seized under section 89 and a person who has been properly charged with an offence in relation thereto within three months of the seizure fails to appear to answer the charge, the Director may apply to the Court for such article or thing to be forfeited to the Government and the Court shall make such order as it shall consider just.

(5) Where the Court fails or refuses to make an order for forfeiture under subsection (4), the Director may appeal to the High Court against such failure or refusal and the decision of the High Court shall be final.

(6) Subject to section 92, where an article or thing is seized under section 89 and no person is arrested, the article or thing, except an animal or animal product being the property of the Government, shall be returned to such person who satisfies an authorised officer that he is the lawful owner thereof.

(7) If the lawful owner of an article or thing seized under section 89 cannot be traced within thirty days of such seizure, it shall be forfeited to the Government and, subject to subsection (8), may be disposed of as the Director in his discretion shall consider fit and any proceeds of sale thereof shall be paid into the State Consolidated Fund.

(8) Where an animal, animal product or plant of or originating from a species listed in Appendix I or Schedule 1 is forfeited under subsection (7), it shall not be disposed of so as to become an object of trade.

(9) The Director may cause any animal product or any weapon found or seized by him to be destroyed in such manner as he considers fit.

## PART IX

### OFFENCES

#### **Personation.**

**94.** Any person who—

- (a) falsely represents himself to be Director or a Wildlife Officer; or
- (b) without lawful excuse, the proof whereof lies on him, wears any uniform or carries or displays any badge, identity card, certificate or other document of appointment authorised by or required under this Enactment or the Director to be worn or carried by a Wildlife Officer, or so resembling such uniform, badge, identity card, certificate or other document as to be likely to deceive,

commits an offence and shall be liable on conviction to a fine of ten thousand ringgit or to imprisonment for one year or to both.

**Obstruction of authorised officers, false information and alteration of licences and other documents.**

95. (1) Any person who—

- (a) assaults, resists or wilfully obstructs an authorised officer when acting in the exercise of his powers under this Enactment;
- (b) refuses or neglects to comply with any order, requisition or direction lawfully made or given under this Enactment;
- (c) without reasonable excuse, fails to—
  - (i) answer any question asked by an authorised officer; or
  - (ii) give any information or produce any thing required to be given or produced in pursuance of this Enactment;
- (d) subject to section 90, fails to allow a search or inspection under this Enactment; or
- (e) prevents or attempts to prevent another person from complying with such order, requisition or direction or from answering such question, producing such thing or allowing such search or inspection,

commits an offence and shall be liable on conviction to a fine of thirty thousand ringgit or to imprisonment for three years or to both.

(2) Any person who—

- (a) for the purpose of obtaining any licence, permit or certificate; or
- (b) for purported compliance with any requirement to furnish any information under this Enactment,

knowingly or recklessly provides information which is false commits an offence and shall be liable on conviction to a fine of thirty thousand ringgit or to imprisonment for three years or to both.

(3) Any person who without lawful authority alters a licence, permit, certificate or other document issued under this Enactment commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

**Offences, penalties and proceedings.**



**96.** (1) Any person who contravenes any provision of this Enactment where no offence is specifically provided commits an offence.

(2) Any person who aids, abets, counsels or procures an offence under this Enactment or conspires to commit such an offence commits the offence so aided, abetted, counselled or procured or conspired to be committed.

(3) An attempt to commit an offence under this Enactment shall itself constitute an offence and may be dealt with in like manner as if the attempted offence had been committed.

(4) Where a person is convicted of an offence involving the carrying out of an activity without a licence or permit when such licence or permit is required under this Enactment, the Court shall, in addition to any other penalty, require the person to pay to the Government a sum equivalent to double the licence or permit fee that would have been paid by that person had he obtained the necessary licence or permit.

(5) Any person who commits an offence against this Enactment for which no penalty is specifically provided shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

(6) Where a person is convicted on a second or further occasion of the same offence against this Enactment he shall be liable to double the normal penalty for that offence.

(7) Where a person is convicted of an offence against this Enactment and not less than two accomplices are also convicted of the same offence, he shall be liable to double the normal penalty for that offence.

(8) Where a person uses a firearm for the purpose of committing an offence under this Enactment, he shall be liable on conviction to double the normal penalty for that offence.

#### **Protection and reward of informers.**

**97.** (1) Unless the Court is of the opinion that justice cannot otherwise be done, no witness shall in proceedings under this Enactment reveal the identity of an informer or any matter that may lead to the discovery of the informer.

(2) The Court shall take such other steps as it shall consider necessary to conceal the identity of an informer including the concealing of references to the informer in documents produced before the Court.

(3) The Director may order such reward as he may deem fit to be paid to any informer for services rendered in connection with any offence or seizure made under this Enactment.

#### **Evidence and presumptions.**

98. (1) The possession by any person of any animal or the meat or animal product from a freshly killed animal shall be *prima facie* evidence against that person that he has hunted such animal.

(2) If a person is found in possession of any plant within a protected area or botanical garden, it shall be presumed, until the contrary is proved, that he harvested such plant in such area or garden.

(3) If a person is found in possession of any freshly harvested protected plant outside a protected area or botanical garden, he shall be presumed, until the contrary is proved, that he harvested such plant in such area or garden.

(4) If any person who has authority to hunt an animal or harvest a plant under this Enactment is found in possession of animals or plants in excess of the numbers so authorised or of any species or sex or class not so authorised, he shall be presumed, until the contrary is proved, to have hunted such animals or harvested such plants in contravention of such authority.

(5) Where any animal, animal product or plant is found upon or in any vehicle, boat, aircraft or at any camping place, every person who is upon or in any way associated with such vehicle, boat, air craft or camping place, except a vehicle, boat or aircraft which at the relevant time is being used as a carrier for members of the public and not for hire or charter, shall be presumed, until the contrary is proved, to be in possession of such animal, animal product or plant.

(6) Any person charged with doing an act which is an offence if done without authority under this Enactment he shall be presumed, until the contrary is proved, to have done such act without authority.

(7) Whenever in any prosecution in respect of an offence under this Enactment—

(a) the question arises whether any flesh, whether fresh, dried, unprocessed or partly processed, is or was the flesh of any animal of a particular species is relevant to the issue, such flesh shall be presumed, until the contrary is proved, to be or to have been the flesh of an animal of the species stated in the charge;

(b) the question arises whether any unprocessed or partly processed hide or skin which has been rendered unidentifiable is or was the hide or skin of an animal of any particular species is relevant to the issue, such hide or skin shall be presumed, until the contrary is proved, to be or to have been the hide or skin of an animal of the species stated in the charge.

(8) If any animal, animal product or plant is found in any shop, store or at or in any other place of business, including a market stall, it shall be presumed, until the contrary is proved that the owner thereof has possession of such animal, animal product or plant for the purpose of sale without authority.

