



GOVERNMENT GAZETTE

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No. 151 Promulgation of Nature Conservation Amendment Act, 1996 (Act 5
of 1996), of the Parliament

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 151

1996

PROMULGATION OF ACT OF PARLIAMENT

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

No. 5 of 1996: Nature Conservation Amendment Act, 1996.

Act No. 5, 1996 **NATURE CONSERVATION AMENDMENT
ACT, 1996**

ACT

To amend the Nature Conservation Ordinance, 1975, so as to provide for an economically based system of sustainable management and utilisation of game in communal areas; to delete references to representative authorities; and to provide for matters incidental thereto.

(Signed by the President on 4 June 1996)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 1 of Ordinance 4 of 1975, as amended by section 1 of Ordinance 4 of 1977, section 1 of Act 27 of 1986 and section 1 of Act 6 of 1988

1. Section 1 of the Nature Conservation Ordinance, 1975 (hereinafter referred to as the Ordinance), is hereby amended by -

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

" 'communal land' means any geographic area of land habitually inhabited by traditional communities;"

- (b) by the insertion after the definition of "communal land" of the following definitions:

" 'conservancy' means any area declared a conservancy in terms of section 24A(2)(ii);

'conservancy committee' means a conservancy committee recognized as such by the Minister under section 24A(2)(i);

'consumptive use' means the utilisation of individual game by its permanent removal, or removal of its parts, from or within an area;"

- (c) by the deletion of the definition of "Executive Committee";

- (d) by the substitution for the definition of "local authority" of the following definition;

" 'local authority' means the council of any area declared to be a municipality, town or village under section 3 of the Local Authorities Act, 1992 (Act 23 of 1992);"

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- (e) by the insertion after the definition of "local authority" of the following definition:

" ' Minister' means the Minister of Environment and Tourism;"

- (f) by the insertion after the definition of "nature conservator" of the following definition:

"non-consumptive use" means use not entailing the permanent removal of individual game, but use for recreational, educational, research, cultural, or aesthetic purposes;"

- (g) by the substitution for paragraph (d) of the definition of "owner" of the following paragraph:

"(d) where such farm or land is owned by the State, the Government of Namibia;"

- (h) by the deletion of paragraph (dA) of the definition of "owner";

- (i) by the deletion of the definition of "population group";

- (j) by the deletion of the definition of "representative authority";

- (k) by the substitution for the definition of "security forces" of the following definition;

" 'security forces' means the Namibian Police or the Namibian Defence Force;"

- (l) by the deletion of the definition of "Territory"; and

- (m) by the addition of the following definition:

" 'wildlife council' means a wild life council established under section 24B(1)."

Substitution of heading to Chapter 11 of Ordinance 4 of 1975

2. The following heading is hereby substituted for the heading to Chapter II of the Ordinance:

"Game Parks, Nature Reserves, Conservancies and Wildlife Councils".

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Insertion of sections 24A and 24B in Ordinance 4 of 1975

3. The following sections are hereby inserted in the Ordinance after section 24:

"Conservancies

24A. (1) Any group of persons residing on communal land and which desires to have the area which they inhabit, or any part thereof, to be declared a conservancy, shall apply therefor to the Minister in the prescribed manner, and such application shall be accompanied by -

- (a) a list of the names of the persons who are members of a committee established for the purpose of being recognised by the Minister under subsection (2)(ii) as the conservancy committee for the conservancy applied for;
- (b) the constitution of such committee;
- (c) a statement setting out the boundaries of the geographic area in respect of which the application is made; and
- (d) such other documents or information as the Minister may require.

(2) If the Minister is satisfied in respect of an application made in terms of subsection (1) that -

- (a) the relevant committee is representative of the community residing in the area to which the application relates;
- (b) the constitution of such committee provides for the sustainable management and utilization of game in such area;
- (c) such committee has the ability to manage funds and has an appropriate method for the equitable distribution, to members of the community, of benefits derived from the consumptive and non-consumptive use of game in such area;
- (d) the geographic area to which the application relates has been sufficiently identified, taking into account also the views of the Regional Council of that area;
- (e) the area concerned is not subject to any lease or is not a proclaimed game park or nature reserve; and
- (f) any other prescribed requirements have been complied with,