(9) Whenever the hunting of one or other sex of any particular class of any species of animal is unlawful and the hunting of the other sex or of any other class of such animal is lawful, any carcass of such animal from which the distinguishing features of sex or of such particular class has been removed

shall be presumed, until the contrary is proved, to be the carcass of an animal of the sex or of a class which is unlawful to hunt.

(10) If any person is seen or found—

- (a) on any land on which there are animals, in possession of a firearm or any other weapon capable of killing or wounding any animal or with a free ranging dog; or
- (b) within one hundred metres of any water, in possession of any gear, device or appliance capable of being used for catching fish,

he shall be presumed, until the contrary is proved, to have entered such land for the purpose of hunting or fishing, as the case may be, without authority under this Enactment.

(11) If the driver of any vehicle fails to stop when required to do so by any authorised officer, it shall be presumed, until the contrary is proved, that the person in whose name such vehicle is registered or, if it is registered in the name of a corporate body, the employee of the corporate body who has care or control of the vehicle, was the driver thereof at the time.

(12) In the prosecution for an offence under this Enactment, a certificate purporting to be signed by the Director or any officer authorised by him for that purpose to the effect that on a date specified in the certificate the accused person or any other named person was not the holder of a licence, permit or certificate under this Enactment shall, in the absence of evidence to the contrary, be sufficient evidence of the matter stated in the certificate.

(13) In a prosecution for an offence under this Enactment, a copy of or an extract from any record or other document that is made by the Director or any other officer in the course of his duties under this Enactment and that purports to be certified under the signature of the Director or an officer authorised by him for that purpose as a true copy or extract shall, in the absence of proof to the contrary, be admissible in evidence as if it were the original.

(14) No document referred to in subsection (12) and (13) shall be received in evidence unless the party using it has, not less than ten clear days before the commencement of the trial, given to the other party notice of the intention to use it together with a duplicate of the document.

## PART X

### LIABILITY OF COMPANY MEMBERS, ADMINISTRATIVE PENALTIES AND OTHER PENALTIES

#### **Liability of members of companies and firms.**

**99.** Where any offence against this Enactment has been committed by a company or any member of a partnership, firm or business, society or association of persons, each director or officer of that company or

any other member of the partnership or other person concerned with the management of such partnership, firm or business, society or association of persons, shall be liable for such offence, unless he proves to the satisfaction of the Court that—

- (a) he has used due diligence to secure compliance with this Enactment; and
- (b) such offence was committed without his knowledge or consent.

#### **Mandatory cancellation of licences and disqualification on conviction.**

**100.** (1) Where the holder of a licence, permit or other authorisation under this Enactment is convicted of an offence against this Enactment, the conviction shall, unless the Court directs otherwise for reasons to be recorded in writing, have the effect of cancelling the licence, permit or other authorisation with effect from the date of conviction.

(2) Where a licence, permit or other authorisation is cancelled under subsection (1), the person convicted shall be disqualified from holding a licence, permit or other authorisation under this Enactment for a period of two years from the date of conviction or such longer period as the Court may decide which shall not be more than five years.

(3) Where a person who is not the holder of a licence, permit or other authorisation under this Enactment is convicted of any offence under this Enactment, the Court shall disqualify him from holding a licence, permit or other authorisation under this Enactment for a period of two years from the date of conviction or such longer period as the court may decide which shall not be more than five years.

(4) Where a person is convicted of an offence relating to the preservation of wildlife or its habitats in another state of Malaysia or a country in ASEAN, he shall be disqualified from holding a licence, permit or other authorisation under this Enactment for a period of years from the date of conviction or such longer period as the Minister may decide which shall not be more than five years.

#### **Compounding of offences.**

**101.**(1) Where the Director has reasonable cause to believe that—

- (a) an offence under this Enactment has been committed by any person;
- (b) the offence is of a minor nature; and
- (c) having regard to the previous conduct of the person concerned, it would be appropriate to impose a compounding fine under this section,

he may cause a notice in writing in accordance with subsection (2) in the prescribed form to be served on that person.

(2) A notice under subsection (1) shall specify—

- (a) the date and nature of the offence;
- (b) a summary of the facts upon which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him); and
- (c) any other matters (not being previous convictions) that the Director considers relevant to the imposition of a compounding fine,

and shall be endorsed with a statement setting out the provisions of the section under which the offence was committed.

(3) Any person on whom a notice under subsection (1) is served may within thirty days after such service by notice in writing in the prescribed form served on the Director require that proceedings in respect of the alleged offence shall be dealt with by the Court, in which case the following shall apply:

- (a) no further proceedings shall be taken under this section by the Director; and
- (b) nothing in this section shall be construed to prevent the subsequent laying of any information or charge in respect of the alleged offence or the conviction of the person of the offence by the Court or the imposition of any penalty or forfeiture under this Enactment upon such conviction.

(4) Any person on whom a notice under subsection (1) is served who does not require that the proceedings in respect of the alleged offence be dealt with by the Court may by notice in writing served on the Director—

- (a) admit the offence; and
- (b) make submissions to the Director as to the matters he wishes the Director to take into account in imposing any compounding fine under this section.

(5) Where a person upon whom a notice under subsection (1) is served does not within thirty days after the notice is served on him—

- (a) require that proceedings in respect of the alleged offence shall be dealt with by the Court;  
or
- (b) admit the offence,

he shall on the expiration of that period be deemed to have admitted that offence.

(6) Where under this section a person admits or is deemed to have admitted an offence, the Director, after taking into account any submissions by that person under subsection (4), may impose a compounding fine on that person in respect of the offence not exceeding one third of the maximum fine to which the person would be liable if he were convicted of the offence by the Court.

(7) Where the Director imposes a compounding fine on a person under this section in respect of an offence, the Director shall cause a notice in writing in the prescribed form of the particulars of the compounding fine to be served on that person.

(8) A person on whom a compounding fine is imposed under this section shall pay the amount of the compounding fine to the Government within thirty days after the notice of the compounding fine is served on him in accordance with subsection (7).

(9) Without prejudice to the requirement of subsection (8), a compounding fine imposed under this section shall be recoverable by the Government from the person on whom it has been imposed in the same manner as a fine is recoverable on conviction of an offence.

(10) Notwithstanding any other provisions of this Enactment or of any other Enactment, where an offence has been admitted or is considered to have been admitted under this section, no information or charge may be laid in respect of the offence against any person by whom it is admitted or deemed to have been admitted.

(11) Nothing in this section shall apply to any offence or alleged offence in respect of which any information or charge has already been laid before the Court.

(12) This section shall not apply to the offences of—

- (a) hunting animals or harvesting plants within a Wildlife Sanctuary;
- (b) hunting an animal or harvesting a plant of a species listed in Schedule 1;
- (c) being in possession without lawful authority of an animal, animal product therefrom or plant of a species listed in Schedule 1; or
- (d) bringing or causing to be brought into the State, or taking or causing to be taken out of the State without a valid permit an animal, animal product or plant of a species listed in Appendix I or Schedule 1.

(13) In the exercise of his powers under this section, the Director shall not be subject to the direction or control of any person or authority.

**Forfeiture by the Court of things connected with offences.**

**102.** (1) Where a person is convicted of an offence against this Enactment, the Court may, in addition to any other penalty that it may impose, order that the thing by means of or in relation to which the offence was committed or any proceeds realised from its disposal be forfeited to the Government and, subject to subsection (3) and otherwise to this Enactment, may be disposed of as the Director in his discretion may consider fit and any proceeds of sale thereof shall be paid into the State Consolidated Fund.

(2) Where the owner of a thing that is seized and detained under this Enactment consents to its forfeiture, it shall thereupon be forfeited to the Government and, subject to subsection (3) and otherwise to this Enactment, shall be disposed of in such manner as the Director shall in his discretion consider fit.

(3) Any animal, animal product or plant of or originally from a species listed in Appendix I or Schedule 1 forfeited in accordance with subsection (1) or (2) may not be disposed of so as to become an object of trade.

#### **Return of seized things.**

**103.** (1) Where a thing has been seized under this Enactment and the Court does not order the forfeiture of that thing, it, or any proceeds realised from its disposal, shall be returned to the owner thereof or the person having the possession, care or control of it at the time of seizure.

(2) Where the owner of a thing or the person having the possession, care or control of it at the time of its seizure is convicted of an offence under this Enactment and a fine is imposed—

- (a) the thing may be detained until the fine is paid;
- (b) the thing may be sold in satisfaction of the fine; or
- (c) any proceeds realised from its disposal under section 93 may be applied in payment of the fine.

## PART XI

### POWERS OF THE MINISTER

#### **Amendment of Schedules.**

**104.** The Minister may, from time to time after consultation with the Director, by order published in the *Gazette*, amend the Schedules to this Enactment.

#### **Regulations.**

**105.** The Minister may, after consultation with the Director, by order published in the *Gazette*, make regulations generally for the development, conservation and management of wildlife resources in the

State and for the implementation and administration of this Enactment and the attainment of its purposes and, in particular but without derogating from the generality of this power, may make regulations providing for—

- (a) anything which is to be or may be prescribed under this Enactment;
- (b) the forms to be used for the purposes of this Enactment;
- (c) the procedures to be followed by applicants for licences, permits and other documents including the persons to whom applications may be made and the manner of making applications and the information that shall be provided;
- (d) the terms and conditions that shall apply to licences, permits and certificates including the provision of bonds for due performance of the conditions of any licence or permit or compliance with this Enactment;
- (e) the fees to be paid for licences, permits and certificates granted under this Enactment including the imposition of different fees for different categories of persons;
- (f) the fees to be paid for the services of Wildlife Officers and licensed wildlife guides;
- (g) administration of Wildlife Sanctuaries and Wildlife Hunting Areas including, where appropriate, control of places and times of entry for motor vehicles, boats, aircraft overflying and landing and any other activities that require the permit of the Director;
- (h) control of activities in Conservation Areas;
- (i) procedures for making claims for compensation and raising objections under section 10;
- (j) the persons by whom licence holders or persons authorised to hunt under licences shall be required to be accompanied when on hunting expeditions;
- (k) prohibited methods of hunting including prohibited weapons and prohibited types and calibres of firearms;
- (l) the reports to be made by licensed wildlife guides;
- (m) regulation of acquisition, possession and keeping of protected animals, animal products thereof and protected plants and trade in protected animals, animal products thereof including meat and protected plants;
- (n) the registration and marking of protected animals and animal products thereof;
- (o) terms and conditions that shall be applied to concessions granted under this Enactment and the procedures to be followed in applying for or tendering for such concessions;



- (p) the control of hunting and harvesting, breeding, propagating, raising, ranching, farming and cultivating of wild species of animals or plants for commercial purposes and concessions in respect of licences, permits and fees that may be given for the encouragement of such activities;
- (q) for compliance with and the implementation of obligations of the State under bilateral or international treaties, conventions or agreements binding on the State directly or by reason of Malaysia being a party to any such treaties, conventions or agreements;
- (r) rules and conditions for keeping animals in captivity;
- (s) disposal of animals, animal products and plants including the destruction thereof;
- (t) compensation for death, injury or damage to property by animals;
- (u) the establishment of local wildlife committees to which the Director may delegate some powers;
- (v) the control of the collection and sale of edible birds' nests;
- (w) penalties for the breach thereof which shall not exceed a fine of twenty thousand ringgit or imprisonment for two years or both; and
- (x) all matters or things which by this Enactment are required or permitted to be prescribed or which are necessary or expedient to give effect to this Enactment.

## PART XII

### MISCELLANEOUS

#### **Closed seasons.**

**106.** (1) The Director may, by notice published in the *Gazette*, declare that during such period which may be indefinite and within such area as may be specified in the notice the hunting of animals or the collection of animal products of such animals or the harvesting of plants of such species as shall be specified in the notice shall be unlawful.

(2) Any person who hunts any animal, collects any animal product or harvests any plant in contravention of a notice under subsection (1) commits an offence and shall be liable on conviction to a fine of twenty thousand ringgit or to imprisonment for two years or to both.

#### **Applications, fees and charges.**

**107.** (1) All applications under this Enactment shall be—

- (a) made in the prescribed manner; and

(b) accompanied by all information, including documents required under this Enactment.

(2) All applications made pursuant to this Enactment shall be accompanied by the appropriate prescribed fees and all licences, permits, certificates and other documents shall be issued hereunder subject to such conditions as may be endorsed thereon and such other conditions and such fees as may be prescribed.

(3) The Director shall be empowered to levy such charges for services and other actions undertaken by him or on his behalf as may be prescribed.

#### **Wildlife areas.**

**108.** (1) For the purposes of the issue of licences and permits, the State shall be divided into such wildlife areas as the Director may from time to time declare by notice in the *Gazette*.

(2) The Director may in like manner alter or rescind any wildlife area.

#### **Licences to be carried.**

**109.** Any person holding or exercising rights under a licence, permit or other document issued under this Enactment, except for an animal kampung licence, shall carry such licence, permit or document when exercising any of the rights conferred under it and shall produce it when so requested by an authorised officer.

#### **Power of the Director to suspend or cancel licences.**

**110.** (1) The Director may suspend or cancel any hunting licence, plant harvesting licence or such other licence or permit provided in this Enactment without assigning any reason therefor and without having to give the holder thereof a right to be heard.

(2) Where a licence or permit is cancelled under subsection (1) the Director may, in his discretion, refund the whole or any part of a fee paid for the licence or permit.

#### **Power of the Director to make by-laws.**

**111.** (1) The Director may make by-laws for the proper management of those parts of Wildlife Sanctuaries open to the public, Wildlife Hunting Areas, Government zoological gardens open to the public and other zoological gardens in the State and for the regulation of entry and conduct within those places.