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the Minister shall -

- (i) in writing to the committee in question and on such conditions as he or she may determine in addition to any prescribed condition or restriction, recognize that committee as the conservancy committee for the conservancy concerned; and
 - (ii) by notice in the *Gazette* declare the area to which the application relates as a conservancy, and such notice shall set out the geographic boundaries of the area in respect of which the conservancy is being declared.
- (3) (a) The Minister may, subject to paragraphs (b) and (c), at any time -
 - (i) withdraw his or her recognition of a conservancy committee given under subsection (2)(i);
 - (ii) amend or withdraw any condition imposed under subsection (2)(i); or
 - (iii) amend or withdraw any notice made under subsection (2)(ii).
- (b) Before the Minister under paragraph (a) withdraws the recognition of a conservancy committee or amends or withdraws any condition or notice, he or she shall in writing-
 - (i) inform the conservancy committee of his or her intention to do so;
 - (ii) furnish the conservancy committee with the reasons for the intended withdrawal or amendment, in question; and
 - (iii) call upon the conservancy committee to show cause within a period specified, why the withdrawal or amendment in question should not be effected.
- (c) After considering any representations received within the specified period from the conservancy committee concerned by virtue of the provisions of paragraph (b)(iii), the Minister may in his or her discretion -

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(i) proceed in terms of paragraph (a) with the withdrawal or amendment in question; or

(ii) refrain from taking any steps in terms of paragraph (a),

and the Minister shall in writing inform the conservancy committee concerned of his or her decision in terms of this paragraph.

(4) Notwithstanding section 28 and subject to subsection (5) of this section, a conservancy committee shall on behalf of the community in a conservancy or in respect of which a conservancy has been declared have rights and duties with regard to the consumptive and non-consumptive use and sustainable management of game in such conservancy, in order to enable the members of such community to derive benefits from such use and management.

(5) The provisions of Part III shall *mutatis mutandis* apply to a conservancy committee insofar as it confer rights and privileges and imposes duties and obligations on an owner or a lessee of land in relation to game on such land, except that no requirement of any such provision with regard to any fence or the extent of any land or any provision classifying land for a prescribed type of fence shall apply to any conservancy.

Wildlife councils

24B.(1) The Minister may, after consultation with a community residing on communal land and if all the prescribed requirements have been met, establish a wildlife council for the area, or any part thereof, in which such community resides on such conditions as he or she may determine in addition to any prescribed condition or restriction: Provided that no such area shall include any conservancy, any land subject to any lease, or any proclaimed game park or nature reserve.

(2) The Minister shall give notice in the *Gazette* of any wildlife council established under subsection (1), and such notice shall set out the geographic boundaries of the area in respect of which the wildlife council has been so established.

(3) (a) The Minister may, subject to paragraphs (b) and (c), at any time -

(i) dissolve a wildlife council;

(ii) amend or withdraw any condition imposed under subsection (1); or

(iii) amend or withdraw any notice made under subsection (2).

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- (b) Before the Minister under paragraph (a) dissolves a wildlife council or amends or withdraws any condition or notice, he or she shall in writing -
- (i) inform the wildlife council of his or her intention to do so;
 - (ii) furnish the wildlife council with the reasons for the intended dissolution, amendment or withdrawal in question; and
 - (iii) call upon the wildlife council to show cause within a period specified, why the dissolution, amendment or withdrawal in question should not be effected.
- (c) After considering any representations received within the specified period from the wildlife council concerned by virtue of the provisions of paragraph (b)(iii), the Minister may in his or her discretion -
- (i) proceed in terms of paragraph (a) with the dissolution, amendment or withdrawal in question; or
 - (ii) refrain from taking any steps in terms of paragraph (a),
- and the Minister shall in writing inform the wildlife committee concerned of his or her decision in terms of this paragraph.

(4) Notwithstanding section 28 and subject to subsection (5) of this section, a wildlife council shall on behalf of the community in the area for which such council has been established have rights and duties with regard to the consumptive and non-consumptive use and sustainable management of game in such area, in order to enable the members of such community to derive benefits from such use and management.

(5) The provisions of Part III shall *mutatis mutandis* apply to a wildlife council insofar as it confer rights and privileges and imposes duties and obligations on an owner or a lessee of land in relation to game on such land, except that no requirement of any such provision with regard to any fence or the extent of any land or any provision classifying land for a prescribed type of fence shall apply to any wildlife council."

Amendment of section 28 of Ordinance 4 of 1975, as substituted by section 10 of Act 27 of 1986

4. Section 28 of the Ordinance is hereby amended -

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

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"(a) Subject to the provisions of sections 24A and 24B and Chapter IV, no person shall without the written permission of the [**Cabinet**] **Minister** hunt any huntable game, huntable game bird or exotic game or any other wild animal on any land, including communal land, owned by the [**Government of the Territory or a representative authority**] State."; and

(b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) For the purpose of paragraph (a) land leased by the Government of [**the Territory or a representative authority**] Namibia shall, unless an intention to the contrary appears from the lease, and unless, in the case of communal land, the land leased is an unsurveyed piece of land, be deemed not to be land owned by the [**Government of the Territory or a representative authority**] State."