(2) Where an authorised officer considers that a person is acting in contravention of a by-law made under this section he may require that person to leave a Wildlife Sanctuary, Wildlife Hunting Area or zoological garden and if such person refuses, use such force as may be reasonable to eject that person from such Sanctuary, Hunting Area or zoological garden.

(3) By-laws made under this section that relate to entry into zoological gardens shall be posted at the entrance to each zoological garden so as to be readily seen.

(4) A person who contravenes a by-law made under this section shall be liable on conviction to such fine as shall be stipulated in the relevant by-laws which shall not exceed one thousand ringgit.

### **Introduction of exotic animals and plants into the State.**

**112.** (1) No person shall release or introduce any exotic animal or plant into the wild in the State including into any waters of the State.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of fifty thousand ringgit or to imprisonment for five years or to both.

### **Research permits.**

**113.** (1) The Director may issue a research permit to any person to carry out specified activity during the period specified in the permit for scientific or educational purposes, including the obtaining of specimens of animals or plants for any scientific or educational purpose or for museums, zoological gardens, herbariums, arboretums, botanical gardens or similar institutions.

(2) The holder of a permit issued under subsection (1) and such other persons as may be specified in such permit shall, subject to subsections (3) and (4), be exempt from the provisions of this Enactment.

(3) A permit issued under subsection (1) shall be subject to such conditions which may include the application of provisions of this Enactment as may be prescribed or specified in the permit.

(4) The Director may, by notice in writing given to the holder of a permit issued under subsection (1) and without having to give the holder thereof a right to be heard—

(a) revoke the permit; or

(b) vary or revoke the conditions or specify further conditions, to which the permit is subject.

(5) The Director may waive any fee in respect of a research permit if he considers that the purpose for which the permit is required is to be undertaken for the benefit of the State or as a contribution to scientific cooperation between the State and another State of Malaysia or another country.

### **Power to exempt pre-Convention animals, animal products and plants.**

**114.** (1) Subject to subsection (2), the provisions of this Enactment shall not apply to such animal, animal product or plant as may be prescribed.

(2) No animal, animal product or plant shall be exempted from the provisions of this Enactment if such animal, animal product or plant was first acquired by any person after—

- (a) the species to which it belongs was included in an Appendix; or
- (b) the species to which it belongs was included in a Schedule to this Enactment,

whichever first occurred.

### **Exemptions of Wildlife Officers, indemnities and exclusions.**

**115.** (1) Nothing in this Enactment shall make it unlawful for the Director or any Wildlife Officer acting with the authority of the Director to hunt or authorise any person to hunt any animal in any area including a protected area where—

- (a) such hunting is required in the interests of proper research, management or administration including dealing with diseased animals;
- (b) he considers it necessary for the safety of the public or the protection of livestock, crops or other property; or
- (c) he considers it necessary for the prevention of undue suffering by any animal,

or to bring any weapon, ammunition, vehicle or other thing into a protected area for the enforcement of this Enactment.

(2) Neither the Government nor any public officer thereof shall be responsible for any loss or damage which may occur to any property during a search or act of seizure under this Enactment or whilst such property is detained under this Enactment unless the same has been caused maliciously, fraudulently or through gross negligence.

(3) Nothing in this Enactment shall render a Wildlife Officer guilty of an offence under this Enactment in respect of anything done by him in the course of his duty as such officer.

(4) No civil or criminal action shall lie against an authorised officer in respect of any act done or omitted to be done by him in good faith in the purported exercise of any powers under this Enactment if there shall have been reasonable cause for such act or omission.

(5) Persons who enter or who are permitted to reside in Wildlife Sanctuaries, Wildlife Hunting Areas and zoological gardens shall do so at their own risk and no liability shall attach to the Government, the Director or any public officer for any loss of life or injury sustained by any person or loss of or damage to any property of any person in any Wildlife Sanctuary, Wildlife Hunting Area, or zoological garden by reason of the presence, action or depredation of any animal or any other cause.

### **Rights of entry on land by Wildlife Officers.**

**116.** (1) A Wildlife Officer may enter into any land generally for the administration of this Enactment and without derogating from the generality of this provision may—

- (a) at all reasonable times, enter into land with or without workmen and equipment for the purpose of fixing or placing any boundary marker, cutting or demarcating any boundary line or building any fence, and may cut any vegetation that may obstruct such boundary line, but shall otherwise cause as little damage as possible; and
- (b) enter into any land in pursuit of a person reasonably suspected by such officer of committing or having committed an offence under this Enactment.

(2) Except where it is impracticable to do so, a Wildlife Officer shall give prior notice of entry on land other than State land to the owner or occupier thereof.

### **Investigations and prosecutions.**

**117.** (1) An authorised officer may in the investigation and prevention of any offence under this Enactment and generally in the enforcement of this Enactment exercise all or any of the powers conferred on any police officer under the Criminal Procedure Code including the special powers in relation to seizable offences contained in Chapter XIII of the Code.

### **F.M.S. Cap. 6.**

(2) The State Attorney-General, any legally qualified member of the State Legal Service, any legal officer of the Wildlife Department, or any Wildlife Officer may conduct any prosecution in respect of an offence under this Enactment and for that purpose shall have all the powers conferred upon him by the Criminal Procedure Code.

### **F.M.S. Cap. 6.**

### **Application to Government.**

**118.** (1) This Enactment shall apply to the Government Departments other than the Wildlife Department.

(2) Nothing contained in subsection (1) shall make a Government Department liable for the payment of any fee provided for under this Enactment.

### **Amendments, repeals and transitional.**

**119.** The Ordinances set out in Part I of Schedule 5 shall be amended or repealed to the extent therein specified and the transitional and saving provisions set out in Part II of that Schedule shall apply notwithstanding the repeal or any other provision of this Enactment.

SCHEDULE 1

(Section 2)

TOTALLY PROTECTED SPECIES OF ANIMALS AND PLANTS

PART I

(Section 25(1))

TOTALLY PROTECTED ANIMALS

1. Sumatra Rhinoceros (*Dicerorhinus sumatrensis*) Badak Sumatra
2. Orang Utan (*Pongo pygmaeus*) Orang Utan
3. Sun Bear (*Helarctos malayanus*) Beruang Madu
4. Dugong (*Dugong dugon*) Duyung
5. Proboscis Monkey (*Nasalis larvatus*) Monyet Bungkutan
6. Clouded Leopard (*Neofelis nebulosa*) Harimau Dahan
7. Gharial (*Tomistoma schlegeli*) Buaya Julung-julung
8. Green Turtle (*Chelonia mydas*) Penyu Hijau
9. Hawksbill Turtle (*Eretmochelys imbricata*) Penyu Sisik

PART II

(Section 54(1)(a))

TOTALLY PROTECTED PLANTS

1. *Nepenthes Rajah* spp - Periuk Kera
2. *Paphiopedilum* spp - Orkid Selipar
3. *Rafflesia* spp - Rafflesia
4. *Tetrastigma* spp - Pokok Perumah Rafflesia

## SCHEDULE 2

(Section 2)

### PROTECTED SPECIES OF ANIMALS AND PLANTS-LIMITED HUNTING AND COLLECTION UNDER LICENCE

#### PART I

(Section 25(2))

#### PROTECTED ANIMALS

##### MAMMALS

1. Kinabalu Shrew (*Crocidura baluensis*) Cencurut Kinabalu
2. Dayak Roundleaf Bat (*Hipposideros dyacorum*) Kelawar Ladam-bulat Dayak
3. Coppery Pipistrelle (*Pipistrellus cuprosus*) Kelawar Hidung Pendek Tembaga
4. Gilded Tube-nosed Bat (*Murina rozendaali*) Kelawar Hidung Laras Emas
5. Flying Lemur (*Cynocephalus variegatus*) Kubung
6. Slow Loris (*Nycticebus coucang*) Kongkang
7. Tarsier (*Tarsius bancanus*) Kera Hantu
8. Maroon Leaf Monkey (*Presbytis rubicunda*) Monyet Merah
9. Grey Leaf Monkey (*Presbytis hosei*) Monyet Kikok
10. Silver Leaf Monkey (*Presbytis cristata*) Monyet Kelabu
  
11. Long-tailed Macaque (*Macaca fascicularis*) Kera
12. Pig-tailed Macaque (*Macaca nemestrina*) Beruk
13. Gibbon (*Hylobates muelleri*) Kelawat
14. Pangolin (*Manis javanica*) Tenggiling
15. Giant Squirrel (*Ratufa affinis*) Tupai Kerawak Putih-kuning
16. Kinabalu Squirrel (*Callosciurus baluensis*) Tupai Kinabalu
17. Giant Tufted Ground Squirrel (*Rheithrosciurus macrotis*) Babut
18. Hose's Pigmy Flying Squirrel (*Petaurillus hosei*) Tupai Terbang Kecil
19. Temminck's Flying Squirrel (*Petinomys setosus*) Tupai Terbang Dada Putih
20. Horsfield's Flying Squirrel (*Iomys horsfieldi*) Tupai Terbang Ekor Merah
21. Grey-cheeked Flying Squirrel (*Hylopetes lepidus*) Tupai Terbang Pipi Kelabu
22. Black Flying Squirrel (*Aeromys tephromelas*) Tupai Terbang Hitam



23. Smoky Flying Squirrel (*Pteromyscus pulverulentus*) Tupai Terbang Kotor
24. Whiskered Flying Squirrel (*Petinomys genibarbis*) Tupai Terbang Berjambang
25. Spotted Giant Flying Squirrel (*Petaurista elegans*) Tupai Terbang Bintang
26. Red Giant Flying Squirrel (*Petaurista petaurista*) Tupai Terbang Merah
27. Thomas's Flying Squirrel (*Aeromys thomasi*) Tupai Terbang Merah
28. Long-tailed Porcupine (*Trichys fasciculata*) Landak Padi
29. Thick-spined Porcupine (*Thecurus crassispinis*) Landak Borneo
30. Yellow-throated Marten (*Martes flavigula*) Mengkira
31. Malay Weasel (*Mustela nudipes*) Pulasan Tanah
32. Ferret-Badger (*Melogale personata*) Pulasan Lamri
33. Malay Badger (*Mydaus javanensis*) Teledu
34. Hairy-nosed Otter (*Lutra sumatrana*) Memerang Kumis
35. Smooth Otter (*Lutra perspicillata*) Memerrang Licin
36. Oriental Small-clawed Otter (*Aonyx cinerea*) Memerang Kecil
37. Malay Civet (*Viverra zangalunga*) Musang Tanggalong
38. Otter-Civet (*Cynogale bennettii*) Musang Memerang
39. Binturong (*Arctictis binturong*) Musang Binturong
40. Small-toothed Palm Civet (*Arctogalidia trivirgata*) Musang Akar
41. Masked Palm Civet (*Paguma larvata*) Musang Lamri
42. Common Palm Civet (*Paradoxurus hermaphroditus*) Musang Pulut
43. Hose's Civet (*Hemigalus hosei*) Musang Hitam Pudar
44. Banded Palm Civet (*Hemigalus derbyanus*) Musang Belang
45. Banded Linsang (*Prionodon linsang*) Musang Linsang
46. Collared Mongoose (*Herpestes semitorquatus*) Bambun Ekor Panjang

47. Short-tailed Mongoose (*Herpestes brachyurus*) Bambun Ekor Pendek
48. Leopard Cat (*Felis bengalensis*) Kucing Batu
49. Marbled Cat (*Felis marmorata*) Kucing Dahan
50. Flat Headed Cat (*Felis planiceps*) Kucing Hutan
51. Bay Cat (*Felis badia*) Kucing Merah
52. Asian Elephant (*Elephas maximus*) Gajah
53. Banteng (*Bos javanicus*) Tembadau
54. Sei Whale (*Balanoptera borealis*) Ikan Paus Sei
55. Bryde's Whale (*Balanoptera edent*) Ikan Paus Bryde
56. Killer Whale (*Orcinus orca*) Ikan Paus Buding
57. Short-finned Pilot Whale (*Globicephala macrohynchus*) Ikan Paus Pendek Sirip
58. Pigmy Sperm Whale (*Kogia breviceps*) Ikan Paus Nayan
59. Grey Dolphin (*Grampus griseus*) Dolfin Kelabu
60. Bottlenose Dolphin (*Tursiops truncatus*) Dolfin Hidung Botol
61. Indo-Pacific Hump-backed Dolphin (*Sousa chinensis*) Dolfin Bongkok Bernie
62. Irrawaddy Dolphin (*Orcaella brevirostris*) Dolfin Empesut
63. Finless Porpoise (*Neophocaena phocaenides*) Ikan Lumba-lumba Ambu
64. Fraser's Dolphin (*Lagenodelphis hosei*) Dolfin Fraser
65. Long Snouted Spinner Dolphin (*Stenella longirostra*) Dolfin Hidung Mancung

#### REPTILES

66. Estuarine Crocodile (*Crocodylus porosus*) Buaya
67. False Gharial (*Tomistoma schlegeli*) Buaya Julung-julung
68. Monitor Lizard (*All varanus species*) Biawak
69. Reticulated Python (*Python reticulatus*) Ular Sawa Panjang
70. Blood Python (*Python curtus*) Ular Sawa Darah

71. King Cobra (*Ophiophagus hannah*) Ular Tedung Selar
72. Forest Tortoise (*Tetsudo emys*) Kura-kura Bukit
73. Asian Giant Turtle (*Orlitia borneonsis*) Juku-Juku Besar

#### FRIGATEBIRDS

74. Christmas Island Frigatebird (*Fregata andrewsi*) Simbang Pulau Christmas
75. Lesser Frigatebird (*Fregata ariel*) Simbang Kecil