Amendment of section 31 of Ordinance 4 of 1975, as amended by section 12 of Act 27 of 1986 and section 3 of Act 6 of 1988

5. Section 31 of the Ordinance is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

"(a) 'owner' shall not include the town clerk or the secretary of a local authority [**or the executive authority of a representative authority or any member of such an executive authority**];".

Amendment of section 33 of Ordinance 4 of 1975, as amended by section 13 of Act 27 of 1986

6. Section 33 of the Ordinance is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

"(a) 'owner' shall not include the town clerk or the secretary of a local authority [**or a executive authority of a representative authority or any member of such an executive authority**];".

Amendment of section 40 of Ordinance 4 of 1975, as amended by section 17 of Act 27 of 1986

7. Section 40 of the Ordinance is hereby amended by the substitution of paragraph (d) of subsection (1) of the following paragraph:

"(d) The [**Cabinet**] **Minister** may, in [**its**] his or her discretion grant exemption from any or all of the provisions of this subsection to the owner or lessee of a farm which is enclosed with a game-proof fence or of a piece of land which is not less than one thousand hectares in extent and which is enclosed with a game-proof fence, or to a licensed game dealer or to any member or the members of any particular [**population**] group residing on the communal land of the [**population**] group concerned."

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Amendment of section 67 of Ordinance 4 of 1975, as substituted by section 23 of Act 27 of 1986

8. Section 67 of the Ordinance is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) any member of a particular [population] group may angle in waters situated on the communal land of the [population] group concerned;"

Amendment of section 68 of Ordinance 4 of 1975, as substituted by section 24 of Act 27 of 1986

9. Section 68 of the Ordinance is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) The provisions of this section shall not apply to any member of a particular [population] group who catches fish in inland waters situated on the communal land of the [population] group concerned."

Amendment of section 83 of Ordinance 4 of 1975, as amended by section 30 of Act 27 of 1986

10. Section 83 of the Ordinance is hereby amended -

(a) by the substitution for subsection (2) of the following subsection:

"(2) Every permit, licence, registration, approval, permission or exemption granted by the Minister in terms of this Ordinance shall be issued against payment of the fees, if any, prescribed for such permit, licence, registration, approval, permission, or exemption by this Ordinance or by regulation: Provided that the Minister may, subject to the provisions of this Ordinance, decrease such fees or grant exemption from the payment of such fees if he or she is of the opinion that good and sufficient reasons therefor exists.";

(b) by the substitution for subsection (3) of the following subsection:

"(3) Every permit, licence, registration, approval, permission or exemption granted by the Minister in terms of this Ordinance shall be subject to the conditions, requirements and restrictions prescribed by regulation, whether in general or for the particular permit, licence, registration, approval, permission, or exemption and, in addition thereto, to the conditions, requirements and restrictions which the Minister may in every particular case deem necessary or expedient to impose.";

(c) by the deletion of paragraph (e) of subsection (5); and

(d) by the deletion of subsection (7).

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Amendment of section 84 of Ordinance 4 of 1975, as amended by section 7 of Ordinance 4 of 1977 and section 5 of Act 6 of 1988

11. Section 84 of the Ordinance is hereby amended by the insertion after paragraph (x) of subsection (1) of the following paragraphs:

- "(xA) the requirements to be complied with for the recognition of conservancy committees and the declaration of conservancies, and any restrictions and conditions to which a conservancy committee shall be subject;
- (xB) the requirements to be complied with for the establishment of wildlife councils, and any restrictions and conditions to which a wildlife council shall be subject;".

Substitution of certain expressions in Ordinance 4 of 1975

12. The Ordinance is hereby amended -

- (a) by the substitution for the expression "the Territory", wherever it occurs, of the expression "Namibia";
- (b) by the substitution for the expressions "Executive Committee", "Cabinet" and "Administrator-General", wherever they occur, of the expression "Minister"; and
- (c) by the substitution for the expressions "Government of the Territory or a representative authority" and "Government of the Territory", wherever they occur, but excluding section 28(1)(b), of the expression "State".

Short title and commencement

13. This Act shall be called the Nature Conservation Amendment Act, 1996, and shall come into operation on a date to be determined by the Minister by notice in the *Gazette*.