#### CORMORANTS AND DARTERS

76. Great Cormorant (*Phalacrocorax carbo*) Dandang Air
77. Oriental Darter (*Anhinga melanogaster*) Kosa

#### HERONS AND BITTERNs

78. Great-billed Heron (*Ardea sumatrana*) Bangau Bakau
79. Purple Heron (*Ardea purpurea*) Bangau Paya
80. Grey Heron (*Ardea cinerea*) Seriap
81. Reef Egret (*Egretta sacra*) Bangau Laut
82. Little Egret (*Egretta garzetta*) Bangau Kecil
83. Chinese Egret (*Egretta eulophotes*) Bangau Cina
84. Intermediate Egret (*Egretta intermedia*) Bangau Kerbau
85. Little Heron (*Butorides striatus*) Pucong Keladi
86. Black-crowned Night-Heron (*Nycticorax nycticorax*) Pucong Kuak
87. Rufous Night Heron (*Nycticorax caledonicus*) Pucong Malam
88. Malayan Night Heron (*Gorsachius melanolophus*) Pucong Rimau
89. Yellow Bittern (*Ixobrychus sinensis*) Pucong Merah
90. Schrenck's Bittern (*Ixobrychus eurhythmus*) Pucong Gelam
91. Black Bittern (*Ixobrychus flavicollis*) Pucong Hitam
92. Cinnamon Bittern (*Ixobrychus cinnamomeus*) Pucong Bendang

## STORKS

- 93. Storm's Stork (*Ciconia stormi*) Botak Storm
- 94. Lessers Adjutant Stork (*Leptoptilos javanicus*) Botak Kecil

## IBISES

- 95. Black-headed Ibis (*Threskiornis melanocephalus*) Sekendi Kepala Hitam

## HAWKS AND EAGLES

- 96. Bat Hawk (*Machaeramphus alcinus*) Helang Malam
- 97. Jerdon Baza (*Avicedo jerdoni*) Helang Baza
- 98. Crested Honey-Buzzard (*Pernis ptilorhynchus*) Helang Lebah
- 99. Brahminy Kite (*Haliastur indus*) Helang Merah
- 100. Black Kite (*Milvus migrans*) Helang Kembara Hitam
- 101. Black Eagle (*Ictinaetus malayensis*) Helang Hitam
- 102. Lesser Fish-Eagle (*Ichthyophaga humilis*) Helang Kangok
- 103. Grey-headed Fish-Eagle (*Ichthyophaga ichtyaetus*) Helang Kepala Kelabu
- 104. Kinabalu Serpent-Eagle (*Spilornis kinabaluensis*) Helang Kinabalu
- 105. Crested Serpent-Eagle (*Spilornis cheela*) Helang Berjambul
- 106. Besra (*Accipiter virgatus*) Helang Pipit
- 107. Crested Goshawk (*Accipiter trivirgatus*) Helang Putih
- 108. Wallace's Hawk-Eagle (*Spizaetus nanus*) Helang Selat

## OSPREYS

- 109. Osprey (*Pandion haliaetus*) Helang Tiram

## FALCONS

- 110. White-fronted Falconet (*Microhierax latifrons*) Falko Dahi Putih
- 111. Peregrine Falcon (*Falcon peregrinus*) Falko Belalang
- 112. Common Falconet (*Microhierax caerulescens*) Falko Biasa

113. Oriental hobby (*Falco severus*) Falko Timor  
114. Eurasian Kestrel (*Falco tinnunculus*) Falko Serani

#### MEGAPODES

115. Tabon Scrubfowl (*Megapodius cumingii*) Tambun

#### PARTRIDGES AND PHEASANT

116. Blue-breasted Quail (*Coturnix chinensis*) Pikau  
117. Long-billed Partridge (*Rhizothera longirostris*) Siul Selanting  
118. Ferruginous Partridge (*Caloperdix oculatea*) Sang Seruk Rimba  
119. Red-breasted Partridge (*Arborophila hyperythra*) Siul Dada Merah  
120. Chestnut-necklaced Partridge (*Arborophila charltonii*) Sang Serok  
121. Black Wood-Partridge (*Melanoperdix nigra*) Siul Bertam  
122. Crested Partridge (*Rollulus rouloul*) Siul Berjambul  
123. Crimson-headed Partridge (*Haematortyx sanguiniceps*) Siul Kepala Merah  
124. Crested Fireback (*Lophura ignita*) Ayam Pegar  
125. Crestless Fireback (*Lophura erythrophthalma*) Merah Mata  
126. Bulwer's Pheasant (*Lophura bulweri*) Pakiak  
127. Bornean Peacock-Pheasant (*Polyplectron schleiermacheri*) Merak Pongsu  
128. Great Argus (*Argusianus argus*) Kuang Raya

#### PLOVERS

129. Malaysian Plover (*Charadrius peronii*) Rapang Pasir

#### SANDPIPERS AND SNIPES

130. Far Eastern Curlew (*Numenius madagascariensis*) Kedidi Timor  
131. Nordmann's Greenshank (*Tringa guttifer*) Kedidi Kaki Hijau Berbintik  
132. Asian Dowitcher (*Limnodromus semipalmatus*) Kedidi Dada Merah

#### THICK-KNEES

133. Beach Thick-knee (*Esacus magnirostris*) Burung Lutut Tebal

#### SKUAS, GULLS AND TURNS

134. Black-naped Tern (*Sterna sumatrana*) Camar Tengkok Hitam
135. Bridled Tern (*Sterna anaethetus*) Camar Batu
136. Chinese-crested Tern (*Sterna bernsteini*) Camar Cina Berjambul

#### PIGEONS AND DOVES

137. Large-Green Pigeon (*Treron capellei*) Lungguak
138. Cinnamon-headed Green-Pigeon (*Treron fulvicollis*) Punai Bakau
139. Black-naped Fruit-Dove (*Ptilinopus melanospila*) Punai Tengkok Hitam
140. Grey Imperial Pigeon (*Ducula pickeringi*) Merpati Raja Kelabu
141. Metallic Wood-Pigeon (*Columbia vitiensis*) Merpati Kayu
142. Emerald Dove (*Chalcophaps indica*) Punai Tanah
143. Nicobar Pigeon (*Caloenas nicobarica*) Punai Emas

#### PARROTS

144. Blue-naped Parrot (*Tanygnathus lucionensis*) Bayan Tengkok Biru
145. Blue-rumped Parrot (*Psittinus cyanurus*) Bayan Puling
146. Long-tailed Parakeet (*psittacula longicauda*) Bayan Nuri
147. Blue-crowned Hanging-Parrot (*Loriculus galgulus*) Bayan Kecil/Serindit

#### CUCKOOS, MALKOHAS AND COUCALS

148. Violet Cuckoo (*Chrysococcyx xanthorhynchus*) Sewah Rembah
149. Short-toed Coucal (*Centropus rectunguis*) But-But Jari Pendek
150. Sunda Ground-Cuckoo (*Carpococcyx radiceus*) Sewah Tanah

#### OWLS

151. Bay Owl (*Phodilus badius*) Jampuk Pantai
152. Reddish Scops-Owl (*Otus rufescens*) Hantu Merah
153. Mountain Scops-Owl (*Otus spilocephalus*) Hantu Gunung
154. Collared Scops-Owl (*Otus lempiji*) Hantu Reban

155. Mantanani Scops-Owl (*Otus mantananensis*) Hantu Mantanani

156. Barred Eagle-Owl (*Bubo sumatrana*) Hantu Bubu

157. Buffy Fish-Owl (*Ketupa ketupu*) Hantu Kuning

158. Collared Owlet (*Glaucidium brodiei*) Hantu Kecil

159. Brown Boobook (*Ninox scutulata*) Hantu Betemak

160. Brown Wood-Owl (*Strix leptogrammica*) Hantu Punggor

#### FROGMOUTHS

161. Large Frogmouth (*Batrachostomus auritus*) Segan Besar

#### NIGHTJARS

162. Bonaparte's Nightjar (*Caprimulgus concretus*) Tukang Bonarparte

#### SWIFTS

163. Waterfall Swifts (*Hydrochous gigas*) Layang-Layang Hantu

164. Edible-nest Swiftlet (*Aerodramus fuciphagus*) Layang-Layang Gua

165. Black-nest Swiftlet (*Aerodramus maximus*) Layang-Layang Padi

166. Brown-backed Needletail (*Hirundapus giganteus*) Layang-Layang Besar

#### HORNBILLS

167. Wrinkled Hornbill (*Rhyticeros corrugatus*) Enggang Berkedut

168. Wreathed Hornbill (*Rhyticeros undulatus*) Enggang Gunung

169. White-crowned Hornbill (*Berenicornis comatus*) Enggang Jambul Putih

170. Bushy-crested Hornbill (*Annorrhinus galeritus*) Enggang Belukar

171. Black Hornbill (*Anthracoceros malayanus*) Enggang Gatal Birah

172. Pied Hornbill (*Anthracoceros coronatus*) Enggang Tangling

173. Rhinoceros Hornbill (*Buceros rhinoceros*) Enggang Badak

174. Helmeted Hornbill (*Rhinoplax vigil*) Enggang Terbang Mentua

#### HONEYGUIDES

175. Malaysian Honeyguide (*Indicator archipelagicus*) Gembala Lebah

## WOODPECKERS

- 176. Speckled Piculet (*Picumnus innominatus*) Belatok Belang
- 177. Rufous Woodpecker (*Celeus brachyurus*) Belatok Kecil
- 178. White-bellied Woodpecker (*Dryocopus javensis*) Belatok Gajah

## PITTAS

- 179. Giant Pitta (*Pitta caerulea*) Pacat Besar
- 180. Fairy Pitta (*Pitta nympha*) Pacat
- 181. Blue-headed Pitta (*Pitta baudi*) Pacat Kepala Merah
- 182. Blue-banded Pitta (*Pitta arquata*) Pacat
- 183. Banded Pitta (*Pitta guajana*) Pacat Bukit
- 184. Blue-winged Pitta (*Pitta moluccensis*) Pacat Sayap Biru
- 185. Hooded Pitta (*Pitta sordida*) Pacat Gembala Pelandok

## BULBULS

- 186. Straw-headed Bulbul (*Pycnonotus zeylanicus*) Barau-barau
- 187. Hook-billed Bulbul (*Setornis criniger*) Merbah

## THRUSHES

- 188. Everett's Thrush (*Zoothera everetti*) Murai Everett
- 189. White-crowned Forktail (*Enicurus leschenaulti*) Murai Cegar Belukar
- 190. White-rumped Shama (*Copsychus malabaricus*) Murai Rimba
- 191. Magpie Robin (*Copsychus saulari*) Murai Kampung

## BABBLERS

- 192. White-chested Babbler (*Trichastoma rostratum*) Burung Telanjuk
- 193. Ferruginous Babbler (*Trichastoma bicolor*) Rimba Sampah
- 194. Grey-breasted Babbler (*Malacopteron albogulare*) Rimba Dahan
- 195. Bornean Wren-Babbler (*Ptilocichla leucogrammica*) Rimba Borneo



## FLYCATCHERS

196. Sunda Blue Flycatcher (*Cyornis caerulata*) Sambar Biru Sunda
197. Malaysian Blue Flycatcher (*Cyornis turcosa*) Sambar Biru Malaysia
198. Asian Paradise Flycatcher (*Terpsiphone paradisi*) Sambar Ekor Panjang

## WHISTLERS

199. Mangrove Whistler (*Pachycephala cinerea*) Sambar Siul Belukar

## FLOWERPECKERS

200. Brown-backed Flowerpecker (*Dicaeum everetti*) Sepah Puteri Gunung

## STARLING AND MYNAS

201. Hill Myna (*Gracula religiosa*) Tiong Mas

## BRISTLEHEADS

202. Bornean Bristlehead (*Pityriasis gymnocephala*) Burung Jambul

## JAYS AND CROWS

203. Black Magpie (*Platysmurus leucopterus*) Murai Hitam
204. Short-tailed Green Magpie (*Cissa thalassina*) Murai Hijau

## INSECTS

205. Rajah Brooke's Birdwing (*Trogonoptera brookiana*) Kupu-Kupu Rajah
206. Common Birdwing (*All Troides species*) Kupu-kupu (semua spesies Troides)

## PART II

(Section 54(1)(b))

## PROTECTED PLANTS

1. Caryota spp - Botu
2. Ceratolobus spp - Rotan
3. Corypha spp - Gabang
4. Cycadaceae - Paku Laut
5. Cytoceae - Paku

6. Zingiberaceae - Halia Hutan
7. Nenga spp - Pinang Hutan
8. Nepenthaceae - Periuk Kera
9. Orchidaceae - Anggerek Hutan
10. Podocarpus spp (Commercial spp) - Lampias
11. Rhododendron spp - Mawar Hutan
12. Livistonia sp - Silad
13. Arenga sp - Polod

### SCHEDULE 3

(Sections 2, 25(2))

#### PROTECTED SPECIES OF ANIMALS FOR WHICH HUNTING LICENCE IS REQUIRED

1. Large Flying Fox (*Pteropus vampyrus*) Keluang Bakau
2. Island Flying Fox (*Pteropus hypomelanus*) Keluang Pulau
3. Common Porcupine (*Hystrix brachyura*) Landak Raya
4. Bearded Pig (*Sus barbatus*) Babi Hutan
5. Lesser Mousedeer (*Tragulus javanicus*) Pelandok
6. Greater Mousedeer (*Tragulus napu*) Napoh
7. Common Barking Deer (*Muntiacus muntjac*) Kijang
8. Bornean Yellow Muntjac (*Muntiacus atherodes*) Kijang
9. Sambar Deer (*Cervus unicolor*) Rusa

## SCHEDULE 4

(Section 85)

### GOVERNMENT AND NON-GOVERNMENT EDIBLE BIRDS' NESTS CAVES

#### Part I

List of caves recognised as the property of private individuals or communities, subject to the royalty reserved and set forth hereunder:—

NAME OF CAVE	ROYALTY
1. Madai Segalong and Baturong, Darvel Bay	Ten per cent
2. Segama, Darvel Bay	do
3. Gaya Island, East Coast	do
4. Kelumpong River, East Coast	do
5. Senobong, including Pengharapan and Lingutan, Upper Kinabatangan	do
6. Melikop, Upper Kinabatangan	do
7. Batu Timbang, Kuamut River, Upper Kinabatangan	do
8. Melobong, Marudu Bay	do
9. Batu Mandi, Kudat	do
10. Mantanani Islands, West Coast	do
11. Pohun Batu, Interior	do

#### Part II

List of caves which are property of the Government:—

##### LOWER KINABATANGAN

1. Gomantong including Semut Hitam, Semut Puteh, and Bobun-bulud
2. Karuack
3. Pangi
4. Baladut

5. Supu including Supu, Supu-agob, and Sembuan

6. Bod Tai, Menunggal River

7. Materis

8. Batangan

SANDAKAN

9. Berhala Island

BALEMBANGAN ISLAND

10. Bahaysimpul

11. Siburungei

SEMPORNA

12. Si Amil Island

SCHEDULE 5

(Section 119)

REPEALS AND TRANSITIONAL

PART I

REPEALS

The Ordinances specified in Column 1 are amended or repealed to the extent specified in Column 2.

(1) Ordinances	(2) Provisions amended/repealed
<b>Cap. 15.</b>	
1. Birds' Nests Ordinance	The whole Ordinance.
<b>Cap. 68.</b>	
2. The Land Ordinance	Section 25
<b>Ordinance No. 11 of 1963.</b>	
3. The Fauna Conservation Ordinance 1963	The whole Ordinance
<b>Enactment No. 2 of 1968.</b>	
4. The Forest Enactment 1968	Section 2, paragraph (c) of the definition of "forest produce", substitute "Wildlife Conservation Enactment 1997" for "Fauna Conservation Ordinance".

PART II

TRANSITIONAL AND SAVING PROVISIONS

**Interpretation.**

1. In this Part "the Ordinance" means the Fauna Conservation Ordinance 1963.

**The Wildlife Department.**

2. On the coming into force of Part II of this Enactment, the Director of Wildlife and the present members of the Wildlife Department shall be considered to have been appointed pursuant to section 3 of this Enactment with their present ranks, seniority, salaries and pensions rights.

**Hunting licences.**

3. All hunting licences issued under the Ordinance and valid on the coming into force of Part IV of this Enactment shall continue to be valid for the period specified in each licence.

#### **Kampung hunting licences.**

4. (1) The Director shall within six months of the coming into force of Part IV of this Enactment by notice published in the *Gazette* in lieu of issuing separate kampung licences declare the species of animals and numbers thereof that may be hunted, the maximum distance from a community centre within which such species may be hunted and the weapons that may be used.

(2) The notice shall remain in force for one year from its date of publication or for such further period as the Minister shall declare by notice published in the *Gazette*.

(3) Any kampung that is dissatisfied with such notice may apply to the Director for an individual licence for that kampung.

(4) The Director shall upon such application issue a kampung licence to the Native Chief or Headman of the kampung. His decision in respect thereof shall be final.

#### **Keeping animals in captivity.**

5. (1) All persons in possession of a permit under section 20 of the Ordinance on the coming into force of section 43 of this Enactment shall be considered to be in possession of a permit under section 43 thereof.

(2) All persons who on the coming into force of section 43 of this Enactment have an animal in captivity without a permit under section 20 of the Ordinance shall apply in writing to the Director for a permit under section 43 within three months of the coming into force of that section.

#### **Certificates of legal ownership.**

6. (1) All persons who have certificates of ownership under section 19 of the Ordinance on the coming into force of Part V of this Enactment shall be considered to have certificates of legal ownership issued under section 47 of this Enactment.

(2) All persons who on the coming into force of Part V of this Enactment have in their possession any protected animal or animal product therefrom without the relevant certificates of legal ownership under section 19 of the Ordinance shall within three months of the coming into force of this Enactment either—

(a) surrender the same to the Director or any authorised officer; or

(b) apply to the Director under section 47 of this Enactment for a certificate of legal ownership.

(3) The Director shall cause all animals and animal products surrendered under subparagraph (2)(a) to be disposed of in such manner as the Director shall in his discretion consider fit.

#### **Protection of plants.**

7. (1) All persons who are in possession of protected plants on the coming into force of Part VI of this Enactment shall within three months of the coming into force of that Part apply to the Director for a certificate of legal ownership.

(2) A person who is granted a certificate of legal ownership under subparagraph (1) shall be considered to have acquired the plant referred to therein pursuant to section 62 of this Enactment.

(3) A certificate of legal ownership of a plant shall be in like form to the certificate of legal ownership for an animal or animal product.

#### **Dealers.**

8. All persons who carry on the business of a dealer in protected animals or animal products therefrom or plants shall within three months from the coming into force of Parts V and VI of this Enactment apply to the Director for a permit issued under section 51 or 52 thereof as the case may be.

#### **Utilization of wildlife.**

9. All persons who carry on the business of—

- (a) a wildlife tour operator;
- (b) breeding, rearing and keeping animals; or
- (c) a cultivator of protected plants,

shall within three months from the coming into force of Part VII of this Enactment apply to the Director for—

- (a) a permit issued under section 76, 78 or 79 thereof as the case may be.

#### **Validity of existing permits. Cap. 15.**

10. (1) On the coming into force of Part VII of this Enactment, all permits granted and all agreements executed under the Birds' Nests Ordinance shall remain valid until the expiry thereof.

(2) All permits or consents given for commercial filming or still photography prior to the coming into force of Part VII of this Enactment shall remain valid until the expiry thereof.

#### **Existing subsidiary legislation.**

11. All subsidiary legislation made under the Ordinance shall in so far as such subsidiary legislation is not inconsistent with the provisions of this Enactment shall continue to be in force and have effect as if the same had been made under this Enactment and may be repealed, varied or amended accordingly.

#### **Continuation of criminal proceedings.**



12. Any person's liability to be prosecuted or punished for offences committed under the Ordinance or any proceedings brought in respect of such offences before the commencement of this Enactment shall not be affected and such proceedings may be continued as if this Enactment had not be passed.

**Existing Game Sanctuary and Bird Sanctuary.**

13. Any Game Sanctuary or Bird Sanctuary declared under section 7 of the Ordinance shall be deemed to be a Wildlife Sanctuary declared under section 9 of this Enactment.

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Tuesday, the 18th day of November 1997.

DATUK FRANCIS T.N. YAP,

*Deputy Speaker,*

*State Legislative Assembly.*